CHIEF'S PREFACE

The primary purpose of this policy manual is to provide all members of the Fargo Police Department, regardless of their rank, title, position, or status as a sworn officer or civilian employee, with the guidance that allows each employee to perform their duties in the most professional manner possible. Therefore, it is important to recognize the development of this policy manual is an ongoing process and is intended to not only serve the department's interests, but the interests of department personnel and the community as well.

This manual also exists to establish the department's leadership and management principles and to set the standards and expectations all department employees are held to. The department's policies and procedures should elevate the standards of our profession as well as strengthen the community's confidence in our organization. Every member of this department must be encouraged, both individually and collectively, to realize the responsibilities associated with their position. Everyday they must continuously strive to earn the support, respect, and cooperation of the citizens we serve.

Above all else, the men and women who collectively define this organization must recognize the very basis for the existence of the Fargo Police Department is the law. The credibility of our organization and the law enforcement profession in general, is ultimately enhanced by our understanding of and self-adherence to the law and by how we contribute to the welfare of our community. The policies contained within this manual reflect the goal of maintaining that credibility to the best of our ability.

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LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or abuse and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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COMMON PURPOSE

The Fargo Police Department is dedicated to providing services that are driven by genuine care of the community, each other, and the laws we are trusted to uphold. We strive to achieve our common purpose by embracing our four quality standards of **Safety**, **Courtesy**, **Empathy**, and **Trust**.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Fargo Police Department to perform their functions based on established legal authority.

100.2 PEACE OFFICER POWERS

Licensed members of the Fargo Police Department are authorized to exercise the authority of peace officers and to make arrests as authorized by law or as expanded by a joint powers agreement with another jurisdiction (N.D.C.C. § 11-15-03; N.D.C.C. § 40-20-05; N.D.C.C. § 44-08-20).

100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE FARGO POLICE DEPARTMENT

An officer of this department in hot pursuit may continue beyond the 1 1/2 mile jurisdictional boundaries of the City whenever obtaining the aid of law enforcement officers who have jurisdiction would cause a delay that could permit escape (N.D.C.C. § 40-20-05).

An officer making an arrest under this subsection should, as soon as practicable after making the arrest, notify the agency having jurisdiction where the arrest was made.

100.2.2 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE FARGO POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Fargo Police Department includes:

(a) In compliance with an arrest warrant (N.D.C.C. § 29-06-02).

(b) Without a warrant for the following (N.D.C.C. § 29-06-15):

1. For a public offense committed or attempted in the officer's presence.
2. When the person arrested has committed a felony, although not in the officer's presence.
3. When a felony in fact has been committed and the officer has reasonable cause to believe the person arrested has committed it.
4. For the public offenses not classified as felonies and not committed in the officer's presence as provided for under N.D.C.C. § 29-06-15.1.
5. On a charge, made upon reasonable cause, of DUI.
6. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of N.D.C.C. § 19-03.1-22.1.

100.2.3 GRANTING AUTHORITY TO OTHERS

An officer making an arrest may summon the aid of any persons the officer deems necessary to aid in the arrest (N.D.C.C. § 29-06-03).

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100.3 INTERSTATE PEACE OFFICER POWERS

Peace officer authority may be extended within other states:

(a) As applicable under interstate compacts and memorandums of understanding in compliance with the laws of each state and North Dakota law (N.D.C.C. § 54-40.3-04).

(b) When an officer enters Minnesota in fresh pursuit of a felony subject (Minn. Stat. § 626.65; Minn. Stat. § 626.71).

(c) When an officer enters Montana or South Dakota in fresh pursuit of a subject who committed any offense (§ 46-6-411, MCA; S.D.C.L. § 23A-3-9; S.D.C.L. § 23A-3-10).

Whenever an officer makes an arrest in another state, the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (Minn. Stat. § 626.66; § 46-6-411, MCA; S.D.C.L. § 23A-3-12).

100.4 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and North Dakota constitutions.

100.5 POLICY

It is the policy of the Fargo Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

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Chief Executive Officer

101.1 PURPOSE AND SCOPE

All law enforcement Chief Executive Officers employed within the State of North Dakota are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Chief Executive Officer of the Fargo Police Department, who is required to exercise the powers and duties of the office as prescribed by state law.

101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

The Chief Executive Officer shall, as a condition of appointment, meet the required prerequisites, have successfully completed the course of training and examinations prescribed by the Peace Officer Standards and Training Board (POST) and be licensed by POST (N.D.C.C. § 12-63-02; N.D.C.C. § 12-63-09).

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Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

102.2 POLICY

It is the policy of the Fargo Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their position (N.D.C.C. § 40-13-03; N.D.C.C. § 44-01-05; N.D.C.C. § 44-02-01(6); N.D. Const. art. XI, § 4; N.D.A.C. § 109-02-05-02).

In addition, all members shall acknowledge the department's code of ethics and their responsibility to adhere to it. Members who are peace officers shall also take an oath to adhere to the peace officer's code of conduct and to not betray the trust of a fellow peace officer or the public (N.D.A.C. § 109-02-05-02).

The form of oath should be as follows:

"On my honor, I do solemnly swear that I will uphold the Constitution of the United States, the laws of the State of North Dakota, and the City of Fargo. I will always have the courage to hold myself and others accountable for our actions. I will keep my private life unsullied and I will never betray my badge, my integrity, my character, or the public trust in my position as a Fargo Police Officer."

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (N.D.C.C. § 40-13-03; N.D.C.C. § 44-05-04).

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Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Fargo Police Department is hereby established and shall be referred to as the Policy Manual. The policy manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this policy manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Fargo Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Fargo Police Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue General Orders, which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

103.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older (N.D.C.C. § 14-10-02).

BCI - Bureau of Criminal Investigation.

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Policy Manual

Child/minor - An individual under 18 years of age and not married or under the age of 20 with respect to a delinquent act committed while under 18 years of age (N.D.C.C. § 12.1-35-01.1; N.D.C.C. § 14-10-01; N.D.C.C. § 27-20-02(4)).

City - The City of Fargo.

CFR - Code of Federal Regulations.

Civilian - Employees and volunteers who are not licensed peace officers

CJIS - North Dakota Criminal Justice Information Sharing.

Command Staff - Lieutenants and above

Department/FPD - The Fargo Police Department.

DHS - Department of Human Services.

Division Commander - Deputy Chiefs responsible for police department divisions

Employee/personnel - Any person employed by the Department.

Manual - The Fargo Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Fargo Police Department, including full-time or part-time licensed officers, reserve officers, civilian employees and volunteers.

NDDOT - North Dakota Department of Transportation.

NDHP - North Dakota Highway Patrol.

Officer - Those employees, regardless of rank, who are licensed peace officers of the Fargo Police Department.

On-duty - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

Peace officer or law enforcement officer - A sheriff, sheriff's deputy, coroner, marshal or police officer of a township, city or any state, or federal law enforcement officer authorized to enforce the law and to conduct or engage in investigations or prosecutions (N.D.C.C. § 12-63-01(3); N.D.C.C. § 12.1-01-04(17); N.D.C.C. § 29-05-10).

Rank - The title of the classification held by an officer.

N.D.C.C. - North Dakota Century Code.

N.D.A.C. - North Dakota Administrative Code.

Shall or will - Indicates a mandatory action.

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Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority regarding hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or an authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and General Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Division Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Commanders, who will consider the recommendations and forward them to the command staff as appropriate.

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of the Department is designed to create an efficient means to accomplish the mission and goals and to provide for the best possible service to the public.

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Fargo Police Department. There are three divisions in the Police Department:

- Administrative Services Division
- Field Services Division
- Criminal Investigations Division

200.2.1 ADMINISTRATIVE SERVICES DIVISION

The Administrative Services Division is commanded by the assigned Division Commander, whose responsibility is to provide general management, direction and control for the Administrative Services Unit, the Records Unit, the Property Unit, and the Training Unit. This includes oversight of department budgets and grants, records, training, and evidence.

200.2.2 FIELD SERVICES DIVISION

The Field Services Division is commanded by the assigned Division Commander, whose primary responsibility is to provide general management, direction and control for the Field Services Division. The Field Services Division consists of Uniformed Patrol and Special Operations Units.

200.2.3 CRIMINAL INVESTIGATIONS DIVISION

The Criminal Investigations Division is commanded by the assigned Division Commander, whose primary responsibility is to provide general management, direction and control for the Criminal Investigations Division. The Criminal Investigations Division consists of the Criminal Investigations Unit, the Narcotics Unit, the Intel Unit, and the Metro Area Street Crimes Unit.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Chief of Police will designate a Division Commander to serve as the acting Chief of Police.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

(a) Senior ranking Division Commander

(b) Senior ranking District Commander

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(c) Senior ranking Sergeant

All department employees shall acknowledge the department's rank structure and follow the established chain-of-command whenever possible and/or practical. In the absence of a command officer or supervisor, the following personnel (if present and in the following order) shall be recognized as being in command until relieved by a command officer or supervisor:

(a) Police Training Officer (PTO) - rank order for PTO's is determined by the individual officer's tenure with the department

(b) Senior officer on scene - seniority is based on an individaul officer's tenure with the department

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., Canine, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with lawful orders of superior officers and other proper authority.

200.3.4 UNLAWFUL AND CONFLICTING ORDERS

No member is required to obey any order that outwardly appears to be in direct conflict with any federal law, state law or local ordinance. Following an unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or confer with a higher authority.

Members given an otherwise proper order which conflicts with a previous rule, regulation, procedure, order, or directive, shall respectfully inform the command officer, supervisor, or superior officer issuing the order of the conflict. If the command officer, supervisor, or superior officer issuing the order does not alter or rescind the conflicting order, the conflicting order shall be obeyed. Under these circumstances, the outcome for the conflicting order shall be the responsibility of the command officer, supervisor, or superior officer issuing the order.

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Department Directives

201.1 PURPOSE AND SCOPE

General Orders establish interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure. General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 GENERAL ORDERS PROTOCOL

General Orders will be incorporated into the manual as required, upon command staff approval. General Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

General Orders issued prior to the publication date of this manual have been incorporated into this manual or are no longer in effect.

Any General Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number “01.” For example, 13-01 signifies the first General Order for the year 2013.

Temporary General Orders that become inoperative with the passing of the incident or period for which they are written, and are not intended for, nor will they be included in the manual, should be tracked and acknowledged in a manner similar to policy revisions.

201.1.2 SPECIAL ORDERS AND MEMORANDUMS

Special Orders establish a temporary policy or procedure on a given subject for a specific length of time. Special Orders are issued to the organization as a whole, to a division, to a unit or to an individual. Special Orders become inoperative with the passing of the incident or situation that caused the order to be issued.

Memorandums establish operating procedures and detailed information specific to units, assignments or organizational subject matter.

201.2 RESPONSIBILITIES

201.2.1 COMMAND STAFF

The command staff shall review revisions of the Policy Manual, which will incorporate changes originally made by a General Order.

201.2.2 CHIEF OF POLICE

The Chief of Police or the authorized designee shall issue all General Orders.

201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain necessary clarification of all General Orders. All employees are required to acknowledge in writing the receipt and review of any new General Order. Signed acknowledgement forms and/or e-mail receipts showing an employee’s acknowledgement will be maintained by the Chief's Administratve Assistant.

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Emergency Operations Plan

202.1 PURPOSE AND SCOPE

The City has prepared an Emergency Operations Plan for use by all employees in the event of a major disaster, civil disturbance, mass arrest or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

The City Emergency Operations Plan complies with the State of North Dakota Emergency Operations Plan (N.D.C.C. § 37-17.1-07(5)). This plan provides guidance for City emergency operations within its borders and outside its borders as may be required.

202.2 ACTIVATING THE EMERGENCY OPERATIONS PLAN

The Emergency Operations Plan can be activated in a number of ways. For the Fargo Police Department, the Chief of Police or the highest ranking official on duty may activate the Emergency Operations Plan in response to a major emergency.

Upon activation of the plan, the emergency manager or the authorized designee should contact the North Dakota Department of Emergency Services (NDDES) to assist with mutual aid response from local, state and federal law enforcement agencies to provide requested resources to this department.

202.2.1 RECALL OF PERSONNEL

In the event the Emergency Operations Plan is activated, all employees of the Fargo Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

In the event of a natural or man-made disaster, or any other incident where the adverse impact to the city of Fargo is (or could be) substantial and normal modes of commuication are disabled or overwhelmed, all department employees, regardless of rank, title, position, or status as a sworn officer or civilian employee, shall presume an order to immediately report for duty has been issued by the Chief of Police.

202.3 LOCATION OF THE EMERGENCY OPERATIONS PLAN

Copies of the City Emergency Operations Plan are available in Administration and the Shift Commander's office. All supervisors should familiarize themselves with the Emergency Operations Plan and the roles personnel will play when the plan is implemented.

Additional information regarding the State Emergency Operations Plan (SEOP) and regional coordination can be found on the NDDES website.

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202.4 PLAN REVIEW

The Chief of Police or the authorized designee shall review the Emergency Operations Plan Manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS), and appropriately address any needed revisions.

202.5 WIDE AREA SEARCH AND RESCUE

The Chief of Police or authorized designee is responsible for wide area search and rescue activities. Wide area search and rescue operations must be in compliance with state and local emergency operations plans including the use of the incident command system. The Chief of Police or authorized designee may restrict access to the specific search and rescue area to authorized personnel (N.D.C.C. § 37-17.1-28).

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Training

203.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will meet the standards of federal, state, local and the North Dakota Peace Officer Standards and Training (POST) Board's training requirements. It is a priority of this department to provide continuing education and training for the professional growth and progressive development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the public.

203.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels and legal mandates. Whenever reasonably possible, the Department will use courses certified by the North Dakota POST Board or other regulatory or nationally recognized entities.

203.3 OBJECTIVES

The objectives of the training program are to:

(a) Enhance the level of law enforcement service to the public.

(b) Increase the technical expertise and overall effectiveness of department personnel.

(c) Provide for continued professional development of department personnel.

(d) Assist in compliance with statutory requirements.

203.4 TRAINING PLAN

It is the responsibility of the Administrative Lieutenant or the authorized designee to develop, review, update and maintain a training plan and to ensure that mandated basic, in-service and department-required training is completed by all employees. The plan shall include a systematic and detailed method for recording and logging of all training for all personnel. Updates and revisions may be made to any portion of the training plan at any time it is deemed necessary. The plan will include information on curriculum, training material, training facilities, course and student scheduling. The plan will address the state-required, minimum-mandated training of licensed officers or civilian employees.

203.4.1 MANDATED TRAINING

(a) Federally mandated training:

1. National Incident Management System (NIMS) training (once depending upon position and rank).

(b) State-mandated training:

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1. Licensed members of the Department shall complete no less than 60 hours of POST-certified and/or POST-approved training every three years (N.D.A.C. § 109-02-02-15 et seq.).

203.5 TRAINING NEEDS ASSESSMENT

The Training Unit will conduct an annual training needs assessment and complete a report of the training needs. The training needs assessment report will be provided to the Chief of Police and staff. Upon review and approval by the Chief of Police, the needs assessment will form the basis for the training plan for the following fiscal year.

203.6 TRAINING PROCEDURES

(a) All training information and records will be under the control of the department's Training Sergeant.

(b) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:

1. Court appearances
2. Priority vacation
3. Sick leave
4. Physical limitations preventing the employee’s participation
5. Emergency situations

(c) When an employee is unable to attend mandatory training, that employee shall:

1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
2. Make arrangements through his/her supervisor and the Training Sergeant to attend the required training on an alternate date.

(d) Members who attend any course of instruction or training, not arranged for by the Fargo Police Department (including advanced education) are responsible for providing written evidence of completion to the Training Sergeant for inclusion on the training records.

(e) If the member is attending a course of instruction or training which has not been ND P.O.S.T. Board approved, and the member wants credit for the subsequent training hours applied to his/her police officer license, the member must submit the following to the Training Sergeant 45 days prior to the training:

1. The name of course of instruction/training
2. The course of instruction/training instructor biography
3. The course of instruction/training course curriculum

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(f) The Training Sergeant will be responsible for notifying the ND P.O.S.T. Board of all certified training for department members.

203.7 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Fargo Police Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the policy manual administrator.

Personnel assigned to participate in DTBs shall only use login credentials assigned to them by the policy manual administrator. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each DTB by the end of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment, unless directed otherwise by the policy manual administrator.

Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

203.8 POLICE TRAINING PROGRAM

The lieutenant with administravtive oversight of the Police Training Program (PTO) shall establish a program for recruit peace officers that is of sufficient duration to provide for the adequate orientation and training of the new peace officer in the lawful operations of the Department. The program shall establish procedures for the selection, appointment and training of Police Training Officers (PTO) and supervisors participating in the program and the rotation of PTO personnel to provide for the objective evaluation of recruit performance.

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Electronic Mail

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Department. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties. It is to be used in accordance with generally accepted business practices and current law (e.g., North Dakota's open records laws). Generally messages transmitted over the e-mail system should only be those that involve official business activities or that contain information essential to employees for the accomplishment of tasks and/or communications directly related to the business, administration or practices of the Department.

204.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, transmitted over the department computer network or accessed through a web browser accessing the department system are considered department records and therefore are the property of the Department. The Department reserves the right to access, audit and disclose for any lawful reason, any message, including any attachment that is transmitted or received over its email system or that is stored on any department system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the email system is not appropriate for confidential or personal communications. If a communication must be private, an alternative method to communicate the message should be used instead of email. Employees using the department email system shall have no expectation of privacy concerning communications transmitted over the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Department. The use of any computer, Internet service, telephone service or other wireless service to send or receive information that may be related to public business may be subject to review or disclosure.

204.3 PROHIBITED USE OF EMAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the email system is prohibited and may result in discipline.

Email messages addressed to the entire Department are only to be used for official business-related items that are of particular interest to all users. Users are reminded that all email is subject to review and scrutiny with regard to appropriate content or violation of any prohibitions. In the event that a user has questions about sending a particular email communication, the user should seek prior approval from a supervisor. Personal advertisements or announcements are not permitted.

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It is a violation of this policy to transmit a message under another user's name or email address or to use the password of another to log into the system. Users are required to log off the network or secure the workstation when the computer is unattended. This added security measure will minimize the potential misuse of an individual's email, name and/or password by others.

204.4 MANAGEMENT OF E-MAIL

All employees are expected to read and review e-mails once during every regularily scheduled work shift.

Because the end user e-mail system is not designed for, nor does it support, long-term retention and archiving of messages, e-mail that an employee desires to save or that requires retention should be stored in another database designed for long-term storage and retrieval.

Users of e-mail are solely responsible for the management of their mailboxes. Messages should be purged manually by the user regularily. All messages in excess of one month may be deleted or automatically archived at regular intervals from the system.

204.5 E-MAIL RECORD MANAGEMENT

E-mail may, depending upon the individual content, be a record under North Dakota's open records laws and must be managed in accordance with the organization's adopted records retention, archiving and destruction policy in compliance with state law (N.D.C.C. § 44-04-18 et seq.).

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Administrative Communications

205.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

205.2 CORRESPONDENCE

To ensure that the letterhead and name of the Department are not misused, all official external correspondence shall be on department letterhead. All department letterhead shall bear the signature element of the Chief of Police. Official correspondence and use of letterhead requires approval of a supervisor. Department letterhead may not be used for personal purposes.

Internal correspondence should use appropriate memorandum forms. These may be from line employee to employee, supervisor to employee or any combination of employees.

205.3 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police or the authorized designee.

205.4 OTHER COMMUNICATIONS

General Orders and other communications necessary to ensure the effective operation of the Department shall be issued by the Chief of Police or the authorized designee.

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Supervision Staffing Levels

206.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available to meet the operational requirements of all shifts. The Department intends to balance the needs of the employee against its duty and inherent managerial right to flexibility and discretion in assigning personnel to meet operational needs. While balance is desirable, the paramount concern is to meet the operational requirements of the Department.

206.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of two Field Services Supervisors on-duty whenever possible. A Field Services Command Officer will ensure that at least one field supervisor is deployed during each shift.

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Retiree Concealed Firearms

207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Fargo Police Department identification cards under the Law Enforcement Officer Safety Act (LEOSA) and North Dakota law (18 USC § 926C).

207.1.1 DEFINITIONS

Definitions related to this policy include:

Qualified retired law enforcement officer - A former officer of the department who (18 USC § 926C(c)):

(a) Separated from service in good standing from this department as a law enforcement officer. The term “in good standing” means, at the time of retirement, the officer was not facing disciplinary action that could have resulted in termination for misconduct or for unfitness for office.

(b) Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, prosecution or incarceration of a person for any violation of law and had statutory powers of arrest.

(c) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.

(d) Meets the firearm qualification standard of this policy.

(e) Has not been disqualified for reasons related to mental health.

(f) Has not entered into an agreement with the agency from which the officer is separating from service, where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(g) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(h) Is not prohibited by federal law from possessing a firearm.

207.2 CONCEALED CARRY OPTIONS

A retired officer of this department has the following options available for carrying a concealed weapon:

A. A former officer of this department may obtain a concealed firearm or dangerous weapon license from the State of North Dakota pursuant to N.D.C.C 62.1-04

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B. A former officer of this department may obtain a concealed weapon permit from another state if the other state grants the same rights to North Dakota license holders (N.D.C.C. 62.1-04-03.1).

C. A former officer of this department who departs full-time employment may carry a concealed weapon without a permit if he/she meets the federal requirements to carry a concealed weapon as a qualified retired law enforcement officer pursuant to 18 USC 926C.

207.3 FEDERAL CONCEALED FIREARM REQUIREMENTS

The Chief of Police may issue an identification card to any licensed member who had retired in good standing, indicating that the officer has hornorably retired from the Department. This determination is made by the Chief of Police or an authorized designee and is not subject to review.

207.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Fargo Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

207.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

(a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

(b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) Not prohibited by federal law from receiving a firearm.

(d) Not in a location prohibited by North Dakota law or by a private person or entity on his/her property if such prohibition is permitted by North Dakota law.

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207.4 FIREARMS QUALIFICATIONS

The Fargo Police Department Training Sergeant or designee will schedule two periods each year for retired officers to qualify. The Training Sergeant will inform retired officers of the qualification standards and requirements prior to the qualification dates to insure they are aware any firearms restrictions or equipment needs. The training sergeant will maintain records of qualification scores and waiver of liability forms which outline the retired officers personal responsibility as a private person as permitted by the Act and not as an employee or former employee of the Fargo Police Department or as a current law enforcement officer.

207.4.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

(b) Remain subject to all applicable department policies and federal, state and local laws.

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

207.5 DENIAL, SUSPENSION OR REVOCATION

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

207.6 CARRYING FIREARMS OUT OF STATE

Retired officer of this department who meet the qualified retiree requirements and who carry the required identification and firearms certificate outlined in 18 USC 926C may be authorized to carry a concealed firearm in other states.

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Chapter 3 - General Operations

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Response to Resistance

300.1 PURPOSE AND SCOPE

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

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

300.2 POLICY

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

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

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

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

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

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

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

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

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to effect an arrest if, after notice of intention to arrest the person, the person either flees or forcibly resists (N.D.C.C. § 29-06-13).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

(a) Immediacy and severity of the threat to officers or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

(d) The effects of drugs or alcohol.

(e) Subject’s mental state or capacity.

(f) Proximity of weapons or dangerous improvised devices.

(g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(h) The availability of other options and their possible effectiveness.

(i) Seriousness of the suspected offense or reason for contact with the individual.

(j) Training and experience of the officer.

(k) Potential for injury to officers, suspects and others.

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(l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.

(m) The risk and reasonably foreseeable consequences of escape.

(n) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(o) Whether the conduct of the individual being confronted no longer appears to pose an imminent threat to the officer or others.

(p) Prior contacts with the subject or awareness of any propensity for violence.

(q) Any other exigent circumstances.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

(b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. When practical, a verbal warning should precede the use of deadly force.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.

2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

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

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300.4.2 INTENTIONAL FIREARM DISCHARGE

The intentional discharge of a firearm by an officer at or towards any person shall be interpreted as the use of deadly force. Officers are prohibited from utilizing a “warning shot” from a firearm to gain compliance or otherwise overcome any resistance they encounter in the performance of their duties.

Deadly force may be directed at any animal (wild or domestic) that poses an immediate threat to an officer, civilian employee, or other person, or when the animal is otherwise deemed to be a threat to public safety. Deadly force may also be directed at an injured animal for humanitarian reasons. When feasible, an on-duty supervisor shall be notified and approve the use of deadly force on any animal prior to an officer using such force.

If a firearm is used to dispose of an animal for humanitarian reasons, only the department’s Response to Resistance report is required unless otherwise determined by a command officer or supervisor.

300.5 REPORTING THE USE OF FORCE

Any response to resistance that results in the death or serious bodily injury to any person, or if the force used by an officer results in an evident or claimed injury to the person who the force was used upon and the injury is attributable to the officer’s actions, the officer using such force shall immediately notify an on-duty supervisor, or (when applicable) their shift commander. The incident shall be documented promptly, completely and accurately in a case report and/or supplement to the case report, as well as a department Response to Resistance Report (Attachment #1 or Attachment #2). Based upon the initial circumstances surrounding the incident the supervisor will make a determination regarding which Response to Resistance form is appropriate.

In addition, a sworn officer using force upon any person shall also complete a case report and/ or supplement to the case report, as well as a department Response to Resistance report (see policy attachments),when:

- The officer uses pepper spray, police K9, defensive device, or an object of convenience upon any person ; or,
- The officer utilizes any strike, kick, punch, etc., upon a person to overcome resistance, regardless of whether the officer's actions result in an evident or claimed injury to the person who the force was used upon; or,
- The officer's actions result in a person impacting with any hard surface with such force that injury to the person is likely to have occurred

See attachment: Response to Resistance Report.pdf

300.5.1 NOTIFICATIONS TO SUPERVISORS

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

(a) The application caused a visible injury.

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(b) The individual subjected to the force complained of injury or continuing pain.

(c) The individual indicates intent to pursue litigation.

(d) Any application of the TASER® device .

(e) The individual subjected to the force was rendered unconscious.

(f) An individual was struck or kicked.

(g) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically cleared at a medical facility.

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

300.7 SUPERVISOR RESPONSIBILITY

The Field Services Division supervisor shall respond to an incident in which there has been a reported application of force where an officer’s use of force resulted in any evident or claimed injury to any person and the injury is attributable to the officer’s actions. The on-duty Field Services Division supervisor shall do the following as soon as it is practical to do so:

(a) Obtain the basic facts from the involved officers.

(b) Ensure that any injured parties are examined and treated.

(c) When possible, interview the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:

1. The content of the interview should not be summarized or included in any related criminal charges.

2. If a recorded interview was obtained it should be documented in the Response to Resistance Report and kept for use in an administrative review.

3. The recording of the interview should be kept for use in an administrative review if applicable.

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(d) When possible, photograph any evident or claimed areas of injury on the person who force was used upon, including those areas on the person impacted by an officer's use of a Taser, pepper-spray, police K-9, defensive device, object of convenience, strike, kick, punch, etc

(e) Identify any witnesses not already included in related case reports.

(f) Review and approve all related case reports.

(g) Evaluate the circumstances surrounding the incident and determine which Response to Resistance Report is appropriate based on the complexity or severity of the incident.

300.7.1 COMMANDER OFFICER RESPONSIBILITY
A Commander Officer shall review each response to resistance by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

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Response to Resistance Review Process

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Fargo Police Department to review the response to resistance by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

301.2 POLICY

The Fargo Police Department will objectively evaluate the reponse to resistance by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

The on-duty supervisor responding to a response to resistance incident shall be responsible for preparing a written review and evaluation of the incident. The supervisor shall promptly notify the Office of Professional Standards (OPS) of the date and time of the incident, the name(s) of the officer(s) and/or civilian employee(s) involved, and the corresponding case report number.

The supervisor's written review and evaluation of a response to resistance incident shall include a thorough review of the incident, to include assessing and evaluating the actions taken by all of the officers directly involved or otherwise present during the incident, the tactics used by the officers, and the actions taken by the officers immediately following the incident.

The supervisor's written review and evaluation of a response to resistance incident should be completed and forwarded through the appropriate chain-of-command to the Chief of Police with fifteen (15) calendar days of the incident, unless an extension has been authorized by the Chief of Police or the supervisor's division commander.

If an officer utilizes deadly (lethal) force, or less-lethal force which results in the death or serious bodily injury to any person, regardless of the officer's assignment, the department's Office of Professional Standards (OPS) shall be responsible for preparing a written review and evaluation of the incident and submitting it directly to the Chief of Police.

A copy of all response to resistance incident reports, as well as the written review and evaluation associated with the incident, shall be retained by the Office of Professional Standards (OPS).

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or response to resistance in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The

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Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

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Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

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

302.3 USE OF RESTRAINTS

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

(a) The circumstances or crime leading to the arrest.

(b) The demeanor and behavior of the arrested person.

(c) The age and health of the person.

(d) Whether the person is known to be pregnant.

(e) Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.

(f) Whether the person has any other apparent disability.

302.3.1 RESTRAINT OF DETAINEES

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

302.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

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302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

302.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS

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

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

Officers utilizing spit hoods should ensure that the hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid commingling individuals wearing spit hoods with other detainees.

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

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

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302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent, or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the department shall be used.

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

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.

(b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g.,running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

(a) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(b) When practical the person should be placed in a seated or upright position, and shall not be placed on his/her stomach for an extended period, as this could reduce the person’s ability to breathe.

(c) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.

(d) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

302.8 TRAINING

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

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(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

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Special Impact Weapons and Chemical Agents

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Fargo Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Response to Resistance Policy.

303.3 DEFINITIONS

Chemical agent: Substances designed to temporarily incapacitate individuals by causing irritation to the eyes, skin, and mucous membranes.

Less-lethal: A device which has a low probability of causing death or serious injury when used as designed and intended (less-lethal weapons include 40mm projectiles).

Non-lethal: A device which is not likely and not intended to cause death or serious bodily injury (pepperball delivery systems are considered non-lethal weapons).

Special impact weapon: Any non-lethal or less-lethal weapon system which is designed to fire an impact type projectile.

303.4 ISSUING, CARRYING AND USING CONTROL DEVICES

Special impact weapons, projectiles, and chemical agents described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of the special impact weapons or chemical agents referenced below are authorized to carry and use that device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances.

When using special impact weapons and chemical agents, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.5 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of a special impact weapons or chemical agents should precede its application, unless doing so would endanger the safety of officers, or when it is not practical due to the circumstances. The purpose of the warning is to:

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(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the special impact weapon or chemical agent may be deployed.

303.6 PEPPER BALL PROJECTILE SYSTEMS

The pepper ball projectile system is a non-lethal device which uses compressed air to launch projectiles designed to break upon impact. The projectiles typically contain an agent, but certain projectiles, upon senior command officer's approval, may also be used to break glass on vehicles and in dwellings.

303.6.1 USE OF THE PEPPERBALL PROJECTILE SYSTEM

The Pepperball Projectile System may be used to control or gain compliance from a subject who is being violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. Pepperball can also be used to disperse individuals from an area to gain control of a potentially violent situation or to protect property from being damaged.

The Pepperball system may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate such application is reasonably necessary:

(a) The subject is being violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist.

(c) When it is unsafe for an officer to get within contact range of an individual, and it’s necessary to control the individual from a distance to effect an arrest or apprehension.

(d) To defend against or to attempt to disarm an individual who is, or potentially could be, armed with a weapon other than a firearm;

(e) To defend the officer or others from a dangerous animal if the animal poses an imminent threat to human safety;

(f) To force a subject from concealment, other than barricaded subjects who are known or suspected to possess a firearm.

(g) To prevent a subject from fleeing from law enforcement in a vehicle, if the vehicle is stationary at the time of deployment of the projectiles.

(h) To disperse a crowd of people that is potentially violent and engaged in an unlawful assembly that refuses to disperse despite repeated orders to do so.

(i) To defeat barriers such as side windows of vehicles or windows on dwellings when officers have a lawful reason to do so.

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

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303.6.2 TACTICAL CONSIDERATIONS FOR PEPPERBALL DEPLOYMENT

(a) Officers encountering a situation that warrants the use of the Pepperball system shall notify a supervisor as soon as practicable.

(b) The presence of a second officer is highly recommended in the event the officer using the Pepperball launcher encounters lethal resistance.

(c) The number of projectiles fired should be no more than necessary to gain and maintain compliance from the subject(s). Pause and re-assessment should be a tactic used by operators.

(d) Heavy clothing can hinder the effectiveness of the Pepperball rounds. If a subject is wearing heavy clothing, the operator should consider targeting the legs.

(e) Subjects struck with Pepperball rounds often lower their head and turn away from the source of impact. It is important to anticipate this reaction when deploying Pepperball rounds.

303.6.3 PEPPERBALL TARGETING CONSIDERATIONS

(a) Pepperball projectiles should not be targeted towards the head, neck, spine, or groin except when there is a reasonable belief that the suspect poses an imminent threat of serious bodily injury or death towards the officer or others.

(b) Officers should avoid using the Pepperball launcher on persons who reasonably appear to be, or are known to be, young children, elderly, medically infirm, or pregnant. Officers are not prohibited from using the Pepperball launcher on such persons, but use is limited to those exceptional circumstances where the potential benefit of using the Pepperball launcher (i.e., injury reduction) reasonably outweighs the risks and concerns.

(c) Pepperball projectiles may be directed towards the ground or an other surface rather than directly at an individual. This can be an effective tactic if the individual is concealed or in crowd-dispersal situation.

303.6.4 PEPPERBALL GLASS-BREAKING PROJECTILES

Glass-breaking projectiles could potentially cause serious injury or death, an increased care should be exercised when using them. The following precautions shall be followed:

(a) Glass-breaking projectiles can only be used if authorized by a supervisor.

(b) Glass-breaking projectiles should not be used to break vehicle windows unless the need to so so outweighs the potential risk towards any occupants of the vehicle.

(c) Glass-breaking round must not be combined with other types of rounds. Glass-breaking rounds will only be used in a Pepperball magazine or a hopper after emptied of all other types of rounds.

(d) Prior to loading a launcher with any other type of round, the operator must ensure all remaining glass-breaking rounds are cleared from the launcher.

(e) Glass-breaking rounds shall not be targeted directly towards individuals unless lethal force is justified.

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(f) Glass-breaking rounds should be targeted towards the corners of windows rather than center-mass. These rounds should not be targeted towards windshields or large plate-glass windows.

303.7 KINETIC ENERGY PROJECTILE SYSTEM

Kinetic energy projectiles are classified as “less-lethal” because they present a lower likelihood to result in death or serious physical injury when used properly. They can be used in an attempt to de-escalate a potentially deadly situation.

303.7.1 USE OF KINETIC ENERGY PROJECTILES

Only department approved kinetic energy munitions shall be carried and deployed. Officers are not required or compelled to use a kinetic energy munition in lieu of other reasonable tactics if the involved officer determines the deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and officers takes priority over the safety of the subjects engaged in criminal or suicidal behavior.

Kinetic energy projectiles may be used in any of the following circumstances when the officer’s perception at the time indicates such application is reasonably necessary to control a person:

(a) The subject is threatening to harm his/herself through the use of a visible weapon or other potentially dangerous object, and the tactical circumstances allow for the safe application of a kinetic energy device.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist by using a weapon or dangerous object.

(c) The suspect is engaged in riotous behavior by throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) When it is unsafe for an officer to get within contact range of an individual, and it’s necessary to attempt control or disarm the individual from a distance to effect an arrest or apprehension.

(e) To defend the officer or others from a dangerous animal if the animal poses an imminent threat to human safety;

(f) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

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

303.7.2 TACTICAL CONSIDERATIONS FOR KINETIC ENERGY PROJECTILES

(a) Officers encountering a situation that warrants the use of a kinetic energy device shall notify a supervisor as soon as practicable.

(b) The presence of a second officer with lethal coverage is highly recommended in the event the officer using the kinetic energy device encounters lethal resistance. The operator of the device should also carry multiple projectiles or have officers with additional Special Impact Weapons in case multiple projectiles are necessary.

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(c) Before discharging projectiles, the officer should consider such factors as:

1. Distance and angle to target.
2. Type of munitions to be used.
3. Type and thickness of subject's clothing.
4. The location of the subject and proximity to others.
5. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

(d) Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head an neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

303.7.3 KINETIC ENERGY TARGETING CONSIDERATIONS

(a) Kinetic energy projectiles should not be directed towards the head, chest, neck, spine, or groin except when there is a reasonable belief that the suspect poses an imminent threat of serious bodily injury or death towards the officer or others.

(b) Kinetic energy projectiles should not be used to break vehicle windows unless the need to do so outweighs the potential risk towards any occupants of the vehicle.

(c) Subjects struck with kinetic energy rounds often lower their head and turn away from the source of impact. It is important to anticipate this reaction when deploying additional rounds.

303.8 OLEORESIN CAPSICUM (OC) GUIDELINES

Oleoresin Capsicum (OC) is a naturally-occurring substance that can temporarily incapacitate a subject by inducing a burning sensation to the skin and eyes, and a swelling of the mucous membranes when inhaled into the respiratory tract.

303.8.1 USE OF OC

OC in spray form can be used when deemed appropriate and necessary by the officer in the following circumstances:

(a) To bring under control an individual who is engaged in, or is about to engage in violent or resistive behavior.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist.

OC spray should not be used on individuals who are being passively non-compliant.

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OC in vapor form can also be used with supervisor approval to disperse or extract potentially violent or concealed individuals from a particular area or dwelling. However, if the individual is known or suspected to be armed with a firearm or is presenting a threat of serious bodily injury towards others in the same area or dwelling, alternative procedures for barricaded subjects should be followed. OC vapor canisters can be safely used indoors or outdoors.

303.9 TEAR GAS AND OTHER CHEMICAL AGENT GUIDELINES

Tear gas and other chemical agents not already addressed in this policy may be used for crowd control, crowd dispersal, or against barricaded suspects based on the circumstances. Only the Shift Commander, Incident Commander, Crowd Management Commander, or Red River SWAT Commander may authorize the delivery and use of tear gas or other chemical agents, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, Fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to or other chemical agent canisters that are considered pyrotechnic to control any fires and to assist in providing medical aid or gas evacuation if needed.

303.10 ACTIONS FOLLOWING DISCHARGE OF SPECIAL IMPACT WEAPONS AND DEPLOYMENT OF CHEMICAL AGENTS

(a) A supervisor shall respond to all incidents where a subject has been struck by a projectile from a Special Impact Weapon or exposed to a chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Response to Resistance Policy.

(b) Persons who have been exposed to any chemical agent should be promptly provided with fresh air and clean water to decontaminate the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

(c) Persons who have been struck by a projectile fired from a Special Impact Weapon **shall** be examined and cleared at a medical facility.

(d) **Each intentional discharge of a Special Impact Weapon directed towards a subject or animal shall be documented in accordance with Policy 300, Response to Resistance**. **Unintentional discharges shall be promptly reported to a supervisor.** Only non-incident use of a Special Impact Weapon, such as training and product demonstrations, are exempt from the reporting requirement.

(e) Whenever a chemical agent has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

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303.11 SUPERVISOR RESPONSIBILITIES

The Crowd Management Team Commander or the SWAT Commander may authorize the carrying of a special impact weapon or chemical agent (excluding officer issued OC canister spray) by selected personnel or members of specialized units who have successfully completed the required training.

A Field Services supervisor or the Training Sergeant may authorize the carrying of OC Spray after officers have completed the required training.

303.11.1 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Training Sergeant, a Crowd Management Team supervisor, a SWAT supervisor, or the department Quartermaster for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

Officers will inspect launchers and projectiles at the beginning of each shift to ensure the launcher is in proper working order and the projectiles are of the approved type and appear to be free of defects.

When not deployed, launchers will be unloaded and properly secured in a locked police vehicle or in a police building.

303.11.2 EQUIPMENT INVENTORY AND MANAGEMENT

A designated member of the Crowd Management Team, SWAT team or the Department Quartermaster shall control the inventory and issuance of all Special Impact Weapons and chemical agent canisters and shall ensure that all damaged, inoperative, outdated or expended devices or munitions are properly disposed of, repaired or replaced.

Every Special Impact Weapon will be periodically inspected by a trained armorer or by a designated instructor. The inspection shall be documented.

303.12 TRAINING

The Administrative Lieutenant, the Crowd Management Team Commander, or the SWAT Commander shall ensure that all personnel who are authorized to carry a special impact weapon or chemical agent have been properly trained and certified to carry the specific device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for special impact weapons and chemical agents will be documented in the officer’s training file.

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(c) Officers who fail to demonstrate proficiency with the special impact weapon, chemical agent, or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a device, chemical agent, or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the device or chemical agent, and may be subject to discipline.

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Tasers

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER® devices.

304.2 POLICY

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

304.3 ISSUANCE AND CARRYING OF TASERS

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

Officers shall only use the TASER device and cartridges that have been issued by the department. Sworn officers while in full uniform who have been issued the TASER device shall wear the device in an approved holster on their person. Non-uniformed officers may carry or otherwise be issued a Taser as needed or as determined by a command officer or supervisor.

While in uniform, officers shall carry the TASER device in a holster on the side opposite their duty weapon.

(a) Officers shall be responsible for ensuring their issued TASER is properly maintained and in good working order.

(b) It is recommended that officers spark test their issued TASER prior to the start of each work shift. The spark test shall be conducted in a manner consistant with their department approved training.

304.4 VERBAL AND VISUAL WARNINGS

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

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the TASER device may be deployed.

304.5 USE OF THE TASER

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

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304.5.1 APPLICATION OF THE TASER

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

(a) The subject is violent or is physically resisting.

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

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

Officers are prohibited from using a TASER device upon any person as a general “pain-compliance” technique.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obviously young children.

(c) Individuals who are handcuffed or otherwise restrained.

(d) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(e) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the circuit.

304.5.3 TARGETING CONSIDERATIONS

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

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304.5.4 MULTIPLE APPLICATIONS OF THE TASER

Officers should apply the TASER device for only one standard cycle and evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands, other options or tactics may be more effective.

Officers should not intentionally apply more than one TASER device at a time against a single subject. If multiple TASERS are deployed, each deployment is considered an additional Response to Resistance.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

(a) Officers shall notify a supervisor of all TASER device discharges. An officer who utilizes a TASER upon a person in the performance of their duties shall comply with the following in addition to completing all other reporting requirements as described within this policy:

(b) Immediately seek medical attention for the person a TASER device was used upon, regardless of which mode (probe deployment or drive stun) was utilized. The officer using the TASER device shall ensure the attending physician or other attending medical professional is aware of the TASER use and any evident or claimed injury the person who the TASER device was used upon may have.

(c) When applicable, notify the attending correctional facility personnel that a TASER device was used upon the person brought into the facility and any evident or claimed injury the person who the TASER device was used upon may have.

(d) When practical and safe to do so, and in accordance with the training provided by the department, the officer using a TASER device shall remove any of the TASER probes embedded in the body of the person. In the event a probe is embedded in any of the following areas; a person's face, ear, groin, or breast (female only), the officer will have the probe removed by a medical professional. Any removed probes will be discarded in an appropriate bio-hazard container.

(e) As soon as it is practical to do so following the use of a TASER device, the officer using the TASER device shall ensure the TASER "use-data" is stored electronically by a duly designated department employee. The department employee recording the TASER "use-data" information shall notify the Office of Professional Standards (OPS) of the date, time, and completion of the TASER "use-data" recording.

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

304.5.7 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department TASER devices while off-duty.

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

304.6 DOCUMENTATION
Officers shall document all TASER device discharges in the related case report and the TASER device Use Report Form (Attached). Notification shall also be made to a supervisor in compliance with the Response to Resistance Policy. Unintentional discharges shall be reported immediatly to an on-duty supervisor.

304.6.1 TASER USE REPORT FORM
Items that shall be included in the TASER device report form include:

(a) Officer name, date, case number and seriel number of the TASER device.

(b) Subject name and date of birth.

(c) The number of TASER cycles and/or cycle length in seconds if not full cycles.

(d) The type of mode used (probe, drive-stun and/or a combination).

(e) Location of any probe impact and whether the probes penetrated the skin.

(f) Location of contact in drive-stun mode.

The Administrative Training Lieutenant or their designee should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Administrative Training Lieutenant or their designee should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations.

304.6.2 REPORTS
The officer should include the following in the case report:

(a) Identification of all personnel firing TASER devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject’s physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

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304.7 SUPERVISOR RESPONSIBILITIES

When possible a supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The supervisor should determine which Response to Resistance Report Form is applicable based on the circumstances surrounding the discharge. Photographs of probe sites should be taken and witnesses interviewed.

304.8 TRAINING

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

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Administrative Training Lieutenant or designee. All training and proficiency for TASER devices will be documented in the officer's training file.

The Administrative Training Lieutenant or their designee are responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training.

The Administrative Training Lieutenant or their designee should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Response to Resistance Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

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Officer-Involved Shootings and Deaths

305.1 PURPOSE AND SCOPE

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

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

305.2 POLICY

The policy of the Fargo Police Department is to ensure that officer-involved shootings or other critical incidents resulting in death or serious bodily injury of another person are investigated in a thorough, fair and impartial manner.

305.3 TYPES OF INVESTIGATIONS

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

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

305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Fargo Police Department would control the investigation if the suspect's crime occurred in Fargo.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

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305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

305.4.3 ADMINISTRATIVE INVESTIGATION

Regardless of where the incident occurs, the administrative investigation of each involved officer is controlled by the respective employing agency.

305.5 INVESTIGATION PROCESS

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

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved FPD officer will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

(a) Secure the scene and identify and eliminate hazards for all those involved.

(b) Take reasonable steps to obtain emergency medical attention for injured individuals.

(c) Request additional resources from the department or other agencies.

(d) Coordinate a perimeter or pursuit of suspects.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved FPD supervisor should ensure completion of the duties as outlined above, plus:

(a) Attempt to obtain a brief overview of the situation from any uninvolved officers.

1. In the event there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

(b) If necessary, the supervisor may administratively order any FPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.

1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

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2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.

(c) Provide all available information to the District Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional officers until properly relieved by another supervisor or other assigned personnel or investigator.

(e) As soon as practicable, ensure involved officers are transported (separately, if feasible) to a suitable location for further direction.

1. Each involved FPD officer should be given an administrative order not to discuss the incident with other involved officers or FPD members pending further direction from a supervisor.

2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

305.5.3 DISTRICT COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Field Services District Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.

All outside inquiries about the incident shall be directed to the District Commander or Public Information Officer.

305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Investigation Division Commander
- Field Services Division Commander
- Outside agency investigators (if appropriate)
- The Office of Professional Standards
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Public Information Officer

305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

(a) Any request for legal representation will be accommodated.

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1. Involved FPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.FPD officers will be permitted to meet individually with legal representatives.
2. Requests from involved non-FPD officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) A licensed psychotherapist shall be provided by the department to each involved FPD officer. A licensed psychotherapist may also be provided to any other affected FPD members, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.
2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not be permitted to collaboratively consult, meet collectively, or in a group with a licensed psychotherapist prior to providing a formal interview or report.
3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

Although the department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved FPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the District Commander to make schedule adjustments to accommodate such leave.

305.6 CRIMINAL INVESTIGATION

The designated investigating agency is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies to avoid duplicating efforts in related criminal investigations.

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

(a) FPD supervisors and Office of Professional Standards personnel should not participate directly in any voluntary interview of FPD officers. This will not prohibit such

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personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

(b) If requested, any involved officer will be afforded the opportunity to consult individually with an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with an attorney collectively or in groups prior to being interviewed.

(c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

305.6.1 REPORTS BY INVOLVED FPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved FPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved FPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/ witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved FPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

(a) Identification of all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

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2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the department.

1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

305.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigation Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the investigating agency and may be assigned to separately handle the investigation of any related crimes not being investigated by the investigating agency.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Investigation Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

305.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved FPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Office of Professional Standards.

Interviews of officers shall be subject to department policies and applicable laws.

(a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

(b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

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(c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The Office of Professional Standards shall compile all relevant information and reports necessary for the department to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn and other known video, or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

305.9 DEBRIEFING

Following an officer-involved shooting or death, the Fargo Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

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305.9.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Peer Assistance Crisis Team supervisor is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order (N.D.C.C. § 44-04-18.1(5)).

Attendance at the debriefing shall only include those members of the department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the department, including supervisory and Office of Professional Standards personnel.

305.9.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

305.10 FITNESS FOR DUTY EVALUATIONS AND OTHER POST INCIDENT REQUIREMENTS

An officer or civilian employee directly involved in an officer involved shooting or other critical incident shall be required to meet with a professionally licensed psychologist or other mental health professional (of the officer's or employee's own choosing) within 72-hours of the incident, or as soon thereafter as possible.

(a) The scope and content of the meeting with the mental health professional shall remain privileged and confidential between the officer and the mental health professional.

(b) The member shall as soon as practical, provide the Chief of Police with written documentation which demonstrates and/or certifies their compliance with this requirement.

(c) The department will not incur the expenses associated with any travel, lodging, per diem, etc., for the member or the mental health professional relative to the requirements unless authorized by the Chief of Police

Prior to returning to or being placed in a regular or temporary work assignment, an officer or civilian employee directly involved in an officer involved shooting or other critical incident shall be required to submit to a physical and/or fitness for duty evaluation conducted by a department designated physician and or mental health professional.

(a) The member shall be required to follow the recommendations received from the duly designated physician and/or mental health professional, including any recommendations for additional care and/or evaluation.

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(b) The scope and content of the initial or any subsequent fitness for duty evaluation as required in the section shall be made available to the Chief of Police.

(c) The fitness for duty evaluation will be maintained the member's medical file.

The Chief of Police shall be responsible for making any final determinations regarding the member's return to full or temporary duty.

In addition, the member involved in an officer involved shooting or other critical incident shall also be required to meet with a licensed psychologist or other mental health professional (of the member's own choosing) approximately three (3) months following the incident and again approximately six (6) months following the incident.

(a) The scope and content of the these required meetings shall remain privileged and confidential between the member and the mental health professional.

(b) The member shall as soon as practical, provide the Chief of Police with written documentation which and/or certifies their compliance with this requirement.

(c) As deemed reasonable by the Chief of Police, the expenses associated with the required fitness for duty evaluation for the member, as well as the required meetings with a mental health professional shall be incurred by the department.

(d) The department will not incur the expenses associated with any travel, lodging, per diem, etc., for the member or the mental health professional relative to the requirements unless authorized by the Chief of Police.

Prior to returning to their regular work assignment, the member involved in an officer involved shooting or other critical incident must receive written authorization to return to that assignment from the Chief of Police. The member will also be required to do the following (if applicable):

(a) Re-qualify and/or re-certify with any firearm and/or defensive device, equipment, etc., utilized during the incident which requires qualification and/or certification.

(b) Accompany a designated on-duty officer or civilian employee, of the members choosing, for the first five (5) work days after returning to their regular work schedule.

(c) Meet with the command officer responsible for their work immediately following the completion of the first five (5) work days after returning to their regular work assignment for the purpose of ensuring the member is prepared and capable of working independently.

Following the completion of all of the requirements described within this section, the command officer responsible for the member involved in an officer involved shooting or other critical incident shall provide the Chief of Police with a written recommendation as to the member's ability to remain in their regular work assignment.

The Chief of Police will make any final determinations relative to the member's work status.

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305.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Public Information Officer in the event of inquiries from the media.

No involved FPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Commander.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

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Firearms

306.1 PURPOSE AND SCOPE

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

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

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

306.1.1 AUTHORIZATION TO CARRY FIREARMS

Members of this department who meet all state and North Dakota Peace Officer Standards and Training Board (POST) requirements shall have law enforcement privileges to carry firearms and other weapons pursuant to state laws (N.D.C.C. § 62.1-03-01(2)(f); N.D.C.C. § 62.1-04-02; N.D.C.C. § 62.1-05-02(3)).

306.2 POLICY

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

All sworn police officers, while on official duty, shall carry a department approved weapon and ammunition. The carrying of an off-duty weapon is optional; however, off-duty weapons and ammunition must also be department approved.

306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

306.3.1 HANDGUNS

The authorized department-issued handgun is the Glock, Model 22, 40 Caliber. The following additional handguns are approved for on-duty use:

(a) Glock, Model 23, 40 Caliber

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(b) Glock, Model 27, 40 Caliber

(c) Smith and Wesson, Shield, 40 Caliber

306.3.2 SHOTGUNS
The authorized department-issued shotgun is the Remington, Model 870, 12 Guage.

When not deployed, the shotgun shall be properly secured in a locking weapons rack in the Field Services Division supervisor vehicle with the magazine loaded, the action closed on an empty chamber, the trigger pulled to release the hammer and the safety in the safe position.

306.3.3 PATROL RIFLES
The authorized department-issued patrol rifle is a AR15 style patrol rifle, 5.56 Caliber.

Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation the rifle may be needed. When not deployed, the patrol rifle shall be properly secured in cruiser safe mode, in a locking weapons rack in the patrol vehicle, armory located at the police department or approved storage facility.

306.3.4 PERSONALLY OWNED DUTY FIREARMS
Sworn officers are not authorized to carry a personally owned firearm while on duty.

306.3.5 AUTHORIZED SECONDARY HANDGUN
Sworn officers desiring to carry department owned secondary handguns are subject to the following restrictions:

(a) The handgun shall be a department issued Smith and Wesson Shield, 40 Caliber, with department issued ammunition.

(b) Only one secondary handgun may be carried at a time.

(c) The handgun and duty ammunition shall be issued by the department.

(d) The handgun shall be carried concealed at all times while in public and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(e) The handgun shall be inspected by the Training Sergeant or authorized designee prior to being issued and thereafter shall be subject to inspection whenever it is deemed necessary.

(f) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

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

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(a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.

1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.

(b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(c) It will be the responsibility of the member to submit the firearm to the Training Sergeant or their designee for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Training Sergeant or their designee.

(d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Training Sergeant that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

(e) The member will successfully qualify annually with the firearm prior to it being carried.

(f) Members shall provide written notice of the make, model, serial number, and caliber of the firearm to the Training Sergeant, who will maintain a list of the information.

(g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.

(h) Members shall only carry department-authorized ammunition.

(i) Officers must carry their issued Fargo Police Department badge and identification card when carrying a concealed firearm while off-duty.

306.3.7 AMMUNITION

Sworn officers shall carry only department-authorized ammunition. Department issued ammunition will be replaced by the Training Sergeant as needed. Replacements for unserviceable or depleted ammunition issued by the department shall be dispensed by the Training Sergeant or authorized designee when needed and in accordance with established policy.

Sworn officers carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

306.4 EQUIPMENT

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

306.4.1 REPAIRS OR MODIFICATIONS

Each officer shall be responsible for promptly reporting any damage or malfunction of an issued firearm to a supervisor, the Training Sergeant or authorized designee.

Firearms that are the property of the department may be repaired or modified only by a person who is department-approved. Such modification or repairs must be authorized in advance by the Training Sergeant or authorized designee.

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306.4.2 HOLSTERS

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

Officers assigned to plain clothes assignments, as well as administrative staff, must have a level-one retention holster that has been approved by the Training Sergeant or an authorized designee.

306.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- duty after they have been examined and approved by the Training Sergeant or authorized designee.

306.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on the AR-15 style patrol rifle in strict accordance with manufacturer specifications. Sworn officers shall qualify with the patrol rifle to ensure proper functionality. The Training Sergeant or their designee will insure proper sighting of the firearm prior to carrying the firearm.

306.5 SAFE HANDLING, INSPECTION, AND STORAGE

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

(a) Officers shall not unnecessarily display or handle any firearm.

(b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Training Sergeant.

(c) Members shall not clean, repair, load or unload a firearm anywhere in the department, except where clearing barrels are present.

(d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded using clearing barrels.

(e) Officers shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail when securing or processing an arrestee, but shall place all firearms in a secured location.

(f) Any firearm authorized by the department to be carried on- or off-duty that is determined by an officer to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly reported to theTraining Sergeant for inspection and repair. Any firearm deemed in need of repair or service by the Training Sergeant or an authorized designee will be immediately removed from service. If the firearm is the sworn officer's primary duty firearm, a replacement firearm will be issued to the officer until the duty firearm is serviceable.

306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly, and upon access or possession by another person. Patrol rifles shall be inspected at the beginning of the shift by the officer to whom the weapon is issued. The officer shall ensure the firearm is carried in the proper condition and loaded with approved

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ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

306.5.2 STORAGE AT HOME

Officers should ensure all firearms and ammunition are secured while in their homes or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Officers should be aware that negligent storage of a firearm could result in civil liability.

306.5.3 ALCOHOL AND DRUGS

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

306.6 FIREARMS TRAINING AND QUALIFICATIONS

All sworn officers who carry a firearm while on-duty are required to successfully complete training with their duty firearms. In addition all officers will qualify at least annually, including successfully completing a North Dakota mandated firearms requalification program on a POST-certified range course unless waived by POST (N.D.A.C. § 109-02-03-04; N.D.A.C. § 109-02-03-06). Any officer who has not requalified within the two previous years shall successfully complete both the POST written examination and the certified range course.

Sworn officer will qualify with off-duty and secondary firearms annually on an approved range course.

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

306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

(a) Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.

(b) Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.

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Officers who fail to demonstrate duty firearms proficiency as required by policy, or who fail to meet POST qualification requirements, may not carry a firearm in the course of employment and will be relieved from field assignment (N.D.A.C. § 109-02-03-01). Disciplinary action may follow.

306.7 FIREARM DISCHARGE

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

306.7.1 DESTRUCTION OF ANIMALS

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

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

306.7.2 INJURED ANIMALS

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

306.7.3 WARNING AND OTHER SHOTS

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

306.8 TRAINING SERGEANT DUTIES

The range will be under the exclusive control of the Training Sergeant or an authorized designee. All officers attending will follow the directions of the Training Sergeant or authorized designee. The Training Sergeant will maintain a roster of all officers attending the range and will submit the roster to the Administrative Lieutenant after each range date. Failure of any officer to sign in with the Training Sergeant or authorized designee may result in non-participation or non-qualification.

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

The Training Sergeant or an authorized designee has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by officers of this department to verify

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proper operation. The Training Sergeant has the authority to deem any department-issued or personally owned firearm unfit for service. The officer will be responsible for all repairs to his/her personal firearm; it will not be returned to service until it has been inspected and approved by the Training Sergeant or an authorized designee.

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

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

The Training Sergeant shall forward documentation of licensed department personnel duty firearm qualifications to POST as required by state law (N.D.A.C. § 109-02-03-07(3)).

306.9 FLYING WHILE ARMED

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

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the department based on the law and published TSA rules.

(b) Officers must carry their Fargo Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature, the signature of the Chief of Police or the official seal of the department, and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., drivers license, passport).

(c) The Fargo Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Fargo Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

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(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.

(f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.

(g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(i) Officers should try to resolve any problems through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

(j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

306.10 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her Fargo Police Department identification card whenever carrying such firearm.

(b) The officer is not the subject of any current disciplinary action which could result in administrative leave or termination.

(c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) The officer will remain subject to this and all other department policies (including qualifying and training).

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

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

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Vehicle Pursuits

307.1 PURPOSE AND SCOPE

This policy establishes guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, fleeing violators, and property.

307.1.1 POLICY

The Fargo Police Department recognizes the safety of the general public and any police officer involved in a vehicle pursuit is of paramount importance. This department's response to those who unlawfully flee from law enforcement action shall stress a common sense balance between the importance of apprehending offenders, and the high risk nature of vehicle pursuits.

307.2 DEFINITIONS

Definitions related to this policy include:

Motor Vehicle pursuit - An event involving one or more sworn officers attempting to apprehend a suspect who is trying to avoid arrest while operating a motor vehicle by using evasive tactics, and/or maneuvers such as using a high rate of speed, disregarding traffic warning signs, stop signs, red lights, driving off a roadway, turning suddenly, or willfully failing to yield to an officer's signal to stop.

Police Vehicle - Any motor vehicle, to include motorcycles, unmarked vehicles, special operations vehicles, or those clearly distinguishable as a police vehicle through markings, emergency lights, siren, and/or other devices, which are authorized for the official use of the Fargo Police Department.

Blocking or vehicle intercept - A slow-speed coordinated maneuver where law enforcement vehicles intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Blocking is not a moving or stationary road block.

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

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing a vehicle or other immovable object in the path of the violator's vehicle.

Shift Sergeant - For the purposes of this policy, shift sergeant shall be defined as the senior ranking on-duty Field Services Division sergeant.

Serious Bodily Injury - Any injury to a person that creates a substantial risk of death or permanent impairment to that person.

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Tire Deflation Device (TDD) - Devices specifically designed to puncture the tires of a vehicle, causing the tires to deflate in a controlled manner and render the vehicle incapable of further operation. TDD's are primarily used as a forcible stopping technique and in limited circumstances as appropriate.

307.3 OFFICER RESPONSIBILITIES

A vehicle pursuit shall be conducted using a marked emergency vehicle equipped with and using as reasonably necessary a flashing red or a combination of red and blue, red and white, or red, white and blue lights and an audible signal by siren or air horn (N.D.C.C. 39-10-03(2)). Any officer operating a police motorcycle, unmarked police vehicle, or a special operations police vehicle is strictly prohibited from initiating, engaging, or otherwise participating in a motor vehicle pursuit unless authorized by a Field Services Division supervisor. Officers engaged in a vehicle pursuit may:

(a) Proceed past a red light, stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(b) Exceed the speed limit so long as the officer does not recklessly endanger life or property.

(c) Disregard regulations governing direction of movement or turning in specified directions so long as the officer does not recklessly endanger life or property.

307.3.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when it is reasonable to believe a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer.

The following factors shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit include:

(a) The seriousness of the known or reasonably suspected crime, and its relationship to community safety.

(b) The importance of protecting the public and balancing the known or reasonably suspected offense, and the apparent need for immediate capture against the risks to officers, innocent motorists and others.

(c) The apparent nature of the fleeing suspect (e.g., whether the suspect represents a serious threat to public safety).

(d) The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.

(e) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.

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(f) The pursuing officer's familiarity with the area of the pursuit, the quality of radio communication between the pursuing units, and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.

(g) The weather, traffic, and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.

(h) The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.

(i) Vehicle speeds.

(j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).

(k) The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the prisoner in transport.

307.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of the circumstances known or which reasonably should be known to the officer or supervisor during the pursuit indicates the present risk of continuing the pursuit reasonably appears to outweigh the risk resulting from the suspect's escape.

The above factors on when to initiate a pursuit are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean to discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit:

(a) The distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.

(b) The pursued vehicle's location is no longer definitely known.

(c) The officer's pursuit vehicle sustains damage, or a mechanical failure that renders it unsafe to drive.

(d) The pursuit vehicle has an emergency equipment failure that causes the vehicle to no longer qualify for emergency operation use.

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(e) If at any time during the course of a motor vehicle pursuit a person is injured as a result of the pursuit, the primary police unit shall be responsible for ensuring the injured person is provided with immediate medical assistance. This may include directing the secondary police unit to stop and render such assistance..

(f) The hazards to uninvolved bystanders or motorists.

(g) When the identity of the offender is known, and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit officers

(h) When directed to terminate the pursuit by a supervisor.

Upon termination of a motor vehicle pursuit, all of the police units involved shall come to a complete stop and notify the shift sergeant of their location. The shift sergeant will direct the primary and secondary police units to follow the last known direction of travel of the fleeing vehicle to ensure the fleeing vehicle has not been involved in or otherwise caused a motor vehicle crash. The primary and secondary police units will conduct this action for a reasonable distance and obey all traffic regulations while doing so.

307.4 PURSUIT UNITS

Pursuit units should be limited to two vehicles one primary unit and one secondary unit. The number of units involved may vary with the circumstances.

A supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears the number of officers involved would be insufficient to safely arrest the suspect. All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point, following the appropriate rules of the road.

307.4.1 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to him/herself or other persons.

The primary unit should notify Dispatch, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable, provide information which includes:

(a) The reason for the pursuit.

(b) The location and direction of travel.

(c) The speed of the fleeing vehicle.

(d) The description of the fleeing vehicle and license number, if known.

(e) The number of occupants.

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(f) The identity or description of the known occupants.

(g) The weather, road and traffic conditions.

(h) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit joining the pursuit to minimize distractions, and allow the primary unit to concentrate foremost on safe pursuit tactics.

307.4.2 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit is responsible for:

(a) Immediately notifying the dispatcher of his/her entry into the pursuit.

(b) Remaining at a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.

(c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.

(d) Serving as backup to the primary unit once the subject has been stopped.

307.4.3 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards, or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely, in a non-emergency manner, to controlled intersections ahead of the pursuit in an effort to warn cross traffic.

(c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:

1. Maintaining visual contact with the pursued vehicle by paralleling on the correct side of the roadway.

2. Requesting other units to observe exits available to the suspect.

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(d) Notifying the North Dakota State Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.

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

307.4.4 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

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

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road unless requested emergent by on scene officers to assist in the apprehension of the violator.

The primary unit and secondary unit should be the only units operating under emergency conditions (emergency lights and siren) unless other units are assigned to the pursuit.

307.4.5 PURSUIT TRAILING

In the event the initiating unit from this agency relinquishes control of the pursuit to another unit or jurisdiction, the initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect.

The term "trail" means to follow the path of the pursuit at a safe speed, while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units to clearly indicate an absence of participation in the pursuit.

307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

It is the policy of this department that available supervisory control will be exercised over all vehicle pursuits involving officers from this department.

The shift sergeant will be responsible for the following unless directed to relinquish such authority by a command officer:

(a) Upon becoming aware of a pursuit, immediately notifying involved officers and Dispatch of supervisory presence, and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure the pursuit is conducted within established department guidelines.

(b) Exercising management and control of the pursuit.

(c) Ensuring no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.

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(d) Directing the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.

(e) Ensuring the proper radio channel is being used.

(f) Ensuring that outside agencies are notified and/or coordinated if the pursuit either leaves or is likely to leave the jurisdiction of this agency.

(g) Controlling and managing FPD units when a pursuit enters another jurisdiction.

(h) Preparing a post-pursuit critique and analysis of the pursuit.

307.6 COMMUNICATIONS

If the pursuit is confined within the city limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

307.6.1 LOSS OF PURSUED VEHICLE

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

307.7 INTERJURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency’s jurisdiction, the primary officer or supervisor, should continue to conform to this policy and the laws of the State of North Dakota and determine whether to request the other agency to assume the pursuit (N.D.C.C. § 40-20-05(2); N.D.C.C. § 11-15-33).

If a motor vehicle pursuit enters a bordering state or neighboring jurisdiction, the initiating officer will request dispatch to notify the appropriate law enforcement agency of the bordering state or neighboring jurisdiction of the pursuit, and request any necessary assistance.

307.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Fargo Police Department officers will discontinue the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Fargo Police Department is requested by the agency assuming the pursuit. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation. A supervisor should coordinate with the agency managing the termination point to determine the supervisor's need to respond or otherwise assist in the investigation. The supervisor should obtain any information that is necessary for inclusion in any reports from the agency managing the termination point.

The role and responsibilities of officers at the termination of a pursuit that was initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

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Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose peace officers are in pursuit. Only after receiving a request from the other jurisdiction and receiving authorization from a command officer or the shift sergeant, may Fargo Police officers engage in another jurisdiction's pursuit. In the event a single unit from the initiating agency is the only unit involved in the pursuit, a command officer or shift sergeant may authorize a unit from this department to join the pursuit depending on the circumstances. If authorized, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit. Fargo police officers will assume the responsibilities of the primary and secondary police units in the pursuit once authorization is granted. Fargo police officers will continue with or terminate the pursuit based on this department’s policy.

When a request is made for this department to assist or take over a pursuit that has entered this jurisdiction, the supervisor should consider these additional factors:

(a) Ability to maintain the pursuit

(b) Circumstances serious enough to continue the pursuit

(c) The public's safety within this jurisdiction

(d) Safety of the pursuing officers

As soon as practicable, the shift sergeant should review a request for assistance from another agency. The shift sergeant, after consideration of the above factors, may decline to assist in or assume the other agency's pursuit.

Assistance to a pursuing outside agency by officers of this department will terminate at the city limits provided the pursuing peace officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to peace officers from the initiating agency and other involved agencies including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

307.8 PURSUIT INTERVENTION

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a vehicle through tactical application of technology, blocking, boxing in, ramming, or roadblock procedures.

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307.8.1 WHEN USE IS AUTHORIZED

An officer shall seek approval from a supervisor before employing a pursuit intervention tactic. In deciding whether to use intervention tactics, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

307.8.2 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to department policies guiding such use. Officers shall consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

(a) Blocking or vehicle intercept "boxing-in" should only be considered when the fleeing vehicle has come to a complete stop, and only if the risk of injury to any person, including other police officers and occupants of the fleeing vehicle is minimal.

(b) Prior to any intentional or deliberate contact between a pursuing police vehicle and a fleeing motor vehicle; i.e. forcing the fleeing vehicle into parked cars, ditches, or any other obstacle, or heading off, ramming, or driving alongside a fleeing motor vehicle while it is in motion, the officer shall attempt to obtain authorization from a command officer or shift sergeant.

(c) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box in a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.

(d) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor. If roadblocks are deployed, it should only be done under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risk of injury or death to occupants of the pursued vehicle, officers or other members of the public.

307.8.3 TIRE DEFLATION DEVICES

The tire deflation device (TDD) may be deployed when attempting to stop a motorist who is engaged in a vehicle pursuit or reckless driving behavior. The TDD may also be used to prevent stationary vehicles from being moved in an attempt to leave a scene. If feasible, supervisory approval should be gained prior to deploying the TDD.

1.Pre-deployment Considerations

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(a) The safety of oncoming traffic, the general public, law enforcement personnel, and of the fleeing motorist will be considered when determining the feasibility of deploying the TDD.

(b) Officers should not unduly risk their own safety in an attempt to deploy a TDD.

(c) Officers should attempt to deploy the TDD in locations with good sight distances to enable the deployment officer to observe the pursuit and other traffic as it approaches.

1. Deployment should not occur on curves, bridges, or locations where reasonable judgement under the circumstances would dictate avoidance.

(d) TDD's will not be used to terminate a pursuit of a motorcycle, moped, three/four wheeled vehicles (ATV's), or other similar vehicles unless deadly force is justified.

(e) Only personnel trained in the use of the TDD's will deploy it in accordance with their training and established policy.

2.Deployment Considerations and Actions

(a) The on-duty supervisor and all units involved in the pursuit will be notified prior to the deployment, as practical, and the on-duty supervisor will direct the use of the TDD.

(b) Once it is determined when and where a TDD will be deployed, RRRDC will be notified and will alert all other officers involved.

(c) The TDD is considered to be deployed when it is actually used in the field in an attempt to stop a moving vehicle or when it is used to keep a parked vehicle from moving.

(d) Once deployed, pursuing officers should increase their following distance in order to avoid striking the device.

(e) **The deployment officer(s) at the scene should immediately seek protection out of the travel lane or escape route of the suspect and pursuing vehicles.**

(f) Once the vehicle has driven over a TDD, the deployment officer will secure the device as soon as it is safe to do so.

1. The deployment officer will inspect the immediate area where the TDD was used and collect any spikes or points which may have become detached.

2. The deployment officer will inspect the TDD and notify the TDD manager of any repair needed.

(g) The TDD should be placed back into the storage case in accordance with the manufactures recommended guidelines.

3.Requests for Deployments by Another Agency

(a) The on-duty Field Services supervisor, may authorize the use of the TDD to assist another agency pursuing a fleeing vehicle into our jurisdiction.

(b) Requests for assistance regarding the deployment of the TDD will be referred to the on-duty shift supervisor who will make his/her decision based upon the totality of the circumstances involved and specific information received from the pursuing agency.

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(c) Once a TDD has been deployed by a FPD officer, regardless of the TDD's effectiveness, supervisors will take into account department policy regarding the decision to pursue.

4.Reporting

(a) If deployed for a pursuit originated by our department, the officer(s) shall indicate in their case report/supplement the date, time, and location the device was used, nature of the offense, and the effectiveness of the device.In addition, the officer shall complete the Pursuit Reporting form on-line at www.stopstick.com/home/pursuit-reporting.The Pursuit Reporting form will be forwarded to the supervisor, who was on-duty during the time of the deployment, for his/her pursuit critique.

(b) If deployed for a pursuit originated by another agency, the officer(s) shall complete an "Assist Other Agency" report indicating the date, time, and location the device was used, nature of the offense, and the effectiveness of the device.The deployment officer shall complete the Pursuit Reporting form on-line at www.stopstick.com/home/pursuit-reporting.The Pursuit Reporting form will be forwarded to the supervisor, who was on-duty during the time of the deployment, for his/her pursuit notification memo to the command staff.

(c) In the event the fleeing vehicle avoided the TDD, meaning none of the tires drove over the TDD device, the deployment officer does not need to complete the on-line Pursuit Reporting form.

5.Maintenance

(a) For spike replacement or other structural damage, the TDD will be delivered to the assigned department designee for servicing and repairs.

307.8.4 CAPTURE OF SUSPECTS

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

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

307.9 REPORTING AND REVIEW REQUIREMENTS

All appropriate reports shall be completed to comply with local and state regulations.

(a) The primary officer shall complete appropriate arrest reports.

(b) The shift sergeant shall complete the appropriate pursuit report.

(c) After obtaining all the available information, the shift sergeant shall notify the Office of Professional Standards of the incident and promptly complete a thorough review of the motor vehicle pursuit, and submit a written critique of the incident to their shift commander. This critique should minimally contain the following information:

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1. Date and time of pursuit
2. Length of pursuit in distance and time
3. Involved units and involved officers
4. Initial reason and circumstances surrounding the pursuit
5. Starting and termination points
6. Alleged offenses or disposition (e.g., arrest, citation or other release)
7. Arrestee information should be provided if applicable
8. Injuries and/or property damage
9. Medical treatment
10. The outcome of the pursuit
11. Name of supervisor handling or at the scene
12. An analysis of the actions of all officers involved in the pursuit and a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted

(d) After receiving the shift sergeant's pursuit critique, police reports, logs and other pertinent information, the shift commander shall determine if the analysis adequately addresses the parameters outlined in this policy. The shift commander will forward the shift sergeant’s evaluation, along with their own conclusions and recommendations relative to the incident, to the Field Services Division commander.

(e) The Field Services Division commander will review the evaluation of the pursuit incident and forward it along with any recommendations to the Chief of Police. The Chief of Police will have final review and determination authority over all motor vehicle pursuit incidents.

(f) The shift sergeant will complete a memorandum to the Field Services Division commander via the appropriate shift commander whenever a pursuit from another agency enters the City of Fargo and no Fargo officers participated in the pursuit. This memorandum will include the agencies involved, assistance provided by Fargo officers and the route the pursuit traveled.

(g) All motor vehicle pursuit reviews and evaluations should be completed and forwarded to the Chief of Police within fifteen (15) calendar days of the incident unless otherwise approved by the Chief of Police or the Field Services Division commander.

307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all sworn officers will participate in regular and periodic training addressing this policy, the importance of vehicle safety and protecting

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the public at all times. Training will include a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

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Officer Response To Calls

308.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to all emergency and non-emergency situations.

308.2 RESPONSE TO CALLS

It is the responsibility of each officer to determine the appropriate driving response to the calls-for-service or other requests for police assistance they are assigned to or those they self-initiate. Officers shall determine the appropriate driving response, including when to utilize any emergency lights, siren, or other warning devices, based on the information available and known to the officer at the time of the officer's response, not on a presumptive or assumed set of circumstances.

Officers responding to an emergency call shall proceed immediately. Officers shall continuously operate emergency lighting equipment and, if appropriate, sound the siren (N.D.C.C. § 39-10-03).

Responding with emergency lights and siren does not relieve the officer of the duty to drive with due regard for the safety of all persons and property, and does not protect the officer from the consequences of reckless disregard for the safety of others.

Officers should only respond to a call as an emergency response when (N.D.C.C. § 39-10-03(2)):

(a) In pursuit or apprehension of a violator or suspected violator.

(b) Dispatched or otherwise in response to a reported emergency involving a possible personal injury, death, or damage to property.

(c) The Chief of Police or authorized designee deems it advisable for the protection of a person or property.

Officers not responding to a call as an emergency response shall observe all traffic laws and proceed without the use of emergency lights and siren.

308.3 REQUESTING EMERGENCY ASSISTANCE

Officers may request emergency assistance when they reasonably believe there is an imminent threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen.

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

(a) The unit number

(b) The location

(c) The reason for the request and type of emergency

(d) The number of units required

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Where a situation has stabilized and emergency response is not required, the requesting officer shall promptly notify Dispatch.

308.3.1 NUMBER OF UNITS PARTICIPATING
Only those units which are reasonably necessary to assist should respond to a call with an emergency response. The Field Services Division supervisor should monitor all emergency responses to reduce or enhance the response as warranted.

308.4 RESPONSIBILITIES OF THE RESPONDING OFFICER

Officers shall exercise sound judgment and care with due regard for life and property when responding to a call with an emergency response. During a call involving an emergency response officers may (N.D.C.C. § 39-10-03(1)):

(a) Disregard regulations governing parking or standing when using emergency lighting equipment.

(b) Proceed past a red light, stop signal, or stop sign, but only after slowing down as may be necessary for safe operation.

(c) Exceed any speed limits providing the speeds are reasonable, and do not endanger life or property.

(d) Disregard regulations governing direction of movement or turning in specified directions.

The decision to continue as an emergency response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of emergency lights and siren at the legal speed limit. An officer shall also discontinue an emergency response when directed by a supervisor or as otherwise appropriate.

The first officer arriving at an emergency response scene should determine whether to increase or reduce the level of the response of other officers and notify Dispatch of his/her determination. Any subsequent change in the appropriate response level should be communicated to Dispatch by the officer in charge of the scene unless a supervisor assumes this responsibility.

308.5 SUPERVISORY RESPONSIBILITIES

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

When making the decision to authorize an emergency response, The Field Services Division supervisor should consider the following:

- The type of call or crime involved

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- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

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

308.6 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer shall terminate the emergency response.

The officer shall notify Field Services Division supervisor or Dispatch of the equipment failure so another unit may be assigned to the emergency response.

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Canines

309.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment law enforcement services to the community including, but not limited to, locating individuals, contraband and apprehending criminal offenders.

309.2 POLICY

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

309.3 ASSIGNMENT

Canine teams are assigned to assist and supplement the Field Services Division and the Narcotics Unit.

309.4 CANINE COORDINATOR

The canine coordinator shall be appointed by and directly responsible to the Field Services Division Commander or an authorized designee.

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

(a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.

(b) Management of controlled substance training aids.

(c) Maintaining liaison with the vendor kennel.

(d) Maintaining liaison with command staff and functional supervisors.

(e) Maintaining liaison with other agency canine coordinators.

(f) Maintaining accurate records to document canine activities.

(g) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.

(h) Scheduling all canine-related activities.

(i) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.

309.5 REQUESTS FOR CANINE TEAMS

Officers are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Field Services Division shall be reviewed by the Shift Sergeant. The Narcotics Unit should utilize their canine team as much as possible, but the department

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recognizes there may be times when the Narcotics canine team is not available and pre-coordination with a Field Services supervisor may be necessary.

309.5.1 OUTSIDE AGENCY REQUEST

All requests for canine assistance from outside agencies must be approved by the Shift Sergeant or the Narcotics Sergeant depending on the canine, and are subject to the following:

(a) Canine teams shall not be used for any assignment that is not consistent with this policy.

(b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.

(c) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.

(d) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

309.5.2 PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be reviewed and, if appropriate, approved by the Canine Coordinator prior to making any resource commitment. The Canine Coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.

309.6 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed, is committing, or threatening to commit any serious offense, and if any of the following conditions exist:

(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

(b) The suspect is physically resisting or threatening to resist arrest, and the use of a canine reasonably appears to be necessary to overcome such resistance.

(c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers, or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances, and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing, or threatening to commit a serious offense, the mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Shift Sergeant. Absent a change in circumstances

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that present an imminent threat to officers, the canine, or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable. If the canine has apprehended the suspect with a secure bite, the handler should promptly command the canine to release the suspect once the threat no longer exists.

309.6.1 PREPARATION FOR DEPLOYMENT

Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to:

(a) The nature and seriousness of the suspected offense.

(b) Whether violence or weapons were used or are anticipated.

(c) The degree of resistance or threatened resistance, if any, the suspect has shown.

(d) The suspect's known or perceived age.

(e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

(f) Any potential danger to the public and/or other officers at the scene if the canine is released.

(g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

309.6.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify the announcement could be heard. If available, warnings given in other languages should be used as necessary.

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If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

309.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified, and the injuries documented in a canine use report. The canine use report is reviewed by the canine sergeant.The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the shift supervisor. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

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

309.7 NON-APPREHENSION GUIDELINES

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply.

(a) Absent a change in circumstances that present an immediate threat to officers, the canine or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.

(b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

(c) Throughout the deployment the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.

(d) Once the individual has been located, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practicable.

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

309.7.2 NARCOTICS DETECTION
A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

(a) The search of vehicles, buildings, bags and other articles.

(b) Assisting in the search for narcotics during a search warrant service.

(c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

309.8 HANDLER SELECTION
The minimum qualifications for the Field Services assignment of canine handler include:

(a) An officer who is currently off probation.

(b) Possess the ability to effectively and securely maintain a canine while off duty.

(c) Living within 30 minutes travel time from the Fargo City limits.

(d) Agreeing to be assigned to the position for a minimum of four years.

The Investigations Division will be responsible for developing the minimum qualifications for the Narcotics Unit canine handler.

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

The canine handler will be responsible for the following:

(a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.

(b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

(c) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Fargo Police Department facility.

(d) Handlers shall permit the canine coordinator to inspect police issued equipment kept at their residence as well as their canine vehicles to verify that conditions and equipment conform to this policy.

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(e) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.

(f) When off-duty, the canine handler shall ensure secure confinement of the canine as to avoid unintentional contact with the public.

(g) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.

(h) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or District Commander.

(i) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Shift Commander.

(j) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

309.9.1 CANINE IN PUBLIC AREAS

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

(a) A canine shall not be left unattended in any area to which the public may have access.

(b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

309.10 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of any agreement between the handler and the City (29 USC § 207).

309.11 CANINE INJURY AND MEDICAL CARE

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

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained at the police department by the canine supervisor.

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309.12 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current nationally recognized standards, or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet current nationally recognized standards, or other recognized and approved certification standards established for their particular skills.

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

All canine training should be conducted while on-duty unless otherwise approved by the canine coordinator or Shift Sergeant.

309.12.1 CONTINUED TRAINING

Each canine team shall be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams should receive training as defined in the current contract with the Fargo Police Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.

(c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

309.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

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

309.12.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

309.12.4 TRAINING AIDS

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

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309.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (N.D.C.C. § 19-03.1-16; 21 USC § 823(f)).

The Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Agency (DEA). The department must have a DEA Registration Certificate in order to request and receive narcotic training aids.

As an alternative, the Chief of Police or the Field Services Division Commander may allow controlled substances seized by the Fargo Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence and the case is closed.

The Field Services Division Commander shall provide the Evidence and Property Manager (EPM) with written authorization to include a detailed description of the controlled substance, illegal drugs, and/or other contraband requested by the department's Canine Coordinator for canine training purposes. This practice is reserved for special circumstances and all controlled substances, illegal drugs, and/or other contraband shall be returned to the EPM no later than 48 hours after being issued to the canine handler from the EPM.

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

309.12.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine’s accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

(a) All controlled substance training samples received from the DEA shall be weighed by the Canine Coordinator and confirmed by an officer independent of the canine program, prior to training use. The weight results shall be recorded and maintained by the Canine Coordinator.

(b) The Canine Coordinator will be responsible for re-packaging, re-quantifying, or otherwise separating all newly obtained DEA narcotics training aids for training purposes. The department receives limited quantities of any controlled substance from the DEA.

(c) The Canine Coordinator, with approval from the Field Services Division Commander, may re-package, re-quantify, or otherwise separate any controlled substance, illegal drug, and/or contraband from its original or previously form prior to providing it to the department's canine officers for canine training purposes, only if such alteration does not significantly compromise the integrity of the controlled substance, illegal drug, and/or contraband.

(d) Any person possessing controlled substance training samples pursuant to department authorization or DEA Registration Certificate shall maintain custody and control of the

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controlled substances, and shall keep records regarding any loss of, or damage to, those controlled substances. The loss of any controlled substances received from the DEA will be reported to the DEA and to the Field Services Division Commander.

(e) All controlled substance training samples will be inspected, and weighed quarterly by the Canine Coordinator and another officer independent of the canine program. The results of the quarterly testing shall be recorded and maintained by the Canine Coordinator.

(f) When an authorized officer checks out and check in a controlled substance training sample, all samples shall be weighed and documented by the authorized officer and confirmed by an other officer.

(g) All controlled substance training samples will be stored in locked case at all times, except during training. The locked cases shall be secured in the back of the canine handler’s assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(h) Any unusable controlled substance training samples shall be destroyed in accordance with the department's evidence destruction procedures.

(i) All controlled substance training samples shall be returned to the dispensing agency upon their demand.

(j) In agreement with the DEA Registration Certificate, the DEA reserves the right to conduct an audit of all controlled substances it has provided to the Department, and inspect the department's storage facility and practices.

309.13 CANINE RETIREMENT

Upon the retirement of a department canine, the final disposition of the canine will be at the discretion of the Chief of Police. The canine may be sold to the canine handler. In these circumstances the new owner assumes all rights, privileges and liabilities associated with the canine and any actions which occur after the transfer of ownership.

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Domestic Violence

310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence (N.D.C.C. § 14-07.1-14).

310.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of court orders related to domestic violence, both civil and criminal, whether issued by a court of this state or another and whether service has been made.

Domestic violence - Physical harm, bodily injury or sexual activity compelled by physical force, assault or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault, not committed in self-defense, by a family or household member (N.D.C.C. § 14-07.1-01(2)).

Predominant aggressor - An individual who is the most significant, not necessarily the first, aggressor (N.D.C.C. § 14-07.1-01(7)).

310.2 POLICY

The Fargo Police Department's response to incidents of domestic violence, and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies, and community resources whenever feasible. In addition, officers responding to any domestic violence incident shall conduct a thorough investigation and when permitted or authorized by law, arrest any person deemed to be the predominent aggressor or who is otherwise in violation of any domestic violance law.

310.3 OFFICER SAFETY

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

310.4 INVESTIGATIONS

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

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(a) Calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house, at that particular time, should also be obtained for follow-up. It should also be determined if any child present is a victim of domestic violence or abuse.

(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Victims whose injuries are not visible at the time of the incident, or whose injuries change in appearance warranting additional photographs, should be asked to contact the Investigation Division in the event that the injuries later become visible.

(f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, make an arrest, or seek an arrest warrant if appropriate.

(h) Any firearm or other dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation shall be seized (N.D.C.C. § 62.1-01-02)

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should make a physical arrest when there is probable cause to believe an offense has occurred. The following factors should not be used as sole justification for declining to take enforcement action:

1. Marital status of suspect and victim

2. Whether the suspect lives on the premises with the victim

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3. Claims by the suspect that the victim provoked or perpetuated the violence
4. The potential financial or child custody consequences of arrest
5. The physical or emotional state of either party
6. Use of drugs or alcohol by either party
7. Denial that the domestic violence occurred where evidence indicates otherwise
8. A request by the victim not to arrest the suspect
9. Location of the incident (public/private)
10. Speculation that the complainant may not follow through with the prosecution
11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect
12. Disposition of any previous domestic violence incidents
13. A person's employment as a sworn or civilian member of the Fargo Police Department or any law enforcement agency

310.4.1 IF A SUSPECT IS ARRESTED
If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

310.4.2 IF NO ARREST IS MADE
If no arrest is made, the officer should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

310.5 VICTIM ASSISTANCE
Victims may be traumatized or confused. Officers should:

(a) Recognize that a victim's behavior and actions may be affected.

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(b) Provide the victim with the victim information handout developed by the department, even if the incident may not rise to the level of crime.

(c) Alert the victim to any available victim advocates, shelters and community resources.

(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.

(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.

(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(h) Seek or assist the victim in obtaining an emergency order if appropriate.

An officer shall advise a person protected by a Canadian domestic violence protective order of available local victims' services (N.D.C.C. § 14-07.5-02).

310.6 DISPATCH ASSISTANCE

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

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

310.7 FOREIGN COURT ORDERS

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

Canadian orders shall be enforced in the same manner as if issued in this state (N.D.C.C. § 14-07.5-02).

310.7.1 SERVICE OF FOREIGN COURT ORDERS

If an officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent.

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After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order (N.D.C.C. § 14-07.4-03(3); N.D.C.C. § 14-07.5-02).

Officers investigating a possible violation of a Canadian order must advise the protected person that an attempt will be made to contact the person who is the subject of the order. The officer shall then make a reasonable effort to contact the person who is the subject of the order to inform the person of the specific terms and conditions of the order as provided in N.D.C.C. § 14-07.5-02.

310.8 VERIFICATION OF COURT ORDERS

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

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

(b) Check available records or databases that may show the status or conditions of the order.

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

310.9 ASSISTANCE IN SERVICE OR EXECUTION OF PROTECTION ORDERS

Upon an order of the court, members of the department shall assist in the execution or service of a protection order including (N.D.C.C. § 14-07.1-04):

(a) Accompanying an applicant and assisting him/her in obtaining housing.

(b) Otherwise assisting in the execution or service of the protection order including referral to a domestic violence shelter care facility.

310.10 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following (N.D.C.C. § 14-07.1-10; N.D.C.C. § 14-07.1-11):

(a) An officer who has probable cause to believe that a person has committed a crime involving domestic violence shall presume that arresting the person is the appropriate response and should make an arrest as follows:

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1. An arrest may be made without a warrant within 12 hours from the time the officer determines there is probable cause for the arrest and only if the officer observes that there has been recent physical injury to, or impairment of physical condition of, the alleged victim.
2. If more than 12 hours have elapsed, the officer must secure an arrest warrant.

(b) An officer shall not threaten, suggest, or otherwise indicate that a family or household member will be arrested to discourage law enforcement intervention.

(c) Complaints received from multiple family or household members shall be evaluated separately to determine if either party acted in self-defense. Although not specifically prohibited, dual arrests are discouraged. If self-defense is not a factor, the officer shall consider which party was the predominant aggressor by considering the following factors when determining whether to pursue further investigation or seek an arrest warrant:

1. The comparative severity of injuries involved.
2. Any history of domestic violence or any other violent acts.
3. The likelihood of future harm.

(d) An individual arrested for domestic violence shall not be released on bail or personal recognizance unless he/she has made a personal appearance before a magistrate.

(e) An officer who has probable cause to believe a person has committed the offense of violating a protection order under N.D.C.C. § 14-07.1-06, shall arrest the person whether or not the violation was committed in the presence of the officer.

(f) The arresting or booking officer should provide victim contact information to jail staff to facilitate the ability of jail staff to notify the victim before the suspect's release.

310.11 REPORTS AND RECORDS

Officers shall make a written report of any allegation of domestic violence regardless of whether an arrest was made (N.D.C.C. § 14-07.1-12). When preparing a report of domestic violence, an officer shall:

(a) Include the name of the predominant aggressor, if determined through the investigation, and a description of the evidence that supports the determination.

(b) Submit to the report to his/her supervisor.

(c) Complete and submit appropriate documentation to the agency providing child protective services, as required by the current collaborative agreement.

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At the request of a domestic violence victim, one copy of each domestic violence face sheet and incident report should be provided. Absent good cause, the face sheet should be made available during business hours, within a reasonable amount of time of the request. Incident reports should be completed in an expeditious manner.

310.12 TRAINING

Training should be provided as incorporated in the department training plan (N.D.C.C. § 14-07.1-14(2)).

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Search and Seizure

311.1 PURPOSE AND SCOPE

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

311.2 POLICY

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

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

311.3 SEARCHES

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

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

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

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

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

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

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311.4 SEARCH PROTOCOL

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

(a) Officers of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) Whenever practicable, a search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

(f) When the person to be searched is of the opposite sex as the searching officer the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.
2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

311.5 DOCUMENTATION

Officers are resposible for documenting any search in which evidence is siezed and insure any required reports are sufficient including documentaitn of the following:

(a) Reason for the search

(b) The results of the search including a description of any property or contraband siezed

(c) All steps taken to secure the property at the conclusion of the search

(d) Supervisors shall review reports to ensure the reports are accurate, the actions are properly documented and the current legal requirements and policies have been met

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Temporary Custody of Juveniles

312.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Fargo Police Department (34 USC § 11133).

This policy only applies to the temporary custody of juveniles before they are released or transferred to a juvenile detention facility, jail, or other place authorized for the detention of juveniles (N.D.C.C. § 27-20-16).

312.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile offender - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense under N.D.C.C. § 62.1-02-01 for underage possession of a handgun (28 CFR 31.303).

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

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

Examples of secure custody include:

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

(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices with a delay of more than 30 seconds.

(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

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(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

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

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

312.2 POLICY

The Fargo Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Fargo Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release. The Fargo Police Department does not provide long term or temporary secure custody for juvenile offenders.

312.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held in temporary custody at the Fargo Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated

(e) Extremely violent or continuously violent

(f) Afflicted with, or displaying symptoms of a communicable disease that poses an unreasonable exposure risk

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

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

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

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312.4 CUSTODY OF JUVENILES

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

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

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian, or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable, and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Fargo Police Department (N.D.C.C. § 27-20-15; 34 USC § 11133).

312.4.1 CUSTODY OF NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Fargo Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

312.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

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

312.4.3 CUSTODY OF JUVENILE OFFENDERS

The following applies to juveniles taken into custody:

(a) Juvenile offenders may be taken into custody (N.D.C.C. § 27-20-13):

1. Pursuant to an order of the court.
2. Pursuant to the laws of arrest applicable to adults.

(b) A juvenile offender should not be released from custody without first contacting the court if there is reason to believe any of the following (N.D.C.C. § 27-20-14):

1. Further care is required to protect the juvenile offender, or the property of others or of the juvenile offender.
2. The juvenile offender may abscond or be removed from the jurisdiction of the court.
3. The juvenile offender has no parent, guardian, custodian, or other person able to provide supervision and care, and return the juvenile offender to the court when required.

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4. An order for the juvenile offender's detention or shelter care has been made by the court.
5. The detention screening tool indicates that the juvenile offender should be detained.

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

312.5 ADVISEMENTS

A member of this department who does not release a juvenile to a parent, guardian, or other custodian shall promptly notify the juvenile’s parent, guardian, or other custodian and the court of the reason for the custody (N.D.C.C. § 27-20-15).

If there is reason to believe that a juvenile offender committed a sexual offense (see generally N.D.C.C. § 12.1-20-01 et seq. and N.D.C.C. § 12.1-27.2-01 et seq.), the Department of Human Services (DHS) should be notified as soon as practicable. A copy of the case report shall also be forwarded to DHS (N.D.C.C. § 50-25.1-05.3).

312.6 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy.

A juvenile offender may be handcuffed at the Fargo Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

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

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

312.7 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.In addition, parental permission must be obtained from a parent or guardian in person.

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Adult Abuse

313.1 PURPOSE AND SCOPE

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

313.1.1 DEFINITIONS

Definitions related to this policy include:

Adult abuse - Any offense or attempted offense involving violence, neglect or financial exploitation of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (N.D.C.C. § 50-25.2-03).

313.2 POLICY

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

313.3 MANDATORY NOTIFICATION

Members of the Fargo Police Department shall notify the North Dakota Department of Human Services (DHS) or other designated agency when they have knowledge that a vulnerable adult has been subjected to abuse or neglect, or when they observe a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect when the knowledge is derived from information received in their official capacity (N.D.C.C. § 50-25.2-03).

For purposes of this notification, a vulnerable adult is an adult (including a minor emancipated by marriage) with a substantial mental or functional impairment (N.D.C.C. § 50-25.2-01). Abuse is any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult (N.D.C.C. § 50-25.2-01).

Officers investigating any allegation of abuse or neglect of a vulnerable adult that requires immediate steps to protect the person, such as removing them from their environment, shall notify DHS of the steps taken (N.D.C.C. § 50-25.2-05).

313.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows:

(a) Notification to DHS or other designated agency should be made immediately, either orally or in writing by completing attached form ND SFN 1607 (N.D.C.C. § 50-25.2-03).

(b) A member shall, if known, include all of the following in a notification (N.D.C.C. § 50-25.2-03):

1. The name, age, and residence address of the alleged vulnerable adult.

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2. The name and residence address of the caregiver, if any.
3. The nature and extent of the alleged abuse, neglect, or the conditions and circumstances that would reasonably be expected to result in abuse or neglect.
4. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect.
5. Any other information that may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.

313.4 QUALIFIED INVESTIGATORS

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

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to adult abuse investigations.

(c) Present all substantiated cases of adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

313.5 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require an investigation, completion of ND SFN 1607 and completion of a police report.

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

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

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(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

313.6 PROTECTIVE CUSTODY

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

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

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

When adult abuse victims are under state control, have a state-appointed guardian, or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult abuse victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult (N.D.C.C. § 50-25.2-07).

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the

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victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

313.7.2 DETAINING SUSPECTED ADULT ABUSE VICTIMS FOR AN INTERVIEW
An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

313.8 MEDICAL EXAMINATIONS

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

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

313.9 DRUG-ENDANGERED VICTIMS

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

313.9.1 SUPERVISOR RESPONSIBILITIES
The Investigation Division Supervisor should:

(a) Work with professionals from the appropriate agencies, including DHS or another designated agency, other law enforcement agencies, medical service providers, and local prosecutors to develop community specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

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(b) Activate any available interagency response when an officer notifies the Investigation Division Supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives there.

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

313.9.2 OFFICER RESPONSIBILITIES

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

(a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigation Division Supervisor so an interagency response can begin.

313.10 RELEASE OF REPORTS

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Release and Security Policy (N.D.C.C. § 50-25.2-12).

313.11 TRAINING

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

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

(c) Availability of therapy services for adults and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to adult abuse investigations.

(f) Availability of victim advocates or other support.

(g) Other training as may be provided by DHS (N.D.C.C. § 50-25.2-13).

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Discriminatory Harassment

314.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discrimination or sexual harassment.

314.2 POLICY

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

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

314.3 DISCRIMINATION PROHIBITED

The department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

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

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

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

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314.3.1 SEXUAL HARASSMENT

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

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

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.

(b) Submission to or rejection of such conduct is used as the basis for employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile or offensive work environment.

314.3.2 ADDITIONAL CONSIDERATIONS

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

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the North Dakota Department of Labor, Human Rights Division.

(b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

314.3.3 RETALIATION

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

314.4 RESPONSIBILITIES

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

Members are encouraged to promptly report any discriminatory, retaliatory, harassing conduct, or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and

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make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police, Director of Human Resources, or the City Manager.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, who has observed harassment, or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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

314.4.1 SUPERVISOR RESPONSIBILITIES

Each supervisor and manager shall:

(a) Monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.

(c) Ensure their subordinates understand their responsibilities under this policy.

(d) Ensure employees who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Notify the Chief of Police or Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

314.4.2 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

(a) Behavior of supervisors and managers should represent the values of the department and professional law enforcement standards.

(b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

(c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.

(d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

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

314.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the department that all complaints of discrimination, retaliation or harassment shall be fully documented, and promptly and thoroughly investigated. The participating or opposing employees should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

314.5.1 SUPERVISORY RESOLUTION

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

314.5.2 FORMAL INVESTIGATION

If the complaint cannot be resolved satisfactorily through the process described above, a formal investigation will be conducted by the Office of Professional Standards.

The Office of Professional Standards will have full authority to investigate all aspects of the complaint. The investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint or for offering testimony or evidence in any investigation.

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

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

314.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the department. Employees who believe they have been harassed or discriminated against are entitled to bring complaints or employment discrimination to federal, state, and/or local

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agencies responsible for investigating such allegations. Specific time limitations apply to filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements..

314.6 NOTIFICATION OF DISPOSITION

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

314.7 DOCUMENTATION OF COMPLAINTS

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

(a) Approved by the Chief of Police or the City Manager or the Director of Human Resources if more appropriate.

(b) Maintained for the period established in the department's records retention schedule.

314.8 TRAINING

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understand its contents and agrees to abide by its provisions during his/her term of employment.

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

314.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

Members with questions regarding what constitutes discrimination,sexual harassment or retaliation are encouraged to contact a supervisor, manager, the Chief of Police, the Director of Human Resources or the City Managerfor further information, direction or clarification.

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Child Abuse

315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Fargo Police Department members are required to notify the Department of Human Services (DHS) of suspected child abuse.

315.1.1 DEFINITIONS

Definitions related to this policy include:

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

Child abuse - Includes any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency.

315.2 POLICY

The Fargo Police Department will investigate all reported incidents of alleged criminal child abuse and ensure DHS is notified as required by law.

315.3 MANDATORY NOTIFICATION

Members of the Fargo Police Department shall notify DHS of where the child is currently residing when there is reasonable cause to believe the child is the victim of abuse or neglect (N.D.C.C. § 50-25.1-03).

For purposes of notification, abuse includes a child 17 years of age or younger who experiences mental or physical injury by a person responsible for the child's welfare. This includes a parent, an adult family member, any member of the child's household, a guardian, a foster parent, or any person providing care for the child at a school or child care setting. Abuse also includes any sexual offense committed against a child 17 years of age or younger by any person, whether or not the person is responsible for the child's welfare (N.D.C.C. § 50-25.1-02).

For purposes of notification, neglect includes failure to provide proper parental care or control, subsistence, education, or other care or control necessary for a child's physical, mental, or emotional health, or morals, not due primarily from the financial inability of a person responsible for the child's welfare. Neglect should be assumed when care of a child is requested by a person who has a physical, mental, emotional, or other illness or disability and is responsible for the child's welfare. Neglect also includes abandonment of a child by a parent, guardian, or custodian; failure of a parent, guardian, or custodian to participate in treatment ordered by the juvenile court; subjecting a child to prenatal exposure to chronic or severe alcohol or drug use; permitting a child to remain in an environment that subjects the child to exposure to a controlled or chemical substance or drug paraphernalia; or subjecting a child to human trafficking (N.D.C.C. § 50-25.1-02).

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315.3.1 NOTIFICATION PROCEDURE
Notification should occur as follows (N.D.C.C. § 50-25.1-04):

(a) Incidents of suspected child abuse shall be immediately referred to DHS of where the child is currently residing. Oral reports must be followed by written reports within 48 hours, if requested.

(b) A child abuse report, when possible, should include:

1. The name and addresses of the child, the child's parents or others responsible for the child's care.
2. The age, sex and race of the child.
3. The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings.
4. The names and addresses of the persons responsible for the suspected abuse or neglect, if known.
5. The family composition.
6. The source of the report and the name, address and occupation of the person making the report.
7. Any action taken by the reporting source.
8. Any other information that the person making the report believes may be helpful.

315.4 QUALIFIED INVESTIGATORS

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

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians, and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as appropriate (N.D.C.C. § 50-25.1-05).

315.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report when allegations of child abuse can be substantiated.

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

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.

(k) The department shall investigate every report of child abuse or neglect if a violation of a criminal statute is alleged. Officers shall coordinate the planning and execution of the investigation, and child protection assessment with DHS, and may (N.D.C.C. § 50-25.1-05). :

1. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination or other services.

2. Conduct interviews with any child involved in the investigation without the consent of a person responsible for the child's welfare.

3. Conduct an interview at a school, child care facility or any other place where any child involved in the investigation is found.

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

315.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact DHS. Generally, removal of a child from his/her family, guardian or other responsible adult is the responsibility of the responding police officer or detective involved in an investigation.

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

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

Before taking any child into protective custody, the officer should make reasonable attempts to contact DHS. Generally, removal of a child from his/her family, guardian or other responsible adult is the responsibility of the responding police officer or detective involved in an investigation.

Children may only be removed from a parent or guardian (N.D.C.C. § 27-20-06; N.D.C.C. § 27-20-13):

(a) With a court order authorizing the removal of the child.

(b) Without a court order when there is reasonable grounds to believe that the child is suffering from illness or injury, or is in immediate danger from his/her surroundings, and the child's removal is necessary.

315.7 INTERVIEWS

315.7.1 PRELIMINARY INTERVIEWS

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

315.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.

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3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

315.7.3 INTERVIEWING JUVENILES

If the parents or guardians are not the alleged abusers, a parent of the child should, when practicable, be notified prior to the child being interviewed. If the abuse or neglect is alleged to have occurred in a school or childcare facility, the interview should not take place in any school building or child care facility building where the abuse or neglect is alleged to have occurred.

Prior to conducting an interview on school property, the investigating officer shall notify school officials (N.D.C.C. § 50-25.1-05.6). The notification should include the name of the child, the purpose of the interview and a reference to the statutory authority that allows the interview to be conducted on school property. The investigating officer shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place and manner of the interview. Care should be taken to minimize disruption of the educational program of the child, other students or school staff.

315.8 MEDICAL EXAMINATIONS

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

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

315.9 DRUG-ENDANGERED CHILDREN

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

315.9.1 SUPERVISOR RESPONSIBILITIES

The Investigation Division supervisor should:

(a) Work with professionals from the appropriate agencies, including DHS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

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(b) Activate any available interagency response when an officer notifies the Investigation Division supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

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

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigation Division supervisor so an interagency response can begin.

315.10 STATE MANDATES AND OTHER RELEVANT LAWS
North Dakota requires or permits the following:

315.10.1 RELEASE OF REPORTS
Reports of child abuse or neglect shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (N.D.C.C. § 50-25.1-05; N.D.C.C. § 50-25.1-11).

315.10.2 CHILD FATALITY REVIEW PANEL
Child Fatality Review Panels are required to review deaths of children that meet the criteria established by DHS. This department shall cooperate fully with the panel (N.D.C.C. § 50-25.1-04.3).

315.11 TRAINING
The department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

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

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Missing Persons

316.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

316.1.1 DEFINITIONS

Definitions related to this policy include (N.D.C.C. § 12-68-03(1)):

High-risk missing person - The missing person is:

(a) 13 years of age or younger.

(b) Regardless of age, believed or determined to be experiencing one or more of the following circumstances:

1. Out of the zone of safety for his/her chronological age and developmental stage.
2. Mentally or behaviorally disabled.
3. Drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
4. Absent from home for more than 24 hours before being reported to law enforcement as missing.
5. In a life-threatening situation.
6. In the company of others who could endanger his/her welfare.
7. Absent in a way that is inconsistent with established patterns of behavior and that cannot be readily explained. Most children have an established and reasonably predictable routine.
8. Involved in a situation that would cause a reasonable person to conclude the person should be considered at risk.

(c) An individual who may be at risk of injury or death and (N.D.C.C. § 12-68-03):

1. May be the subject of foul play.
2. May be unable to properly safeguard or care for him/herself due to age (young or old).
3. Suffers from diminished conditions that are potentially untreated/unattended, including:

(a) Being a patient of a mental institution and is considered potentially dangerous to the patient or to others.

(b) A demonstrated potential for suicide.

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(c) Possible involvement in a boating, swimming, other sporting accident or a natural disaster.

Missing person - Any person who is reported missing to law enforcement when that person's location is unknown. This includes when a person's whereabouts is unknown and unexplained for a period of time that is regarded by knowledgeable parties as highly unusual or suspicious in the context of the missing person's behavior patterns, plans or routines.

Missing person networks - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC) and other appropriate state databases relating to missing persons.

316.2 POLICY

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

316.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigation Division supervisor shall ensure the following forms and kits are developed and available in accordance with this policy, state law, federal law and any missing persons investigations guidelines and procedures:

- Missing person report form

316.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in person and initiating the investigation. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report. In cases where the missing person is 17 years old or younger, a signature on the Missing Person Report form is required.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction (N.D.C.C. § 12-68-01).

316.4.1 REFERRALS TO OTHER LAW ENFORCEMENT AGENCIES

If it is determined that another law enforcement agency is clearly more appropriate to receive a missing person report, members of this department may refer the report to the other agency. Responsibility for the missing person report shall remain with this department until the other jurisdiction confirms in writing its acceptance of responsibility for the report (N.D.C.C. § 12-68-01(2)).

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316.4.2 REPORTS FROM OTHER LAW ENFORCEMENT AGENCIES
Cases referred to the Fargo Police Department from another law enforcement agency shall be accepted unless the Investigations Division supervisor determines there is good cause for not accepting. Written confirmation of acceptance of the report should be forwarded within 24 hours of receipt for a referral from a North Dakota law enforcement agency (N.D.C.C. § 12-68-01).

316.5 INITIAL INVESTIGATION

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

(a) Respond to a dispatched call as soon as practicable.

(b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be a high-risk missing person.

(c) Obtain a detailed description of the missing person, the abductor, vehicles and other pertinent information. This includes:

1. Name, age and physical description of the missing person, including tattoos or other unique physical identifiers, and the relationship of the reporting party to the missing person.
2. The missing person's Social Security number and driver's license number, if known.
3. Description of any clothing, if known.
4. Description and license number of any motor vehicle that may be involved.
5. Description of any property and credit cards, if known, in the possession of the missing person.
6. Time and place of last known location and the identity of anyone accompanying the person.
7. The extent of any search for the missing person.
8. Whether the person has been missing on prior occasions and the degree to which the absence departs from established behavior patterns, habits or plans.
9. Whether the missing person has been involved recently in domestic incidents; suffered emotional trauma or life crises; demonstrated unusual, uncharacteristic or bizarre behavior; is dependent on drugs or alcohol; or has a history of mental illness.
10. The current physical condition of the missing person and whether the person is taking prescription medication.
11. If the missing person is a child, determine if the child:
    (a) Is or may be with any adult who could cause the child harm.
    (b) May have been the subject of a parental abduction.

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(c) Has previously run away from home, has threatened to do so or has a history of unexplainable absences for extended periods of time.

(d) Notify a supervisor immediately if there is evidence that a missing person is either a high-risk missing person or may qualify for an Amber alert, or both (see the Public Alerts Policy).

(e) Broadcast a “Be on the Look-Out” (BOLO) bulletin if the person is under 14 years of age or there is evidence that the missing person is a high-risk missing person. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 14 years of age or may be a high-risk missing person.

(f) Ensure that entries are made into the appropriate missing person networks:

(a) Immediately when the missing person is a high-risk missing person (N.D.C.C. § 12-68-03).

(b) In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(g) Complete the appropriate report forms accurately and completely and initiate a search as applicable.

(h) Collect and/or review:

(a) A photograph

(b) Any documents that may assist in the investigation, such as court orders regarding custody.

(c) A voluntary provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

(d) Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers), and when circumstances permit and if appropriate, attempt to determine the missing person's location through his/her cell phone provider.

(i) Notify the School Resource Officer (SRO) if the missing person is a student in the Fargo Public School system.

(j) Enter the missing person's information and photo into the Fargo Police electronic Bulletin Board.

(k) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to a high-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

(l) Notify the Bureau of Criminal Investigation (BCI) in a case of a high-risk missing person with the information most likely to aid in the location and safe return of the high-risk missing person (N.D.C.C. § 12-68-03(2)).

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316.5.1 BRIEFING

A summary of information on recently reported missing persons should be provided at shift briefings. The summary should include a description of the missing person, a description of the circumstances of the missing person's disappearance, and other information that may be relevant to locating the missing person.

316.5.2 MEDIA

Involving the media may be appropriate under the following circumstances:

(a) A crime is suspected or suspicious circumstances exist.

(b) The missing person may be unable to safeguard or care for him/herself, regardless of age.

(c) The missing person may be considered at risk for suicide.

(d) The missing person may be missing as a result of an accident.

(e) The missing person suffers from a psychological disorder which may endanger him/herself or others.

(f) The missing person suffers from a physical or mental incapacity that may be life threatening if the person is not under the proper care or in possession of appropriate medication.

316.6 REPORT PROCEDURES AND ROUTING

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

316.6.1 SUPERVISOR RESPONSIBILITIES

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

(a) Reviewing and approving missing person reports upon receipt.

1. The reports should be promptly sent to the Records Division.

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

(d) Coordinate with a command officer to ensure applicable notifications and public alerts are made and documented.

(e) Ensuring the missing person information has been entered into the appropriate missing persons networks.

(f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

316.6.2 RECORDS UNIT RESPONSIBILITIES

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

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(a) Coordinating with the NCIC Terminal Contractor for North Dakota to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

316.7 INVESTIGATION DIVISION FOLLOW-UP

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

(a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph.
2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.

(b) Shall provide general information regarding the handling of the case to the person making the report, family members of the missing person or other individuals in a position to assist in the investigation to the extent that disclosure would not adversely affect the investigation (N.D.C.C. § 12-68-02(1)).

(c) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available.

(d) Should consider contacting other agencies involved in the case to determine if any additional information is available.

1. Notify and forward a copy of the missing persons report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
2. Notify and forward a copy of the missing persons report to the agency of jurisdiction where the missing person was last seen.
3. Notify and forward a copy of the missing persons report to the agency of the jurisdiction for the missing person's intended or possible destination, if known.

(e) Shall verify and update Criminal Justice Information Services (CJIS), NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).

(f) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.

(g) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or child care institution (34 USC § 41308).

(h) Should make appropriate inquiry with the coroner or medical examiner.

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(i) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.

1. Biological samples (DNA) obtained shall be forwarded immediately to the appropriate state crime laboratory (N.D.C.C. § 12-68-02).

(j) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously, forward the photograph to BCI if appropriate and enter the photograph into applicable missing person networks (34 USC § 41308).

(k) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

(l) Shall provide general information regarding the handling of the case to the person making the report, family members of the missing person or other individuals in a position to assist in the investigation to the extent that disclosure would not adversely affect the investigation (N.D.C.C. § 12-68-02(1)).

(m) Shall notify the FBI Violent Criminal Apprehension Program (ViCAP) (when appropriate) as soon as is practicable (N.D.C.C. § 12-68-02).

(n) In the case of a high-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

In any case in which a report is taken concerning a person missing under suspected criminal circumstances, the handling investigator should, within 30 days, inform the parents or other appropriate relatives that they may voluntarily give a biological sample for DNA testing or that the Department may collect a biological sample from a personal item belonging to the missing person, if available (N.D.A.C. § 10-17-01-07(3)). All biological samples obtained in missing person cases shall be forwarded immediately to the State Crime Laboratory (N.D.C.C. § 12-68-02(2)).

316.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the on-duty supervisor, officer, or assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies, and refer the case for additional investigation if warranted.

The Investigations Division supervisor should ensure that, upon receipt of information that a missing person has been located, the following occurs:

(a) Notification is made to the agency or the agencies that are stake-holders in the missing person case.

(b) The missing child’s school is notified.

(c) Entries are made in the applicable missing person networks.

(d) When a person is a high-risk missing person, the fact that the person has been found should be reported within 24 hours to BCI.

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316.8.1 UNIDENTIFIED PERSONS

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

(a) Obtain a complete description of the person.

(b) Enter the unidentified person's description into the NCIC Unidentified Person File.

(c) Use available resources, such as those related to missing persons, to identify the person.

(d) Where it is reasonably certain the human remains may be related to a Native American burial site, the North Dakota State Historical Society should be consulted.

An unidentified dead person or unidentified human remains shall be transferred to the Coroner for the purpose of identification (N.D.C.C. § 12-68-04(1)).

316.9 CASE CLOSURE

The Investigation Division supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.

(b) If the missing person is a resident of Fargo or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

(c) If this department is not the lead agency, the case can be made inactivate if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.

(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

(e) Ensure a case report is completed in the department's records management system (RMS), in addition to the missing person form.

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Public Alerts

317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

317.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS) local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

317.3 RESPONSIBILITIES

317.3.1 MEMBER RESPONSIBILITIES

Members of the Fargo Police Department should notify their supervisor, Shift Commander or Investigation Division supervisor of their availability as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, endangered child, apprehending a dangerous person,general threat to public safety, or gathering information.

317.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible for making the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the next person in their chain of command, and the Public Information Officer when any public alert is generated.

The command officer or supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts

(b) Canceling alerts

(c) Ensuring all appropriate reports are completed

(d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Commander

317.4 AMBER ALERTS™

The AMBER Alert™ program coordinates the efforts of law enforcement, the media and the public in an effort to safely recover abducted children. In the event of a suspected child abduction, an AMBER Alert should be generated first, and, if the facts warrant, the alert should be expanded beyond the AMBER Alert.

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317.4.1 CRITERIA

An AMBER Alert is warranted when all of the following apply:

(a) The abduction involves a child 17 years of age or younger.

(b) There is confirmation of a stranger or a family abduction in which the child is believed to be in grave danger of serious bodily harm or death, and not considered a runaway.

(c) There is descriptive information about the child, the abductor and/or the suspect's vehicle to assist with the safe recovery of the victim and/or the apprehension of the suspect.

(d) There is enough information about the child, the suspect and/or suspect's vehicle to believe an immediate broadcast alert will help.

317.4.2 PROCEDURE

The following is the procedure for initiating an AMBER Alert:

(a) The officer responding to investigate a possible child abduction/endangerment incident will be responsible for determining if the circumstances are appropriate for activating an Amber Alert. If so, the officer will immediately notify an on-duty Field Services supervisor. The officer will also attempt to obtain a current photograph of the abducted/endangered child, which will be shared with the media.

(b) As soon as it is practical, the investigating officer shall provide the Red River Regional Dispatch Center (RRRDC) with information concerning the abducted/endangered child. The RRRDC will provide neighboring law enforcement agencies with the information, as well as making a regional broadcast (ND, SD, MN) via teletype.

(c) The on-duty supervisor, incident commander, or command officer will complete the AMBER Alert Activation form.

(d) Once the Amber Alert Media Advisory and the State of North Dakota's Request for an Amber Alert form are completed, the on-duty supervisor or command officer will forward them and all other relevant information to the incident commander for review.

(e) The incident commander, or his/her designee, will be responsible for reviewing the investigating officer's report of an abducted/endangered child, and approving the activation of an Amber Alert. If the Amber Alert is approved, the incident commander, or his/her designee, will immediately notify the Field Services Division and Criminal Investigations Division Deputy Chief's of the use of an Amber Alert.

(f) The incident commander, or his/her designee, shall FAX a copy of the Amber Alert Media Advisory form to RRRDC, who in turn will FAX the information to the Emergency Alert System (EAS) designee - the West Fargo Police Department.

(g) The incident commander will contact North Dakota State Radio Communications by telephone at 1-701-328-9921, and request activation of the state's "Amber Alert" plan. The incident commander will fax the completed AMBER Alert Activation form to

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the North Dakota Department of Emergency Services State Radio Communications System.

(h) The incident commander, or designee, will verify by telephone the form was received.

(i) The incident commander, or designee, shall contact the National Center for Missing and Exploited Children (NCMEC) at 1-800-843-5678 to inform them of the incident involving the abducted/endangered child.

(j) RRRDC will make an NCIC missing person entry using the Child Abduction (CA) flag through the Criminal Justice Information Sharing System (CJIS).

(k) The department Public Information Officer (PIO) will as soon as practical, and in conjunction with disseminating an Amber Alert, be responsible for conducting a press conference, where additional information concerning the abducted/endangered child will be released.

See attachment: Amber Alert forms.pdf

317.4.3 CANCELLATION OF AN AMBER ALERT

It is the responsibility of the incident commander who approved the activation of the Amber Alert, or the Investigations Division Lieutenant or Sergeant, to cancel an Amber Alert when appropriate. This includes notifying State Radio of the cancellation of an Amber Alert.

317.5 BLUE ALERTS

Blue Alerts are used to provide a statewide system for the rapid dissemination of information regarding a violent criminal who has seriously injured, killed or abducted a local, state or federal law enforcement officer.

317.5.1 CRITERIA

The following criteria are utilized to determine if a Blue Alert should be issued (N.D.C.C. § 54-12-32):

(a) A suspect individual has threatened an officer with a deadly weapon, has used a deadly weapon against an officer or has caused an officer to suffer serious bodily injury or death, or the officer has been abducted or is missing while on duty.

(b) The suspect has fled the scene and a description of the suspect or the suspect's vehicle is available for broadcast.

(c) The suspect poses a threat to the public or other law enforcement members.

(d) Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.

317.5.2 PROCEDURE

The following is the procedure for initiating a Blue Alert:

(a) An officer or supervisor shall initiate a Blue Alert by filling out the Request for Blue Alert form and then FAX it to North Dakota State Radio Communications at 1-701-328-9926.

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(b) The supervisor, command officer, or incident commander will call North Dakota State Radio at 1-701-328-9921 to request a Blue Alert.

(c) Photographs of the officer(s), suspect and/or suspect vehicle can be sent via email to nddes@nd.gov.

(d) The request will be reviewed by the ND BCI. If approved, they will authorize activation of the Blue Alert, and the ND BCI will disseminate the Blue Alert as appropriate. ND State Radio will activate the Blue Alert on law enforcement radio and teletype.

See attachment: request-for-blue-alert.pdf

317.6 PUBLIC EMERGENCY ALERTING SYSTEMS

The City of Fargo public emergency alerting system consists of the CodeRed Integrated Public Alert and Warning System (IPAWS) system and the Emergency Alert System (EAS). The CodeRed systems and EAS may be utilized as a communication tool used to inform citizens of emergency situations which immediately threaten their lives and or property. The system can be used for missing person notification, criminal investigation information, natural disasters, and critical incidents which threaten the public's safety.

Department employees are responsible for providing their up-to-date contact information to the department's CodeRed administrator (Chief's administrative assistant).

317.6.1 PROCEDURE

The following is the procedure for initiating the CodeRed IPAWS:

(a) All command officers should be trained on the CodeRed system and able to send out a CodeRed message.

(b) A CodeRed message can be sent out by a command officer via CodeRed website, through the ECN Launcher "app" on any Android, iOS, or Windows devices, or coordinated through RRRDC.

(c) Careful consideration should be made when determining which mapping method to use prior to launching a CodeRed message.

1. The size of the selected area may send information to residents outside of the City of Fargo, who aren't affected by the situation.

(d) Voice and email messages can be as long as needed, but text messages must be limited to 160 characters.

(e) A CodeRed message should contain the following information:

1. Source - which agency is sending the message
2. Guidance - what actions to take
3. Hazard - what is the situation
4. Location - where is the danger
5. Termination time - if applicable or known

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(f) If the incident expands or is resolved additional CodeRed messages may be necessary to inform the public.

The following is the procedure for initiating the Emergency Alert System (EAS):

(a) All EAS messages will be coordinated and activated by RRRDC with the proper authorization from an incident commander or designee (see EAS flow chart and Action Code attachments)

(b) All EAS messages should be crafted by a Sergeant or above, and all messages must be approved by a command officer prior to release by RRRDC.

(c) For localized incidents supervisors and incident commanders should consider using the Wireless Emergency Alert (WEA) feature of the EAS.

(d) Once a WEA is sent out, it may be followed by an EAS message which provides more specific details if the incident escalates into more areas.

(e) In order to successfully send a WEA, the alert must contain certain values which reflect an imminent threat.

(f) EAS/WEA messages must contain five (5) key elements and are limited to 90 characters:

    (a) Source - which agency is sending the message

    (b) Guidance - what actions to take

    (c) Hazard - what is the situation

    (d) Location - where is the danger

    (e) Termination time - required by Common Alerting Protocol (CAP)

(g) If the incident expands or is resolved additional EAS messages may be necessary to inform the public.

See attachment: Public Alert Flow chart.pdf

See attachment: Action Codes.pdf

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Victim and Witness Assistance

318.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources and that the department meets all related legal mandates.

318.2 POLICY

The Fargo Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Fargo Police Department will show compassion and understanding for victims and witnesses, and will make reasonable efforts to provide the support and information identified in this policy.

318.3 DEFINITIONS

Crime: Includes all felony offenses; class A misdemeanors, excluding violations of section 6-08-16.1 for no-account checks; all violations of chapters 12.1-17 (Assaults) and 12.1-20 (Sex Offenses), including all corresponding violations of municipal ordinances; and any of the offenses that may result in adjudication of delinquency.

Victim: A natural person who has suffered direct or threatened physical, financial, or psychological harm as a result of the commission or attempted commission of a crime, delinquent act, or against whom the crime or delinquent act is committed. The term victim includes family members of a minor, incompetent, incapacitated, or deceased person. The term victim does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

Witness: A person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced

318.4 CRIME VICTIM LIAISON

The Chief of Police may appoint a member of the Department to serve as the crime victim liaison; however, at this time the Department does not have a Victim's Advocate Office or program. Therefore, each officer/detective interacting with a victim will serve as a de facto crime victim liaison for City of Fargo offenses. Officers will serve as the point of contact for individuals requiring further assistance or information from the Fargo Police Department regarding crime victim resources. For state offenses the victim should be referred to the Cass County Victim Witness Coordinator.

318.4.1 NONIMMIGRANT VISAS

According to Homeland Security, the lack of immigration status in the U.S. may be one of the many reasons for some victims choosing not to come forward to work with law enforcement. A request for a nonimmigrant U visa or T visa, or for continued presence in the United States that is received by this department should be forwarded to the respective Criminal Investigations Unit commander

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for review. The case agent shall make notifications to the victim regarding application status as required by N.D.C.C. § 12.1-41-18.

In order to qualify for the U and T visa, the victim must prove to the U.S. Citizenship and Immigration Services (USCIS) that he or she cooperated with law enforcement, except if the victim is under the age of 18 or has suffered trauma. One of the primary ways a nonimmigrant victim may demonstrate cooperation with law enforcement is by submitting a signed statement from law enforcement as part of the application. In the U visa context, this statement is a required part of the petition and is known as the USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification. In the T visa context, this statement is known as the USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons.

See attachment: i-914supb.pdf

See attachment: i-918supb.pdf

318.4.2 QUALIFYING CRIMES

The following table is a list of the criminal activities which qualify a victim for the U visa.[1]

Abduction	Hostage	Sexual Assault
Abusive Sexual Contact	Incest	Sexual Exploitation
Blackmail	Involuntary Servitude	Slave Trade
Domestic Violence	Kidnapping	Stalking
Extortion	Manslaughter	Torture
False Imprisonment	Murder	Trafficking
Felonious Assault	Obstruction of Justice	Witness Tampering
Female Genital Mutilation	peonage	Unlawful Criminal Restraint
Fraud in Foreign Labor Contracting	Perjury	Related Criminal Activities[2]
Prostitution	Rape	

[1] These are not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime. Except "Fraud in Foreign Contracting," which is a federal offense defined in 18 USC 1351.

[2] Includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes, as well as any similar activity where the elements of the crime are substantially similar.

318.4.3 CRIME VICTIM LIAISON DUTIES

The Administrative Division commander, or his/her designee shall develop procedures to ensure that the Department complies with the rights of crime victims as established by N.D. Const. art. 1, § 25, including:

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(a) Officers/detectives shall provide each victim a Marsy's card to inform the victim in writing of his/her rights and that he/she may seek the advice of an attorney with respect to those rights. This information shall also be in a format available to the public.

(b) If known, officers/detectives will notify the victim of the place and time of an offender's incarceration, if requested.

(c) The Records Unit shall notify the victim as soon as practicable when a request is made for any confidential or privileged information about the victim, or any information that could be used to locate or harass the victim, or the victim's family.

318.5 CRIME VICTIMS

Officers shall provide crime victims with a Marsy's card. Officer should also provide crime victims with the more common victim information handouts such as a Rape and Abuse card, FirstLink card, and ND SAVIN card.

Officers should never guarantee a victim's safety from future harm, but may make practical safety suggestions to victims expressing fear of future harm or retaliation. Officers should never guarantee a person qualifies as a victim for purpose of compensation or restitution, but may direct him/her to the proper written department material or available victim resources.

318.6 VICTIM INFORMATION AND SERVICES

The designated Administration supervisor or designee, shall ensure that victim and witness information to include applicable handouts and forms are available and current. These shall include, as appropriate (N.D.C.C. § 12.1-34-02):

(a) All available public or private programs that provide support, treatment, assistance programs, counseling, victim assistance hotlines, elderly victim services, and social service agencies.

(b) Shelters and community resources for victims including domestic violence and sexual assault victims such as, but not limited to, the YWCA Shelter and Rape and Abuse information.

(c) Assurance that sexual assualt victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (334 USC § 10449; 34 USC § 20109, N.D.C.C. § 12.1-34-07).

(d) An advisement that a person who was arrested may be released on bond or some other form of release, and that the victim should not rely upon an arrest as a guarantee of safety.

(e) A clear explanation of relevant court orders and how they can be obtained.

(f) Information regarding available compensation for qualifying victims of crime under N.D.C.C. § 54-23.4-01 et seq. (N.D.C.C. § 12.1-34-02).

(g) North Dakota Statewide Automated Victim Information and Notification (ND SAVIN) accessible through VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow

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victims to check on an offender's custody status and to register for automatic notification when a person is released from jail (N.D.C.C. § 12.1-34-02).

(h) Notice regarding U visa and T visa application processes (N.D.C.C. § 12.1-41-18).

(i) Resources available for victims of identity theft (N.D.C.C. § 51-31-04).

(j) Notice of victim rights, Marsy's Card, prepared by the Department or North Dakota Attorney General (N.D.C.C. § 12.1-34-08).

(k) An officer's business card, which includes the officer's name and any applicable case or incident number.

(l) Information on how a victim of child sexual abuse who is over the age of 18 can, upon request, obtain a copy of the report related to his/her case.

318.7 WITNESSES

Officers should never guarantee a witness's safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

318.8 INVESTIGATIONS AND RECORDS UNIT

318.8.1 SPECIFIC REQUIREMENTS REGARDING CHILDREN

In order to protect a child victim or witness of a crime, except under N.D.C.C. Title 39 or equivalent ordinance, or the child victim of a fire, the name of the child and identifying biographical information may not appear on any public record. Instead, a Jane Doe/John Doe designation must appear or the child victim's information must be redacted from the document. Sealed confidential records containing the child's name and necessary biographical information must be kept in order to ensure that no defendant is charged twice (N.D.C.C. § 12.1-35-03).

318.8.2 INVESTIGATION STATUS

Victims and witnesses, upon request, must be informed of the status of the investigation, except where it is determined that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged offender is apprehended or the investigation is closed (N.D.C.C. § 12.1-34-02).

Upon the request of an alleged victim of a forced or coerced abortion, the investigating member shall notify the victim not less than 24 hours before initially contacting the suspect (N.D.C.C. § 12.1-41-21).

318.8.3 PRETRIAL RELEASE INVOLVING VIOLENCE

Victims and witnesses of crime must be afforded the following rights where applicable (N.C.C.C.§ 12.1-34-02), if the victim invokes their Marsy's rights.

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Victims and witnesses in any case involving a crime of violence, who are not registered with the VINE network, must be given prompt notice by the handling officer/detective of any hearing in which the arrested person's pretrial release status will be determined (N.D.C.C. § 12.1-34-02).

If the alleged offender in a crime of violence is scheduled to be released before an appearance in court, the Cass County Jail staff shall give prompt notice to the victim and witness as long as the arresting officer provides to the Cass County Jail staff with all of the pertinent victim/witness information. The Cass County Jail fulfills this obligation to notify by registering the victim with the VINE network (N.D.C.C § 12.1-34-02(b)). However, if the arresting/booking officer fails to provide the victim and/or witness information to the Cass County Jail staff, whereas the Jail staff can't register the victim/witness in the VINE network, the Department will be responsible for any victim/witness notifications.

In the absence of the Cass County Jail or the Cass County Victim Witness Coordinator, the handling officer/detective should assist the victim or witness with registering in the VINE system to make sure that future information is received in a timely manner. A victim or witness who objects to registration may not be required to register with the system.

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Hate Crimes

319.1 PURPOSE AND SCOPE

The Fargo Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the federal and state Constitutions and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with directives for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

319.1.1 FEDERAL JURISDICTION

Federal law prohibits discrimination-based acts. The U.S. Department of Justice (DOJ) may obtain jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, sex, sexual orientation, gender identity or disability (18 USC § 245).

319.2 DEFINITIONS

Definitions related to this policy include (18 USC § 249):

Bias - A preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

Hate crime - A crime motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim.

Hate incident - Those actions by an individual or group which, while motivated by hate or bias, do not rise to the level of a criminal offense.

Hate group - An organization whose ideology is primary or substantially based on the antipathy, hostility, or hatred towards persons of a different race, color, national origin, religion, disability, sexual orientation, gender, and/or gender identity.

Race - A group of persons who possess common physical characteristics, for example, color of skin, eyes, and/or hair; facial features, and so forth, which are genetically transmitted by descent and heredity, which distinguishes them as a distinct division of humankind.

Ethnic group - A group of persons whose members identify with each other through a common heritage, often consisting of a shared language, culture and/or ideology, which stresses common ancestry.

Religious group - A group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or non-existence of a supreme being.

Sexual orientation - A person's physical, romantic, and/or emotional attraction to a members of the same and/or opposite sex.

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Gender - Used synonymously with sex to denote whether an individual is male or female.

Gender identity - A person's internal sense of being male, female, or a combination of the both; this internal sense of gender may be different from physical gender at birth.

Disability - A physical or mental impairment, whether temporary or permanent, which is due to conditions which are congenital or acquired by heredity, accident, injury, advanced age, or illness.

319.3 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by:

(a) Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.

(b) Providing victim assistance and follow-up as outlined below, including community follow-up.

(c) Educating community and civic groups about hate crime laws and violence in general.

(d) The Intel Unit shall make every effort to become familiar with organized hate groups operating in the community.

319.4 PROCEDURE FOR INVESTIGATING HATE CRIMES

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

(a) A supervisor and the chain of command should be notified of the circumstances as soon as practicable, depending on the nature, seriousness of the offense, and its potential inflammatory and related impact on the community.

(b) The assigned officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.

(c) The assigned officers will include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports will be coded with the appropriate bias and, absent prior approval of a supervisor, will be completed and submitted by the assigned officers before the end of the shift.

(d) The assigned officers should also make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.

(e) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid (e.g., a possible protection order through the courts or District Attorney).

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319.5 CRIMINAL INVESTIGATION DIVISION RESPONSIBILITIES

If a case is assigned to the Criminal Investigation Division, the assigned investigator will be responsible for following up on the reported hate crime by:

(a) Coordinating further investigation with the State's Attorney and other appropriate law enforcement agencies.

(b) Maintaining contact with the victim and other involved individuals, as needed.

(c) The Intel Unit will be able to maintain and produce statistical data and tracking of suspected hate crimes as indicated or required by state law.

319.5.1 STATE HATE CRIME REPORTING

This department shall report hate crime offenses through North Dakota's Uniform Crime Reporting (UCR) program at regular intervals as prescribed by rules adopted by the Bureau of Criminal Investigations (BCI). This shall be conducted by the Records Manager.

319.5.2 FEDERAL HATE CRIME REPORTING

The Records Manager should include hate crime data reporting within the Federal Uniform Crime Reporting (UCR) program's National Incident-Based Reporting System (NIBRS), and summary reporting system reports pursuant to Records Division procedures and in compliance with (28 USC § 534(a)).

319.6 TRAINING

All officers of this department should receive training on hate crime recognition and investigation, and should attend annual training which incorporates a hate crime training component.

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Standards of Conduct

320.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Fargo Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning member conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

320.2 POLICY

The continued employment or appointment of every member of the Fargo Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

320.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor, or person in a position of authority, absent a reasonable and bona fide justification.

320.3.1 UNLAWFUL OR CONFLICTING ORDERS

Command officers, supervisors, Police Training Officers (PTO's), and senior officers shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Command officers, supervisors, PTO's, and senior officers should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing command officer, supervisor, PTO, or senior officer of the conflict. The issuing command officer, supervisor, PTO, or senior officer is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

320.3.2 SUPERVISOR RESPONSIBILITIES
Command officers and supervisors are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

320.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and North Dakota Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Members shall not commit or omit any act(s) which they know, or should know, violate any City of Fargo employment policy or the written or verbal rules, regulations, procedures, orders, or directives of the department.

Although members shall have regularly scheduled work hours assigned to them, a command officer or supervisor may extend, reschedule, or otherwise alter an employee's work schedule with or without advance notice. This includes postponing, canceling, or rescheduling an employee's leave time in accordance with the Fair Labor Standards Act (FLSA) or other applicable law.

Sworn officers who are off-duty are required to take reasonable and appropriate action, within the scope of their authority, when situations that may compromise public safety come to their attention within the City of Fargo. Officers who take official action while off-duty or out of uniform shall properly identify themselves as a Fargo Police officer and display their badge and/or police identification whenever possible or practical.

Members shall perform their duties without favor or prejudice and always in a professional and respectful manner.

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Members intending on resigning or retiring from the department shall submit written notification to the Chief of Police at least two weeks prior to the effective date, unless a deviation is approved by the Chief of Police.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

320.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

320.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

(b) Disobedience or undue delay of any legal directive or order issued by any department member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

(d) When traveling outside of the United States, failure to comply with the laws and regulations of the host country.

(e) Failure to inform their immediate supervisor and the department's Office of Professional Standards (OPS) as soon as possible or practical if they are aware of being the subject of any criminal investigation, if they are arrested, and/or convicted of any criminal offense, or if they receive a summons for any criminal traffic violation, regardless of the location or jurisdiction.

(f) Engaging in any conduct, to include any physical act or verbal expression which threatens, exhibits, or implies any violence towards another department member or any person within the workplace.

(g) A conviction for violating any law shall be prima facie evidence of a violation of this subsection.

Note: The lack of a criminal complaint or an acquittal of an alleged violation of law shall not preclude the department from taking any administrative disciplinary action against an employee.

320.5.2 ETHICS

(a) Using or disclosing one's status as a member of the Fargo Police Department such as their official position, badge, or police identification in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.

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(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties unless it is specifically authorized by the Chief of Police.

(d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Members shall not authorize the use of their name, photograph, title, position, or association with the Fargo Police Department in connection with any testimonial or advertisement.

(h) Any other failure to abide by the standards of ethical conduct.

320.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

320.5.4 RELATIONSHIPS

(a) Solicitation of a personal or sexual relationship while on--duty or through the use of one’s official capacity.

(b) Engaging in on--duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact while on duty.

(c) Engaging in any conduct or action, which may be viewed or interpreted as sexual harassment, to include, but not limited to: unwelcome sexual advances, flirtations, touching, propositions, requests, demands or pressure for sexual favors, graphic or suggestive comments about an individual's dress or physical appearance, sexually degrading words used to describe an individual, or display any sexually suggestive objects or pictures anywhere in the workplace.

(d) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(e) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity/enterprise, or groups which approve, condone, or engage in acts of violence, criminal behavior, or who seek to deny others of their rights under the United States Constitution, or who seek to alter the form of the United States

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government by unconstitutional means, except as specifically directed and authorized by this department.

(f) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except where it is unavoidable due to a family relationship, or as specifically directed and authorized by this department.

320.5.5 ATTENDANCE AND READINESS FOR DUTY

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

(d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

1. Members shall be physically and mentally fit to perform their duties to the fullest extent possible.

2. Members shall report for duty as prescribed by the department's uniforms, equipment, and appearance standards.

(e) Subpoenas or other administrative notices received by an employee as a result of any official action shall be considered an order for the member to report for duty under this subsection.

Note: *In the event of a natural or man-made disaster, or any other incident where the adverse impact to the City of Fargo is (or could be) substantial, all department employees, regardless of rank, title, position, or status as a sworn officer or civilian employee, shall presume an order to immediately report for duty has been issued by the Chief of Police.*

320.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

(a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member’s position with this department. Members shall treat the official business of the department as confidential.

(b) Disclosing to any unauthorized person any active investigation information to include photographs, video or audio recordings, or information contained in the case report.

(c) Accessing and/or using any information associated with the official business of the department for personal or other non-work related reasons such as reviewing case reports, accessing criminal records, or obtaining any motor vehicle or driver's license information.

(d) The capture or use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal

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or financial gain or without the express authorization of the Chief of Police or an authorized designee.

(e) Loaning, selling, allowing unauthorized use, giving away or appropriating any Fargo Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.

(f) Using department resources in association with any non-department related business or event. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

(g) Using, disseminating, posting, or transmitting any likeness or image associated with the department, to include logos, emblems, uniforms, badges, patches, police vehicles, or other material which specifically identifies the department, for any commercial purpose or personal financial gain, or in any manner which may bring discredit to the department.

320.5.7 DEPARTMENT EQUIPMENT

(a) Utilizing department equipment only for its intended purpose and in accordance with any training and established department policies and procedures.

(b) Abusing, negligently damaging, or losing department equipment. Employees are responsible for maintaining and ensuring all equipment issued or used by them is in proper working order.

(c) Report any damage, defect, or loss of any department equipment to the immediate or other on-duty supervisor as soon as practical

(d) Failure to promptly return any such equipment to the department on or before their last day of employment, or at the direction of a command officer or supervisor.

(e) Members shall not impede or otherwise interfere with any administrative access/ inspection of any equipment or container.

(a) <u>All equipment owned/managed by the department, to included, but not limited to: lockers, vehicles, firearms, desks, file cabinets, computers, cellular phones, other electronic devices,...etc., are subject to administrative access and/or inspection at any time with or without cause and with or without notice.</u>

(b) Any privately or personally owned or maintained container, equipment, or other item, to include but not limited to: a briefcase, purse, duffle-bag, cellular phone, personal electronic device,...etc., brought into or stored in any department building, or motor vehicle, is subject to administrative access and/ or inspection at any time, BUT only if cause exists to believe the item contains contraband or some other material specifically prohibited or otherwise deemed unsuitable for the workplace, such as offensive, obscene, or illegal items.

320.5.8 EFFICIENCY

(a) Neglect of duty.

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(b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Failure to complete and submit all reports on time and in accordance with established department policies and procedures relative to the completion and submission of reports. Reports shall be accurate, truthful, and complete and no member shall knowingly enter or cause to be entered any inaccurate, false, or improper information.

(d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.

(e) Failure to process all property or evidence they receive in the performance of their duties in accordance with established department policies and procedures relative to processing any such property or evidence.

(f) Convert to personal use, manufacture, conceal, falsify, destroy, remove, tamper with, modify, or withhold any property or evidence in connection with an investigation or other police action, except as authorized by department policy.

(g) Property or evidence gathered or received by the department shall be purged and/or destroyed in accordance with law and established department policy.

(h) Unauthorized sleeping during on-duty time or assignments.

(i) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

(j) Failure for sworn officers to carry their department issued identification cards with them at all times, except when it is impractical or dangerous to do so.

1. All employees shall furnish their name and police ID number to any person upon request when the member is on-duty or otherwise representing the department in an official capacity, except when it is necessary to withhold such information in the performance of an official duty.

(k) Engaging in any activity or personal business while on-duty which could cause them to neglect or otherwise be inattentive to their duties.

320.5.9 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

(b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

(c) Failure to participate in an investigation, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any -department-related business. Upon the order of the Chief of Police or the Chief's

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designee, members shall truthfully answer any questions relative to a personnel complaint or other administrative inquiry.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members. However, in the lawful performance of an officer's duties it is permissible to use reasonable forms of deception as an investigative technique.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

1. Department members shall not publicly criticize the department, it's policies, practices, administrative decisions/determinations, or its employees (regardless of rank or assignment) by speech, in writing, or any other expression, where such information is defamatory, obscene, unlawful, or impairs the operation, efficiency, effectiveness, or image of the department , or is made with wanton disregard for the truth.

(f) Members are not prohibited or precluded from discussing or dissemination information which may be of public interest and is not otherwise prohibited by department policy.

(g) Feigning any illness or injury, or falsely report themselves or any member of their family ill or injured, or otherwise deceive or attempt to deceive the department as to their health or ability to report for duty due to illness or injury. A member sustaining any injury while on-duty shall immediately report such injury to their immediate or other on-duty supervisor.

(h) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.

2. At any work site, while on--duty or while in uniform, or while using any department equipment or system.

3. Gambling activity undertaken as part of an officer’s official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

(i) Improper political activity on duty, to include:

1. Unauthorized attendance while on--duty at official legislative or political sessions.

2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on--duty, on department property or while in any way representing him/herself as a member of this department, except as expressly authorized by City policy, an employment agreement, or the Chief of Police.

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3. Managing, organizing, or financing any political party, club, campaign, or other political organization.
4. Soliciting votes for or against any candidate or cause.
5. Serving as a political party delegate.
6. Endorsing or opposing a candidate or cause through advertisement, broadcast, or campaign literature.
7. Initiating or circulating a petition.
8. Organizing or actively participating in any fundraising functions for political candidates, parties, or causes.
9. Addressing political or religious gatherings on topics unrelated to the official business of the department
10. Soliciting participation of endorsement of a political or religious belief, position, or denomination.

(j) Engaging in political activities during assigned working hours except as expressly authorized by City policy, an employment agreement, or the Chief of Police. Except for inclusion in stating their qualifications for political office, department members shall not use their position with the department for any political purpose and shall not hold any political position which may be incompatible or of conflicting interest towards their duties as a department member.

(k) Failure to maintain sufficient competence to adequately perform their duties and responsibilities in a professional and efficient manner. Unsatisfactory performance may be demonstrated by, but is not limited to, the following:

(a) A lack of knowledge of how to apply or enforce laws and/or other regulations, or;

(b) An unwillingness or inability to perform assigned tasks, duties, or to otherwise meet job performance expectations, or;

(c) Failure to conform to the work standards established for the member's rank, position, or assignment, or;

(d) Failure to take the appropriate action to deal with crime, disorder, or other conditions requiring or otherwise deserving police attention, including addressing and/or reporting violations of department policy which come to a members' attention, or;

(e) Being absent from duty without approved leave.

(l) The following shall be ***prima facie*** evidence of unsatisfactory performance:

1. Repeated poor performance evaluations.
2. Documented evidence of repeated violations of department rules, regulations, procedures, orders, or other directives.
3. Failure to satisfactorily complete the department's police training program for newly hired officers or the initial introduction training provided to civilian personnel.

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4. Failure to satisfactorily complete any in-service training, a performance improvement plan, or other remedial training.

320.5.10 CONDUCT

(a) Failure to remain patient, courteous, and respectful when interacting with members of the general public, co-workers, or others in the performance of their duties.

(b) Failure to perform their duties while demonstrating excellent judgment, discretion, and decision making ability.

(c) Unreasonable and unwarranted force to a person encountered or a person under arrest. Failure to respond to any resistance they encounter, either real or perceived, by using only the degree of force (physical or otherwise) which is necessary and reasonable in the lawful discharge of their duties and in accordance with established department policy.

(d) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.Sworn officers shall only make an arrest or search/seize any person when they know, or should know, it is lawful, and only accordance with established department policy and/or procedure.

(e) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(f) Engaging in horseplay that reasonably could result in injury or property damage.

(g) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

(h) Use of obscene, indecent, profane or derogatory language while on--duty or in uniform.

(i) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

(j) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

(k) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(l) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any employment agreement contract to include fraud in securing the appointment or hire.

(m) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.

(n) Any other on- or off--duty conduct which any member knows or reasonably should know is unbecoming for a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

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1. On or off-duty members shall not solicit from alcohol establishments for alcohol donations for any department event or any event which could reasonably be associated with the department, unless approved by a Division Commander or Chief of Police.

320.5.11 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver’s license, first aid).

(c) It is highly encouraged officers maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe, negligent, reckless, careless firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the Chief of Police.

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

(g) Any personal action contributing to a preventable traffic accident.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

(i) Members shall report any suspension, revocation, or cancellation of their driver's license, or if they are arrested, convicted, or issued a summons for any criminal traffic violation, to their immediate or on-duty supervisor, and the departments Office of Professional Standards (OPS) as soon as possible.

(j) Prohibited from engaging in any conduct, to include any physical act or verbal expression which threatens, exhibits, or implies any violence towards another department member or any other person within the workplace. (*Note:This item is not applicable to any act which is consistent with the department's policy or procedures relative to the lawful use of force.)*

320.5.12 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or having any detectable sign of alcohol consumption to include an odor of an alcoholic beverage, physical or mental impairment.

(b) Reporting for work or being at work when the members ability to perform assigned duties is impaired due to the use of , medication or drugs, whether legal, prescribed or illegal.

(c) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment, and only when acting under the direction or orders of a command officer or supervisor. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-

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duty performance. Members in department approved uniforms are prohibited from consuming alcohol or any other intoxicating substances.

(d) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site except when it is legally prescribed and/or administered. Over the counter (OTC) medications which do not cause mental or physical impairment are permitted when taken as directed by the manufacturer.

1. If it becomes necessary for a member to use a controlled substance in the workplace or while on-duty, the member shall notify their immediate or on-duty supervisor as soon as possible if the member's ability to perform their duties *may* be impaired due to the member's use of the controlled substance.

(e) Members shall not store or bring into any police facility or police vehicle any alcohol or other intoxicating substance or any controlled substance except those taken and held as evidence, secured as seized or found property, used for authorized training purposes, or legally prescribed and/or administered to an employee, without authorization from a command officer or supervisor.

(f) Off-duty members shall refrain from consuming any alcohol or intoxicating substance to the extent it results in behavior which discredits the member or the department, or renders the employee unfit to report for the member's next scheduled work shift or assignment.

(g) Members are prohibited from using any smoking or tobacco product, to include any smokeless tobacco product, E-Cigarettes, or any other smoking device within any department facility, department vehicle, or anytime the member is on-duty and in public view.

(h) Members may use tobacco products only in the duly designated area(s) outside of any department facility, or when it is necessary and/or reasonable with the performance of their duties and when acting under the direction or orders of a command officer or supervisor.

(Note: Department members are also required to follow all City of Fargo employment policies relative to alcohol, drugs, or tobacco use in the workplace.)

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Information Technology Use

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide directives for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

321.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Fargo Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

Software - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

Temporary file, **permanent file** or **file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

321.2 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through the MDC, file-sharing software, or any Internet site that is accessed, transmitted, received or reviewed on any department computer system.

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

321.3 POLICY

It is the policy of the Fargo Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

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321.4 RESPONSIBILITY

The Fargo Information Services (IS) Department shall be responsible for the maintenance and upkeep of the various networks and systems on behalf of the Fargo Police Department. The IS Department will act as the liaison with the appropriate representatives regarding the City of Fargo's network or Internet access.

321.5 AUTHORITY

The IS Department has the authority and responsibility to conduct random monitoring to ensure compliance with the City of Fargo's Electronic Communications policy regarding all electronic communications. The department and the IS Department reserves the right to remove a user account from the network due to violations of this policy or the City of Fargo Communications policy, and to restrict a user from sending or receiving e-mail. The department also reserves the right to block an e-mail account from sending e-mails into the City of Fargo network if it deems the sender's e-mail interferes with department operations or is deemed inappropriate.

Refer to City of Fargo Employment policy 200-016, Electronic Communications.

321.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member’s duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IS staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a command officer or during the course of regular duties that require such information.

321.7 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Commanders.

Members shall not use another person’s access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

321.7.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company’s copyright and license agreement.

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To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the Information Services (IS) staff.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software should only occur by IS staff as part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IS staff and a full scan for malicious attachments.

321.7.2 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

321.7.3 COMMUNICATION SYSTEMS USE

With multiple work shifts, work groups, and employees working at different locations, it is impractical to relay all information via face to face communications. Therefore, we must use the various forms of communications to disseminate information within the department. The following are expectations regarding the use of voice-mail, e-mail, and other internal communications:

(a) Voice-mail, e-mail, and your individual mailbox/inbox should be checked at least once during your work shift.

(b) Individual mailboxes should be regularly purged.

(c) Employees shall use the "out of office" notification for voice-mail and e-mail when taking three (3) consecutive days of vacation or more, or if you are going to be away from work for three (3) or more consecutive workdays.

(d) Command officers are expected to be accessible via department cell-phone unless he/she has made prior arrangements to have another command officer assume their responsibilities.

(e) Non-exempt employees, unless specifically required by the nature of their assignment or status, are not required to access or monitor department communication systems

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such as voice-mail, e-mail, and cell-phone messaging (text and voice-mail), while off-duty.

321.7.4 INTERNET USE

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail and data files.

321.7.5 OFF-DUTY USE

Personal use of technology resources, such as department owned cell phones, may be permissible if limited in scope and frequency, if in conformance with other provisions of this policy, and if not connected with a profit making business enterprise or the promotion of any product, service, or cause which has not received prior approval from a command officer.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

321.8 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system and shall be changed at intervals as directed by IS staff.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

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Report Preparation

322.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formal and on-the-job training.

322.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficiently detailed for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty, unless permission to delay submission of the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads or arrest reports where the suspect remains in custody should not be delayed.

Handwritten reports or forms must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, witnesses, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

322.1.2 REPORT INFORMATION REQUIREMENTS

Fargo Police personnel will insure the following procedures are followed when completing reports (primary and supplemental) and taking evidence into custody.

(a) All names of persons involved in a case (suspects, witness, victims mentioned, etc) will be documented in the primary report or added when a supplemental report is completed. Names supplied in a dictated supplemental report will be stated at the very beginning of the supplement before any narrative portion and will include as much biographical information as possible in the following:

1. Type of person - suspect, victim, witness, etc
2. Full name - last, first, and full middle when possible
3. Current address - street, apt/unit, city, state, and zip code - do not assume the CAD/RMS has the most current information
4. Social security number
5. Current phone numbers - home, cell, and work

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6. Date of birth
7. Sex/race
8. Current Employment/School
9. Criminal Charge (if the person is an arrestee or suspect)

(b) Whenever evidence is acquired either by submission by a third party, or obtained subsequent to an officers actions (video/audio recordings, photographs, sexual assault kits, trace evidence, documents brought in by the victim, etc), the officer will complete a supplemental report.

(c) Evidence acquired after the original report has been completed will be listed at the very beginning of the dictated supplement before any narrative portion is the following format:

1. Title - evidence
2. Type/description - ex: security video, latent print from pop can, CD/DVD of interview, etc
3. Location - evidence locker, laserfiche, 7th Ave. alternative storage

(d) The supplemental report will include a brief description of the circumstances of how and when the evidence was acquired, from whom, if anyone, and its relevance to the case. This supplemental report will be in addition to the proper logging of the evidence utilizing the department's evidence tracking computer system.

(e) CSI personnel will complete a supplemental report whenever they collect evidence at the scene.

(a) Will include a brief description of the evidence and the manner in which the evidence was collected.

(f) CSI personnel or detectives are required to complete a photo log on traffic fatalities, homicides, suspicious deaths where the manner of death is unknown, or any time a supervisor or incident commander deems the completion of a photo log as necessary.

1. May utilize a photo log in lieu of individually listing a description of each photo taken in the supplemental report when completing crime scene photograph
2. Personnel utilizing a photo log will still need to complete a brief supplemental report indicating what actions they took and the existence of photographs and photo log.

(g) Officers will note in their primary or supplemental reports the existence of any department created video or audio records obtained pursuant to an investigation.

1. The narrative will include a brief description of information the records contains, the manner it was obtained, its location of storage, and it relevance to the investigation.

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322.1.3 ASSIST OTHER AGENCY REPORTS

In order to insure we can re-contact not only the proper agency to which we provided assistance, but also the proper agent, detective, or officer and provide them with a copy of the report and any evidence gathered, the following information will be required in all Assist Other Agency reports:

(a) The requesting agency will be listed as the "complainant for the report along with the street address and main phone number for the agency.

(b) If there is a specific officer from the requesting agency they will be listed in the report as mentioned.

1. The address listed for the officer will be their department address, but a specific desk or cell phone number for that officer should be listed when available.

(c) If available, an email address to the agency and/or the case officer should be included in the first line of the synopsis.

All Assist Other Agency reports will be coded 2 - follow up needed. This will insure a timely notification to the requesting agency.

322.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor. Supervisors are responsible to approve all reports and/or notify officers of rejected reports, and ensure the report is processed in a timely manner.

322.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

(a) All arrests - incidents involving the arrest of a suspect will require supervisory approval prior to the officer ending their tour of duty. If a report is rejected the report must be corrected, resubmitted, and approved prior to the officer leaving their shift. All arrest reports and the associated case report should be completed as soon as practical after the arrest is made.

(b) All felony personal crimes

(c) Non-felony incidents involving indecent exposure and surreptitious intrusion (window peeping)

(d) Situations covered by separate policy. These include:

1. Use of Force Policy

2. Domestic Violence Policy

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3. Child Abuse Policy
4. Adult Abuse Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report.

(f) All crimes for which physical evidence is collected and submitted to the property unit.

Misdemeanor crimes where the victim does not desire a report shall be documented using the department approved alternative reporting method (e.g., officer comments in the call for service).

322.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

(a) Any use of physical force by a member of this department (see the Use of Force Policy)

(b) Any firearm discharge (see the Firearms Policy)

(c) Any time a person is reported missing (regardless of jurisdiction) (see the Missing Person Reporting Policy)

(d) Any found property

(e) Any traffic accidents above the minimum reporting level (see the Traffic Accident Response and Reporting Policy)

(f) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(g) All protective custody detentions

(h) Suspicious incidents that may place the public or others at risk

(i) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

322.2.3 DEATH REPORTS

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigation Policy. An officer handling a death investigation should notify and apprise a supervisor of the circumstances surrounding the incident and a determination will be made on how to proceed. The following cases shall be appropriately investigated and documented using a case report:

(a) Sudden or accidental deaths

(b) Suicides

(c) Homicide or suspected homicide

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(d) Unattended deaths (no physician or qualified hospice care during the period immediately preceding death)

(e) Found dead bodies or body parts

322.2.4 INJURY OR DAMAGE BY DEPARTMENT PERSONNEL
Reports shall be taken if an injury occurs that is a result of an act of a department employee. Reports or documentation in the applicable call for service shall be made when there is damage to department property or equipment.

322.2.5 MISCELLANEOUS INJURIES
Any injury that is reported to this department shall require a report when:

(a) The injury is a result of a drug overdose.

(b) There is an attempted suicide.

(c) The injury is major or serious, whereas death could result.

(d) The circumstances surrounding the incident are suspicious and it is desirable to record the event.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

322.2.6 ALTERNATE REPORTING FOR VICTIMS
Reports that may be reported by the public to the department's Records personnel for processing include:

(a) Lost property

(b) Misdemeanor thefts of property

(c) Misdemeanor criminal mischief, to include criminal mischief to a vehicle and graffiti, with no suspect information and no hate crime implications

(d) Unlawful Entry into vehicle with no suspect information or evidence

(e) Theft from vehicle

(f) Theft of bicycles

(g) Assist other agency

(h) Supplemental property lists

Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

322.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports

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delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

322.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS
When an incident requires an officer to complete a handwritten form, the officer will write legibly in block print to allow others to understand the content of the report.

322.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS
County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

322.4 REPORT CORRECTIONS

Supervisors shall review reports and all handwritten forms, except citations, for content and accuracy. If a correction is necessary, the reviewing supervisor shall contact the officer, stating the reasons for rejection. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

322.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Unit for merging in the record management system may be modified or altered for grammatical corrections without the knowledge of the originating officer. However, if Records Unit personnel identify issues with the content of a report prior to finalizing the merge process, Records personnel shall contact the originating officer before making any content changes to the report. This will ensure the content of the originating officer's report is reflected accurately. Once a report has been merged into the records management system and a content issue has been identified, the originating officer shall complete a supplement to the original report correcting the issue.

Reviewed reports that have not yet been submitted to the Records Unit may be corrected or modified for minor grammatical errors by the reviewing supervisor, or rejected and sent back to the originating officer for corrections. If the reviewing supervisor determines there are content issues in the report, the supervisor shall reject the report and contact the originating officer for the needed corrections. If an officer submits a report for review, the officer may request that report to be rejected by a supervisor in order for the officer to make changes or to complete the report.

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Media Relations

323.1 PURPOSE AND SCOPE

This policy provides directives for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities. By providing the news media and community with information on department activities, operations, and administration a relationship of mutual trust, cooperation, and respect can be fostered.

Sworn and civilian personnel of all ranks and in all assignments may be asked by a higher authority to provide members of the news media with information to which they are legally entitled regarding calls for service, criminal incidents, accidents, and department activities.

323.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. However, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Shift Commanders, and the designated Public Information Officer may prepare and release information to the media in accordance with this policy, and the applicable law.

A. In the interest of accuracy and continuity, the release of information to the news media is primarily the responsibility of the department's Public Information Officer (PIO) and the supervisory personnel, but if the PIO or a supervisor is not readily available, any member of the department with direct knowledge of an incident, or situation may provide that information to the media in accordance with the law and department guidelines.

B. The shift commander or on-duty supervisor shall be responsible for ensuring the PIO is informed of major incidents, and all other events which may generate media interest.

C. Department personnel are encouraged to engage in open and ongoing communications with members of the news media to resolve problems, identify concerns, and promote cooperation. Issues or concerns which cannot be resolved through direct communication "in the field" should be brought to the attention of the department's administration for follow-up.

D. Department employees contacted directly by the media shall notify the PIO of any interview requests. All conversations with members of the news media should be considered "on the record" and subject to being quoted.

323.2.1 PUBLIC INFORMATION OFFICER RESPONSIBILITIES

A. Serves as the primary source of information about the department and acts as a liaison between the department and the news media.

B. The PIO and assistant PIO's shall be available during normal business hours and be on call for emergencies and critical incidents at all other times.

C. Prepares formal press releases, which should be reviewed before release by the City of Fargo Communications Manager, when practical.

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D. Initiates contact with the news media for any press releases and conferences, special announcements, and similar matters when requested to do so.

E. Arranges interviews with investigators and other department members at the request of the news media, when appropriate.

F. Works with the news media at incident scenes in coordination with the incident commander of those scenes.

(a) In the absence of the PIO, the supervisor or officer in charge at the scene shall assume primary responsibility for working with the news media.

(b) The news media may be denied access to provided limited access to an incident scene when:

(a) It is necessary to preserve evidence.

(b) The news media's access would interfere with the tactical activities of the public safety agencies involved.

(c) The incident scene is on private property and the owner or custodian of the property denies the media access.

323.2.2 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

(a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.

(b) In situations involving multiple law enforcement agencies or other criminal justice agencies including, but not limited to, prosecutors and coroners, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

323.3 MEDIA ACCESS

Authorized members of the media should be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities. Access by the media is subject to the following conditions:

(a) Media representatives shall produce valid press credentials, which shall be prominently displayed at all times, in areas otherwise closed to the public. News media requests for information at the scene of an incident in progress shall typically be referred to the on-scene supervisor, or officer in charge of the incident. Requests for

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information concerning fire or medical incidents concerning a person's medical status should be referred to the Fargo Fire Department or appropriate medical care facility.

(b) At major incident scenes, a supervisor or officer in charge is encouraged to utilize the department's PIO for assistance in dealing with the news media.

(c) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the Public Information Officer or other designated spokesperson.
2. The media briefing area should be broadcast to dispatch over the radio. Department personnel at a major scene are encouraged to relay the location of the briefing area to members of the news media they see or have contact with.
3. No member of this agency shall prohibit the media from news-gathering practices, including photography and interviews, outside the established perimeter.
4. Members of the media shall receive no more or less access to an incident scene than members of the general public.
5. The PIO or supervisor may work with the news media to identify one or more satisfactory locations inside a "cordoned-off" area for them to obtain photographs and video footage, provided the news media's presence does not compromise the safety of the public safety personnel, victims, or other members of the public, and does not interfere with the investigation.

(d) No member of this department who is under investigation shall be required to submit to media visits or interviews without the consent of the involved employee.

(e) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

323.3.1 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Shift Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower.

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If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

323.3.2 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

323.4 INFORMATION SUBJECT TO RELEASE

The Department will maintain a daily dispatch log of significant law enforcement activities that shall be made available, to media representatives through the department's website and/or RRRDC's website. This log will consist of data classified as public and may generally contain the date, time, location, incident number, and type of crime unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated media representative, the custodian of records, or if unavailable, to the Shift Commander. Such requests will be processed in accordance with policy (refer to Policy 804 Records Maintenance and Release) and state law.

News media inquiries concerning cases currently under investigation shall be referred to a Investigations supervisor, Unit commander, or Division commander.

(a) Criminal information on active (on-going) criminal investigations, to include criminal intelligence, shall not be released to the news media if such release could endanger prosecution or deny due process. However, case information may be released if the Investigations supervisor, Unit commander, or Division commander determines the release of specific information to the media could further the police investigation.

(b) "Criminal information" and "criminal intelligence" does not include:

    (a) Arrestee description, including name, date of birth, address, race, sex, physical description, and occupation of arrestee.

    (b) Facts concerning the arrest, including the cause of the arrest and the arresting officer.

    (c) Dispositions of all warrants, including arrest warrants.

Internal Investigations

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(a) News media requests for information regarding internal investigations should be referred to the Professional Standards Office or the Chief of Police.

(b) Department personnel shall not discuss "active" (on-going) internal investigations with the news media without authorization from the Chief of Police or the Chief's designee.

323.4.1 STATE RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department (see the Records Maintenance and Release and Personnel Files policies). When in doubt, authorized and available legal counsel should be obtained.

323.4.2 MEDIA RELEASES AND ADVISORIES

When possible media releases should be sent to the department PIO for review, editing, and distribution. The PIO should forward the media release for final review to the City of Fargo PIO. Following the final review, the department PIO will be responsible for distributing the release and handling media requests for additional information, interviews, and photographs. Depending on the nature of the release, the author of the release or other department subject matter experts may be assigned to handle specific interview requests.

In the absence of the department PIO or his/her designee, releases may be sent directly to the City of Fargo PIO for review and editing (as well as distribution if so requested by the submitting author). An officer must have a sergeant or command officer authorization before sending a media release to the City of Fargo PIO for review and distribution.

In cases requiring immediate distribution of a media release (in response to a critical incident, public safety notice, etc) where the department PIO is not available and delay would inhibit police operations, a sergeant or command officer may authorize the distribution of a media release. The media release must follow the approved template format and must be reviewed prior to distribution by a second person for errors and clarity.

All media releases should be saved in the appropriate media release folder on the T drive.

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Subpoenas and Court Appearances

324.1 PURPOSE AND SCOPE

This policy establishes the directives for department members who must appear in court. It will allow the Fargo Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

324.2 POLICY

Fargo Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

A civil subpoena may be served upon the named member in the subpoena in accordance with N.D.R.Civ.P. Rule 4(d). A criminal subpoena must be personally served upon the member (N.D.R.Crim.P. Rule 17(d)). Subpoenas issued by the City of Fargo City Attorney's office will be delivered to the officer via city email. Officers are required to open and acknowledge receipt of the delivered electronic subpoena.

Prior to accepting service of a subpoena, witness fees shall be demanded as allowed by law (N.D.R.Civ.P. Rule 45(b)(1)(B); N.D.R.Crim.P. Rule 17(d)).

324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor, shall notify his/her immediate supervisor without delay regarding:

(a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.

(b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.

(c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

(d) Any civil action stemming from the member’s on-duty activity or because of his/her association with the Fargo Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Fargo Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

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No member shall be retaliated against for testifying in any matter.

324.3.2 CIVIL SUBPOENA
The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current compensation policy.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

324.3.3 ADMINISTRATIVE HEARINGS
Administrative notices (ND DOT Hearings) for policy purposes are considered orders to report for duty. Officers are not allowed to waive the administrative hearing upon request of the defense attorney or hearing officer. Once the officer has reported, the department administration expects the officer to testify professionally and competently during the hearing. Officers are not permitted to make any deals with the defense regarding administrative hearings.

324.3.4 OFF-DUTY RELATED SUBPOENAS
Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

324.4 FAILURE TO APPEAR
Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

324.5 STANDBY
To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

324.6 COURTROOM PROTOCOL
When appearing in court, members shall:

(a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.

(b) Dress in the department uniform or business attire.

(c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

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324.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall obtain a copy of relevant reports and become familiar with the content in order to be prepared for court.

324.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current compensation policy.

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Mutual Aid and Outside Agency Assistance

325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide directives to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

325.2 POLICY

It is the policy of the Fargo Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

325.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the on-duty Field Services supervisor for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Shift Commander or on-duty Field Services supervisor may authorize, if available, an appropriate number of personnel to assist (N.D.C.C. § 44-08-20). Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by the department will not ordinarily be booked at this department. Only in exceptional circumstances will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, an Assist Other Agency report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

325.3.1 AGREEMENTS

The Chief of Police may enter into agreements with other law enforcement agencies to (N.D.C.C. § 44-08-24; N.D.C.C. § 54-40.3-04):

(a) Assist other state and local criminal justice agencies.

(b) Exchange officers of this department with peace officers of another criminal justice agency on a temporary basis.

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325.3.2 INITIATED ACTIVITY

While assisting a peace officer from another agency or acting on behalf of another agency, an officer's assistance shall be limited to the duties, scope, and course of employment authorized for an officer of this department (N.D.C.C. § 44-08-24).

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Fargo Police Department shall notify his/her supervisor or the Shift Commander and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

325.4 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the on-duty Field Service sergeant shall request assistance from agencies participating in the Agreement for the Joint Exercise of Peace Officer Duties. Any such request must include a statement of the amount and type of equipment and personnel requested. The requesting supervisor shall provide specific information to where responding resources should assemble or direct assisting personnel to where they are needed and to whom they should report when they arrive (N.D.C.C. § 44-08-20(3)).

The requesting supervisor should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

325.5 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies to be shared with other agencies should be documented and updated as necessary by the Administration Division Commander or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch and the Shift Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Sergeant should maintain documentation that the appropriate members have received the required training.

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325.6 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities shall be documented in a case report or as directed by the Shift Commander. In order to insure we can re-contact not only the proper agency to which we provided assistance, but also the proper agent, detective, or officer and provide them with a copy of the report and any evidence gathered, the following information will be required in all Assist Other Agency reports: (all information will be placed in the proper location on the coversheet of the report)

(a) The requesting agency will be listed as the "complainant" for the report along with the street address and main phone number for the agency.

(b) If there is a specific officer from the requesting agency, they will be listed in the report as "mentioned." The address listed for the officer will be their home agency's address, but a specific desk or cell phone number for that officer should be listed when available.

(c) If available, an email address to the agency and/or the case officer should be included in the first line of the synopsis (this will allow us to electronically forward the report).

All Assist Other Agency reports will be coded 2 - follow up needed. This will insure a timely notification to the requesting agency.

325.7 EVIDENCE COLLECTION

Any evidence collected in an assist to another agency incident shall be transferred to the agency of jurisdiction at the earliest opportunity.

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Registered Offender Information

326.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Fargo Police Department will address issues associated with certain offenders who are residing in the jurisdiction, and how the Department will disseminate information and respond to public inquiries for information about registered offenders (N.D.C.C. § 12.1-32-15).

326.2 POLICY

It is the policy of the Fargo Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

326.3 REGISTRATION

326.3.1 ORIGINATING AGENCY

The registration forms and instructions will direct the offender to register with the local law enforcement agency where the offender resides, works or attends school (N.D.C.C. § 12.1-32-15(5)).

Once the forms are signed, copies and all required attachments shall be electronically delivered by the Records Division to the Bureau of Criminal Investigation with the exception of DNA samples, which are sent via mail.

326.3.2 RESIDING/REGISTERING AGENCY

When the Department receives copies of the offender registration forms from BCI, the appropriate assigned employee or investigator will ensure the offender registers within the appropriate time frame. If the offender fails to register, the assigned employee will take appropriate action to locate the offender as quickly as possible and ensure compliance (N.D.C.C. § 12.1-32-15(2)).

The Investigation Division supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community.

Upon conclusion of the registration process, the investigator shall forward the completed registration, biometric data, photographs and DNA sample, if applicable, to the Records Division, which will then send the completed registration to BCI within three days and the DNA samples to the state crime laboratory. If BCI does not receive the offender's completed registration forms within the time expected, it will contact this department so that efforts can be made to locate the offender as quickly as possible (N.D.C.C. § 12.1-32-15(7)).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register (N.D.C.C. § 12.1-32-15(9)).

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Employees assigned to register offenders should receive appropriate training regarding the registration process.

326.3.3 CONTENTS OF REGISTRATION

The offender is required to provide all of the following applicable information, and to notify the Department if there are any changes to the following:

(a) Residence address

(b) Employer address

(c) School information

(d) Motor vehicle

(e) Driver’s license and professional licenses

(f) Email address and social networking information

326.3.4 MODIFICATION OR CHANGES

The offender is responsible for notifying law enforcement regarding any changes including address, employment, school, and other required information, in writing, at least 10 days before the change.

If the offender moves outside this jurisdiction, the offender must complete a change of registration at this department before moving and must register with the new law enforcement agency in the new jurisdiction no later than three days after moving.

An offender must inform the Department if the offender plans to travel outside of the United States, at least 21 days before the intended travel (N.D.C.C. § 12.1-32-15).

All changes shall be forwarded to BCI within three days (N.D.C.C. § 12.1-32-15(7)).

326.3.5 DEPARTMENT RESPONSIBILITIES

When an offender appears at the department for the purpose of registering, the officer registering the offender will:

(a) Request photo identification to validate the offender's identity.

(b) Obtain NCIC, CWIS, and Triple I information on the offender.

(c) Ensure the offender completes and signs all registration forms.

(d) Obtain fingerprints electronically.

(e) Obtain one (1) digital image of the offender.

(f) Provide the offender with one copy of the completed registration forms.

(g) Provide the offender with literature detailing available resources from local Human Service agencies.

(h) Conduct an interview with the offender relative to the completion of the Sex Offender/ Offender Against Children worksheet.

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(i) Ensure the offender's digital image is linked to the offenders department computer file.

(j) Ensure all of the offender's registration information is forwarded to the Records Unit.

The Fargo Police Department's Records Unit will be responsible for:

(a) Receiving and securely filing all offender registration documentation.

(b) Providing the North Dakota Attorney General's Office with the appropriate copies of registration documentation.

(c) Entering the offender's registration information into the department's computer database.

(d) Preparing an electronic file in the department's RMS, which will contain the offender's registration documentation and the department's case investigation file.

(e) Obtaining a copy of investigative reports and other documentation from other law enforcement agencies, if the offense(s) for which the offender is required to register were committed outside the City of Fargo (this may be discovered through the Triple I information).

(f) Electronically send the offender's file to the designated Registration Program Administrator, along with the information regarding the offender as it is received.

326.4 MONITORING OF REGISTERED OFFENDERS

The Investigation Division supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration (N.D.C.C. § 12.1-32-15(7)).

This verification should include:

(a) Efforts to confirm the residence using an unobtrusive method such as an internet search or drive-by of the declared residence. Addresses should be verified every 90 days for lifetime offenders and every 180 days for other offenders.

(b) Review of information on the state website.

(c) Contact with a registrant’s parole or probation officer.

Any discrepancies should be reported to the appropriate agencies or departments.

The Investigation Division supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Fargo Police Department personnel, including timely updates regarding new or relocated registrants.

326.5 DISSEMINATION OF PUBLIC INFORMATION

Department members will not unilaterally make a public notification advising the community of a particular registrant’s presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisors. The supervisor should evaluate the request and forward the information to the Chief of Police,

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if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made (N.D.C.C. § 12.1-32-15(14)).

Upon request, the Department may release conviction and registration information regarding low-risk, moderate-risk or high-risk offenders.

Members of the public requesting information on registrants should be provided the Office of Attorney General Sex Offender website or the Fargo Police Department's website.

A law enforcement agency is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under N.D.C.C. 12.1-20-25, or for disclosing or for failing to disclose information (N.D.C.C. 12.1-32-15(15)).

326.5.1 RELEASE NOTIFICATIONS

(a) Low-risk offender information may be released to the following:

1. Victims and witnesses to the offense
2. Other law enforcement agencies
3. The public, upon request
4. Social Media

(b) Moderate-risk offender information may be released by personal contacts, flyers, telephone contact or review of lists or information to the following:

1. Victims and witnesses to the offense
2. Other law enforcement agencies
3. The public, upon request
4. Offender's employer, where appropriate
5. Schools
6. Park and recreation districts
7. Senior centers
8. Churches
9. Daycare
10. Civic organizations
11. Shopping malls
12. Social media release
13. Any other relevant business, which the public could be at risk

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(c) High-risk offender information may be released in addition to those above by the following:

1. Internet
2. Widespread flyers
3. Posters
4. CD-ROM
5. Community meetings
6. News release
7. Newspaper public service announcement
8. Television public service announcement
9. Social media release

(d) Registrant information that is released should include notification that:

1. The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
2. The information is provided as a public service and may not be current or accurate.
3. Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
4. The crime for which a person is convicted may not accurately reflect the level of risk.
5. Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

326.5.2 DISSEMINATION

Relevant and necessary conviction and registration information must be disclosed to the public by the Department, following Attorney General guidelines, if the individual is a moderate or high risk and it is determined that disclosure of the conviction and registration information is necessary for public protection (N.D.C.C. § 12.1-32-15(14)).

Public disclosure may include internet access if the offender:

(a) Is required to register for a lifetime.

(b) Has been determined to be a high risk to the public.

(c) Has been determined to be a high risk to the public by an agency of another state or the federal government.

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If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the registered victim and to any agency, civic organization or group of persons who have characteristics similar to those of a victim of the offender.

The Department shall release information regarding a juvenile who is adjudicated delinquent and required to register as a sexual offender or an offender against a child to the superintendent or principal of the school the juvenile attends (N.D.C.C. § 12.1-32-15).

326.6 MANAGEMENT OF THE REGISTRATION PROGRAM

A command officer will be designated by the chief of Police to manage the registration of offenders to ensure compliance with the law and procedures established by the North Dakota's Attorney General's Office. The designated command officer will be responsible for, but not limited to:

(a) The review of offender files to ensure completeness and the proper registration of offenders.

(b) Acting as the department's liaison with the North Dakota Attorney General's Office regarding offender registration.

(c) Presenting or assisting with the presentation of community notifications regarding offenders whose risk assessment determination requires a level of community notification.

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Major Incident Notification

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide direction to members of this department in determining when, how and to whom notification of major incidents should be made.

327.2 POLICY

The Fargo Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public are properly addressed.

327.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- Homicides, suspicious deaths or deaths related to law enforcement activity
- Traffic accidents with fatalities
- Officer-involved shooting, whether on- or off-duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to an employee, whether on- or off-duty
- Death of a prominent Fargo official
- Arrest of any department employee or prominent Fargo official
- Aircraft, train, boat or other transportation accidents with major damage and/or injury or death
- In-custody deaths
- Any other incident, which has or is likely to attract significant media attention

327.4 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander is responsible for making the appropriate notification. The Shift Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification, and shall attempt to make the notification as soon as practicable.

327.4.1 STAFF NOTIFICATION

In the event an incident occurs as identified in the Minimum Criteria for Notification above, the Chief of Police shall be notified along with the affected Division Commander and the Investigation Division Commander if that division is providing assistance. In the event of an incident involving the death or significant injury to any department employee, the Chief of Police, or his/her designee, will determine the appropriate time and method to notify department members.

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327.4.2 INVESTIGATOR NOTIFICATION

If the incident requires that an officer or investigator respond from home, the immediate supervisor of the appropriate detail shall be contacted.

327.4.3 TRAFFIC SAFETY UNIT NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Safety Unit supervisor shall be notified, who will then contact the appropriate crash investigator if there isn't already one on-duty.

327.4.4 PUBLIC INFORMATION OFFICER

After staff members have been notified, the Public Information Officer shall be called if it appears the media may have a significant interest in the incident.

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Death and Serious Injury Investigations

328.1 PURPOSE AND SCOPE

The investigation of cases involving a serious injury or death includes those ranging from natural causes to attempted homicide or homicide. Some causes of a serious injury or death may not be readily apparent and some cases differ substantially from what they appear to be initially. The thoroughness of the investigations, including evidence gathering and witness identification, is paramount.

328.2 INVESTIGATION CONSIDERATIONS

Death or serious injury investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases, unless the death is obvious (e.g., the person has been decapitated or the body is decomposed). Officers are not authorized to pronounce death unless they are also a Coroner, a Deputy Coroner, or an appointed Coroner Investigator. A supervisor shall be notified in all death or serious injury investigations.

Also refer to Policy 600 Investigation and Prosecution

328.2.1 INITIAL OFFICER ON SCENE

The first member of the department arriving at the scene of a serious injury, unattended death, or homicide is in charge until relieved by supervisor. The first officer on scene will be responsible for the following:

(a) To handle all serious injury or deaths as criminal investigations until the facts prove otherwise.

(b) Check for signs of life in the victim(s) and exercise caution not to destroy possible evidence if the scene involves death or likelihood the victim will die.

(c) Contact emergency medical personnel when needed.

(d) Incidents involving drowning, the body should not be moved from the water until authorized by the coroner or primary detective.This is not to preclude lifesaving efforts, when feasible.

    (a) The body should be secured to prevent it from floating away.

(e) Notify the on-duty supervisor of the incident, and request additional personnel as needed.

(f) Protect human life and property, and make or coordinate with another officer, a cursory search of the property to determine if there are any more victims or if the suspect is present.

(g) Take the suspect into custody if he/she is present.

(h) Preserve and secure the crime scene.

    1. Ensure a crime scene perimeter is established using police crime scene tape.

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(i) Ensure a Crime Scene Entry Roster has been started documenting everyone who has entered the scene.

(j) Do not allow anyone to enter the crime scene unless the person is authorized.

(k) Establish a single path of entry into the scene.

(l) Identify and isolate witnesses for investigative purposes.

1. All witnesses and persons of interest at the crime scene should be detained in an area separate from the immediate crime scene.
2. Witnesses should be separated in order to obtain independent statements.
3. Officers and detectives shall gather the names and addresses of all potential witnesses, and obtain statements from witnesses as soon as possible.

(m) Relay pertinent information to RRRDC regarding the crime.

(n) Remain at the scene until interviewed by a detective.

328.2.2 SUPERVISOR RESPONSIBILITIES

The on-duty supervisor or shift commander will be responsible for the following:

(a) Respond to the location to evaluate scene.

(b) If the scene necessitates, the supervisor shall immediately assume incident command (IC) upon being briefed by the initial officer on scene, and broadcast IC status over the radio.

(c) Ensure crime scene protection has been established and maintain communications with RRRDC.

(d) Contact the coroner in all unattended death cases and a supervisor from the Criminal Investigations Division in all suspicious death cases.

(e) Coordinate the initial photographing of the scene and deceased by a crime scene investigator (CSI).

(f) Notify the chain of command in accordance with the Major Incident Notification Policy.

(g) Maintain incident command until relieved by someone from the Criminal Investigations Division.

328.2.3 SUSPECTED OR POTENTIAL HOMICIDE

If the initially assigned officer suspects that a serious injury (e.g., suspected head trauma due to an impact with a hard surface) will likely lead to death, or the death involves a homicide, where any suspicious circumstances or if the manner of death cannot be determined, the officer shall take steps to protect the scene. The Criminal Investigation Division shall be notified by the on-duty supervisor to determine the possible need for an investigator to respond to the scene for further immediate investigation.

If the on-scene supervisor, through consultation with the Shift Commander or Investigation Division supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide. If the victim has sustained a serious injury which the officer

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reasonably believes or should believe may cause death, the investigation shall be thoroughly investigated. Once the initial incident has stabilized and depending on the location of the incident, a search warrant or written consent may be needed to fully investigate the incident. The Criminal Investigations Division will be responsible for obtaining the search warrant or written consent.

The assigned investigator investigating a serious injury, homicide, or a death under suspicious circumstances may, with the approval of his/her supervisor, request the Coroner to conduct physical examinations and tests, and to provide a report.

328.2.4 CASE INVESTIGATIVE RESPONSIBILITIES

The initial responding officer will be responsible for the following (also refer to attachment for additional information):

(a) Record their exact time of arrival.

(b) Record the exact address of the scene.

(c) Record outside weather/temperature conditions.

(d) Record the lighting conditions.

(e) Interview the initial officer and other police personnel at the scene in order to determine the sequence of events which have occurred since police arrival.

  (a) If ambulance or fire personnel were present before detectives arrived, determine if the crew or anyone else moved the body or any other items within the crime scene.

(f) Review the location of the victim - walk with initial responding officer using the exact same path he/she used.

(g) Note the condition of the deceased.

(h) Verify whether or not there are any suspects at large or in custody.

(i) Verify if there are additional victims.

See attachment: Unattended Death Investigations 2017.pdf

328.2.5 CRIME SCENE INTEGRITY AND EVIDENCE

All police personnel at the scene will be responsible for maintaining crime scene integrity.

(a) Supervisors, or case agents, if no supervisor is on scene, shall coordinate activities at the scene and direct detectives/officers by assigning tasks for certain duties.

(b) Prior to processing the scene for evidence ensure a search warrant or written consent has been obtained, if required.

(c) Don't touch, move, or alter anything at the scene until full documentation has been completed.

(d) Implement procedures to protect evidence from damage by weather or exposure, and the presence of investigative personnel.

(e) Don't turn water on or off, flush toilets, or use any facility in the scene.

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(f) Record condition of lights, lamps, and electrical appliances such as TV's, radios, clocks, etc.

(g) If a weapon is located:

  (a) If the weapon is a firearm unload it only after all photo's and documentation for the weapon are completed.

  (b) Record where the weapon is located.

  (c) Safeguard the weapon for forensic examination.

  (d) Have the weapon photographed before further examination.

  (e) If the weapon is a firearm, consider an examination of the suspect's hands for gun shot residue analysis.

  (f) Determine if the weapon is from the premises.

  (g) Determine if there is any blood or trace evidence on the weapon.

328.2.6 CRIME SCENE PHOTOGRAPHS

The supervisor in charge of the scene, should instruct the Crime Scene Investigator (CSI) or detective whether photos are needed. The CSI/detective shall attempt to exclude all extraneous objects or police equipment from any photo. The CSI/detective will show the relationship of the scene to its surroundings.

328.2.7 INITIATE A CANVASS

The Incident Commander, case agent, or their designee, shall assign officers and detectives to conduct a canvass of the area to locate any witnesses, persons who may have information about the incident, or locate surveillance cameras in the area.

(a) Ensure officers/detectives are provided with all the information from the investigation and the scene so they may properly solicit information from prospective witnesses.

(b) Have officers/detectives check vehicle and registration numbers of autos in the immediate area.

(c) All officers/detectives must complete a supplemental report regarding their canvassing results

  1. Locations with no results

  2. Locations which have been canvassed, indicating the number of persons residing at the location.

  3. Positive locations for possible follow-up and re-interviews.

  4. Information relating to the event being canvassed.

328.2.8 MEDICAL EXAMINER REQUEST

The office of the Coroner shall be called and provided with known facts concerning the time, place, manner and circumstances of the death involving any of the following circumstances (N.D.C.C. § 11-19.1-01(5)):

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(a) Obvious or suspected homicidal, suicidal or accidental injury

(b) Firearm injury

(c) Severe, unexplained injury

(d) Occupant or pedestrian motor vehicle injury

(e) An injury to a minor

(f) Fire, chemical, electrical or radiation

(g) Starvation

(h) Unidentified or skeletonized human remains

(i) Drowning

(j) Suffocation, smothering or strangulation

(k) Poisoning or illegal drug use

(l) Prior child abuse or neglect assessment concerns

(m) Open child protection service case on the victim

(n) Victim is in the custody of the Department of Human Services, county social services, the Department of Corrections and Rehabilitation or other correctional facility or law enforcement

(o) Unexplained death or death in an undetermined manner

(p) Suspected sexual assault

(q) Any other suspicious factor

Any reasonable requests from the Coroner, such as completion of reports, forms, scene preservation or coordination of decedent transportation should be satisfied.

328.2.9 SEARCHING DEAD BODIES

The Coroner or an assistant and authorized investigators are the only persons who should move, handle, or search a body. The Coroner, with the knowledge of the Department, may take property, objects or articles found on the deceased or in the deceased's immediate vicinity that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death.

Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Coroner, the investigating officer should first obtain verbal consent from the Coroner when practicable.

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An officer may make a reasonable search of an individual who is reasonably believed dead, or is near death, for the purpose of identification or for information identifying the individual as a donor. If a donor document is located, the Coroner shall be promptly notified.

Whenever reasonably possible, a witness, preferably a relative of the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer pending the arrival of the Coroner. The name and address of this person shall be included in the Subject Tab of the death report.

Whenever personal effects are removed from the body of the deceased by the Coroner, the items and their disposition shall be mentioned in the death report.

328.2.10 NEXT-OF-KIN NOTIFICATION

When reasonably practicable, and if not handled by the Coroner, notification to the next-of-kin of a deceased, or a seriously injured person shall be made, in person, by the on-duty supervisor, officer assigned to the incident, or any other designated department member. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested via telephone or teletype to make the personal notification. In the event of a deceased person, the Coroner needs to know if notification has been made.

If the next-of-kin notifications cannot be made by Field Services or CID personnel, all information relative to the next-of-kin shall be recorded in the appropriate case report for further notification efforts. The off going personnel responsible for the next-of-kin notification, shall coordinate with the on-coming shift supervisors to continue the notification efforts until it is successful.

Whenever a request of next-of-kin notification comes from citizens outside of our jurisdiction by phone, the caller(s) will be informed that the request must come from their law enforcement agency. The field supervisors will be responsible for the response to the requesting agency regarding the results of the notification efforts.

The department representative making the notification shall offer assistance in locating clergy or a close friend to aid the notified person. When clergy or close friends are unavailable, the police chaplain may be contacted to assist the assigned department representative with notification efforts.

If a deceased or seriously injured person, has been identified as a missing person, this department shall contact the law enforcement agency which originally took the missing person report and inform them of the death or injury. All efforts to locate and notify family members shall be recorded in appropriate case reports.

328.2.11 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner will issue a “John Doe" or "Jane Doe” number for the report.

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328.2.12 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Department, the case agent will work with the medical examiner and coroner to ensure all available identifying features of the unidentified body, including dental records, fingerprints, any unusual physical characteristics and a description of clothing or personal belongings found on or with the body, are entered into the North Dakota Criminal Justice Information Sharing (NDCJIS) database, the National Missing and Unidentified Persons System (NamUs), and the National Crime Information Center (NCIC) file.

328.2.13 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented in the appropriate report format. In addition, an officer should complete an infant death investigation checklist during any unexplained infant death investigation.

328.2.14 EMPLOYMENT-RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's employment, should ensure the regional Occupational Safety and Health Administration (OSHA) office is notified by telephone or teletype with all pertinent information.

328.3 SUSPECT(S) IN CUSTODY

If the suspect(s) is arrested and present at the scene, ensure he/she is immediately removed from the crime scene, and is not returned to the scene under any circumstances. This procedure is necessary to prevent scene contamination and evidence destruction.

(a) Safeguard all evidence found on the suspect, including blood, weapons, debris, soil, proceeds of the crime, etc.

(b) Ensure the suspect does not wash his/her hands, nor engage in any conduct which may alter or destroy any evidence.

(c) Record any spontaneous statements made by the suspect.

(d) Do not permit any conversations between the suspect and any parties present.

If the suspect is in custody at the scene, and circumstances indicate an immediate interrogation of the suspect would be beneficial to the investigation, the following steps should be taken:

(a) Advise the suspect of his/her rights under Miranda prior to any custodial interrogation and determine if the suspect fully and clearly understands those rights.

(b) Allow the suspect to make a full statement.

(c) Keep the suspect isolated at all times from other suspects, witnesses, and any personnel not connected with the investigation.

(d) When transporting the suspect, advise the transport officer not to engage the suspect in any conversation of questioning. If during transport the suspect makes any statements, the officers should document this information in a supplemental report.

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(e) If the suspect is brought to the police department, he/she should be placed in an interview room with an officer present. The suspect shall never be left unattended or unobserved.

(f) Any statements the suspect makes should be documented in the detectives/officer's report, and captured via the department's video/audio recording system.

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Identity Theft

329.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

329.2 REPORTING

(a) Officers shall complete a report for identity theft, as described in N.D.C.C. § 12.1-23-11, upon request from any victim who resides within the City. The victim shall be given a copy of the report (N.D.C.C. § 51-31-04(1)).

1. If the suspected identity theft crime did not occur within the City's jurisdiction, an officer may refer the matter to the law enforcement agency having jurisdiction.
2. If the victim is not a resident of the City, the officer may also complete a courtesy report to be forwarded to the agency where the victim resides.

(b) Officers should investigate and report crimes occurring within this jurisdiction which resulted from the original identity theft that occurred elsewhere, but the fraud, usage of services, or receipt of goods was acquired or occurred in this jurisdiction.

(c) Officers should include all known incidents of fraudulent activity in the report (e.g., credit card number that was applied for in victim's name when the victim never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and Department of Motor Vehicles) with all known report numbers.

(e) Following supervisory review and department processing, the initial report should be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies and prosecution, as circumstances dictate.

329.3 PREVENTIVE MEASURES

The victim should be advised to place a security freeze on his/her consumer report with the three major credit bureaus.

329.4 INFORMATION

The victim should be encouraged to contact the North Dakota Attorney General's Consumer Protection and Antitrust Division, which assists consumers with completing an Identity Theft Affidavit that the consumer can use to relay his/her identity theft information to creditors and credit bureaus.

The victim should also be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption

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Deterrence Act. The victim can contact the FTC online or by telephone. Additional information may be found at the U.S. Department of Justice website, or a regional FBI division website.

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Public Safety Video Surveillance System

336.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images. This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

336.2 POLICY

The Fargo Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

336.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

336.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

(a) To prevent, deter and identify criminal activity.

(b) To target identified areas of gang and narcotics complaints or activity.

(c) To respond to critical incidents.

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(d) To assist in identifying, apprehending and prosecuting offenders.

(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.

(f) To augment resources in a cost-effective manner.

(g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images can be viewed from any computer which has the appropriate viewing software. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Field Services Commander, or his/her designee, are authorized to coordinate with the City of Fargo IS Department to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

336.3.2 CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment should be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

336.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

336.4 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws.

336.4.1 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

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Public video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

336.5 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

336.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as video evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

336.6 RELEASE OF VIDEO IMAGES

Recorded videos are classified as public records (N.D.C.C. § 44-04-17.1). Allrecorded video images gathered by the public safety video surveillance equipment are for the official use of the Fargo Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Administrative Division commander, or his/her designee, for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

336.7 VIDEO SURVEILLANCE AUDIT

The Chief of Police, or the authorized designee, will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or

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any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline, or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

336.8 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

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Child and Dependent Adult Safety

337.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left alone without appropriate care in the event their caregiver or guardian is arrested, or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse Policy and the Vulnerable Adult Abuse Policy

337.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Fargo Police Department will endeavor to create a strong, cooperative relationship with local, state, and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

337.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends, and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian, or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that he/she will be provided care. If this is not safe, or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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337.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered minor children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of minor children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution which is in the best interest of the child or dependent adult. In such cases, the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of minor children and dependent adults with a responsible party, as appropriate.

    (a) Officers should consider allowing the person to use their own cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with immediate family, relatives, or friends that he/she knows and trusts. Consideration regarding familiarity with the surroundings, comfort, emotional state, and safety should be paramount.

    (a) Except when a court order exists limiting contact, the officer should attempt to locate a non-arrested parent or guardian to look after the child.

(c) Provide for the immediate supervision of minor children or a dependent adult until an appropriate caregiver arrives.

(d) Notify the Department of Human Services, if appropriate.

(e) Notify a divisional supervisor or Shift Commander of the disposition of minor children or dependent adults.

If children or dependent adults are at school or a known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location, and inform the principal or appropriate responsible adult of the caregiver's arrest, and of the arrangements being made for the care of the arrestee's dependents. The result of such actions should be included in the associated report.

337.3.2 REPORTING

(a) For all arrests where children are present or living in the household, the reporting employee will document the following information for each child or dependent adult in the case report, as applicable:

    1. Names
    2. Sex
    3. Age

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4. Special needs (e.g., medical, mental health)
5. What arrangements were made for the supervision of the child
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting employee should document the following information:

1. Identity
2. Whether he/she reasonably appears able to care for him/herself
3. Disposition information if he/she is unable to care for him/herself

337.3.3 SUPPORT AND COUNSELLING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

337.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children or adults, the handling officer should contact the appropriate welfare service or other department-approved social service agency.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

A child, who is less than 15 years old, should not be left unattended overnight or without appropriate care. The age of the child is not the only factor which should be considered when children are left alone. Other factors include the maturity of the child, emotional health factors, and the child's physical or cognitive limitation. A dependent adult should never be left unattended or without appropriate care.

See attachment: Child Supervision Guidelines - March 2013.pdf

337.5 TRAINING

The Administrative Lieutenant is responsible to ensure that all members of this department, who may be involved in arrests affecting children or dependent adults participate, on a timely basis, in an approved course on effective safety when a parent or guardian is arrested.

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Service Animals

338.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Fargo Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) and North Dakota law to permit the use of service animals that are individually trained to assist a person with a disability.

338.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

338.2.1 STATE LAW

A “service dog” means any guide dog, signal dog or other animal trained to do work, perform tasks or provide assistance for the benefit of an individual with a disability. The term includes an animal trained to provide assistance or protection services to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects or provide assistance in a medical crisis (N.D.C.C. § 25-13-01.1).

338.2.2 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

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338.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Fargo Police Department affords to all members of the public (N.D.C.C. § 25-13-02; N.D.C.C. § 25-13-02.1).

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, the employee may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to the individual with a disability.

If it is apparent or if the department member is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the animal been trained to perform?

In a non-custodial setting, if the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be asked questions about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal. However, in custodial settings, officers may need to determine the individuals medical needs to determine the appropriate course of action (i.e. medical clearance prior to jail/detox, or whether release on personal recognizance (PR) is necessary).

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to permit service animals to accompany their partner/handler in all areas that other customers or members of the public are allowed.

Absent a violation of law independent of ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of their disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

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338.4 DETENTION OF SERVICE ANIMAL OWNER

In the event the owner of a service animal is arrested or brought to detox, the arresting or detaining officer shall do the following:

(a) Notify a supervisor given the possible ADA and medical care implications. The person needing service animal assistance may have a medical condition such as frequent seizures, and given the totality of the circumstances, the best course of action may be to contact the City Prosecutor or Cass County States Attorney to discuss release on PR.

(b) Determine if a Community Service Officer (CSO) is on-duty to assist in taking possession of the service animal.

1. The CSO will either release the service animal to a person of the owner's choice, or

2. Transport the service animal to Valley Vet for safekeeping,

(c) If no CSO is available, the officer shall determine if the service animal can be released to a family member or friend if within a reasonable amount of time (usually less than one hour).

(d) If the owner refuses to release the service animal to another person, or the person cannot take possession of the service animal within a reasonable time, the officer will:

1. Take possession of the service animal or request another officer take possession of the service animal.

2. Transport the service animal to Valley Vet for safekeeping.

(a) On the Valley Vet intake form the officer will note "service animal", the owner's name, whether the owner was arrested, and the time and date of arrest.

(b) The officer should also send an email to the CSO group notifying them of the placement of a service animal for safekeeping at Valley Vet. The email should include:

1. Name of arrestee/owner of the service animal

2. Case number

3. Time and date of arrest

The Cass County Jail nor the City of Fargo Detox are able to make reasonable accommodations to the owner of a service animal to allow the owner to bring the animal into either facility.

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Off-Duty Law Enforcement Actions

341.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others, at great risk and requires careful consideration. This policy is intended to provide directives for officers of the Fargo Police Department with respect to taking law enforcement action while off-duty.

341.2 POLICY

Officers generally should not initiate law enforcement action while off-duty. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

When the safety of the public or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

Officers are not expected to place themselves in unreasonable peril. However, any licensed member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death or significant property damage may take reasonable action to minimize the threat.

341.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations, state law, and department policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medications or a combination thereof that would tend to adversely affect the member's senses or judgment.

341.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable and should take into consideration:

(a) The tactical disadvantage of being alone and that there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

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(c) The lack of equipment, such as handcuffs, oleoresin capsicum (OC) spray or a Taser.

(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive and gather as much intelligence as possible, instead of immediately intervening.

341.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the off-duty officer if possible.

Whenever practicable, the off-duty officer should loudly and repeatedly identify him/herself as an officer with the Fargo Police Department until acknowledged. Official identification should also be displayed.

341.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, officers should call the responsible agency to handle the matter.

341.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority.

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Department Use of Social Media

342.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the department is consistent with the department mission. The Department endorses the secure use of social media to enhance communication, collaboration, and information exchange, streamline processes, and foster productivity. This policy establishes the Department's position on the use and management of social media and provides guidance on its management, administration, and oversight. This policy is not intended to address one particular form of social media; rather social media in general, as advances in technology will occur and new tools will emerge.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

342.1.1 DEFINITIONS

Definitions related to this policy include:

Page - The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrator rights.

Post - Content an individual shares on a social media site or the act of publishing content on a site.

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

Speech - Expression or communication of thoughts or opinions in spoken works, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

342.2 POLICY

The Fargo Police Department recognizes that social media provides a valuable means of assisting the department and its personnel in meeting community outreach, problem-solving, investigative, crime prevention, and related objectives. This policy identifies potential uses, which may be explored or expanded upon as deemed reasonable by administrative and supervisory personnel. The department also recognizes the role that these tools plan in the personal lives of some departmental personnel. The personnel use of social media can have bearing on the department personnel in their official capacity. As such, this policy provides

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information of precautionary nature as well as prohibitions on the use of social media by department personnel.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

342.3 DEPARTMENT SITES

The use or creation of all department social media sites or pages shall be approved by the Chief of Police or his designee, and shall comply with the City of Fargo Social Media policy. All social media sites or pages shall be administered by the Administrative Services Division commander or his/her designee. All social media sites or pages shall indicate that they are maintained by the department and shall have contact information for the department prominently displayed, if possible. All official social media sites shall be branded with a City of Fargo logo and/or department logo.

Each social media page or site should include an introductory statement, which clearly states the purpose and scope of the agency's presence on the website, if possible. The page should also link to the department's official website, if possible, and should be designed with the target audience in mind (i.e. youth, potential police recruits).

Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies. Information contained on these sites is subject to open records law, and relevant records retention schedules apply to their content. All content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.

Social media sites should state that the opinions expressed by visitors to the pages do not reflect the views or opinions of the department. Pages should clearly indicate that posted comments will be monitored and that the department reserves the right to remove obscenities, off-topic comments, and personal attacks. Pages shall also indicate that any content posted or submitted for posting is subject to public disclosure.

342.4 AUTHORIZED USERS

All social media accounts shall be created as a company or independent account. Accounts shall not be created within or in relation to an employee's personal account or information. Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police or his/her designee may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member’s chain of command.

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342.5 AUTHORIZED CONTENT

The potential uses of social media are limitless. However, only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted. Department members with ideas for potential uses of social media should submit their ideas through their chain of command for approval by the Chief of Police.

Examples of appropriate content include:

(a) Announcements.

(b) Tips and information related to crime prevention.

(c) Investigative requests for information.

(d) Requests that ask the community to engage in projects that are relevant to the department mission.

(e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.

(f) Traffic information.

(g) Press releases.

(h) Recruitment of personnel.

Personnel representing the department on social media sites shall conduct themselves at all times as a representative of the department. All department standards of conduct apply to these sites, and personnel shall observe accepted protocols and proper decorum in their activities on these sites. All postings will be factual, accurate, complete, and within their area of expertise.

Personnel representing the department shall not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecution, not post, transmit, or otherwise disseminate confidential information. Employees shall not conduct political activities or private business on department sites or pages.

Employees will not share personal information about themselves, or any other FPD employee, or City of Fargo employee on any FPD approved social media web site.

Employees shall observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.

342.5.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

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342.6 MODERATION OF THIRD PARTY CONTENT

As a public entity, the Fargo Police Department must abide by certain standards to serve all its constituents in a civil and unbiased manner. Posts or comments on a department sanctioned social media site containing any of the following inappropriate forms of content shall not be permitted and are subject to removal by the department PIO or his/her designee:

(a) Content that is abusive, discriminatory, inflammatory or sexually explicit.

(b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.

(c) Any information that could compromise an ongoing investigation.

(d) Any information that could compromise or damage the mission, function, reputation or professionalism of the Fargo Police Department or its members.

(e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.

(f) Any content posted for personal use.

(g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor or to the department's social media coordinator. The supervisor or social media coordinator will ensure its removal from public view and investigate the cause of the entry.

A comment posted by a member of the public on any FPD social media web page site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement, or agreement by the FPD, nor do such comments necessarily reflect the opinions of policies of the FPD.

Complaints against employees should not be reported on FPD social media sites. If a complaint is received via social media, the complaint will be handled according to existing FPD complaint procedures.

342.6.1 PUBLIC POSTING

Department social media sites shall be designed and maintained in order to provide posting of content by the public. The City of Fargo and the Fargo Police Department reserves the right to restrict or remove any content, which is deemed in violation of this policy, and the City of Fargo social media policy, or any applicable law.

342.7 MONITORING CONTENT

The Administrative Services Commander will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

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342.8 RETENTION OF RECORDS

The Administration Division Commander should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

342.9 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

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Line of Duty Death Response/Funerals

343.1 PURPOSE

The Fargo Police Department recognizes when a line of duty death or serious injury occurs the agency must be prepared. The manner, in which the agency responds to the family and co-workers at the time of the death, and in the subsequent weeks, is vitally important. The Fargo Police Department wants to assist in the recovery of emotional and psychological trauma the family and the department members are experiencing when these incidents occur. This policy addresses vitally important issues, which must be planned for in advance of a line of duty death.

343.2 POLICY

It shall be the responsibility of the Fargo Police Department to provide assistance to the immediate family of an employee who dies in the line-of-duty. This assistance is applicable whether the employee was killed feloniously or accidentally, while they were an active member of the department. We view our responsibilities to include the clarification and comprehensive study of survivor benefits, to provide tangible and intangible emotional support during this traumatic period, and continuation of contact and care after the funeral.

The complete implementation of this policy is predicated on the wishes of the affected member of the Fargo Police Department, if known by the department (See PACT Packet), the wishes of the surviving family, the needs of the surviving department members, and the reasonable ability of the department to satisfy those needs.

In order to provide support for the shift personnel and/or personnel involved in the same function, or with the same duties, the department may ask those members to participate in a debriefing/ diffusing at the end of their tour of duty, and the department will make continued support available. The department will coordinate EAP referrals for any members or family members who may desire to access the City of Fargo EAP service.

When a line-of-duty death occurs, emotions are high and demand on personnel resources are considerable. The Chief of Police or his/her designee, may make a request for mutual aid to other surrounding law enforcement agencies to cover calls for service within the city of Fargo while Fargo Police Department personnel deal with their responsibilities and their grief. The need for mutual aid assistance may also continue while department members receive initial debriefing/diffusing, or other services as needed. The request for mutual aid may be active for street coverage during the fallen member's funeral services so department members may attend the funeral if they wish.

The Fargo Police Department recognizes its responsibility to extend mutual aid to the other surrounding law enforcement agencies should they suffer a line-of-duty death.

343.3 DEFINITIONS

Line-of-duty death: Any action, felonious or accidental, which claims the life of a Fargo Police Officer, who is performing work related functions either while on or off-duty.

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Survivors: The Primary family members of the injured or deceased officer, including spouse, children (step-children), grandchildren, parents, grandparents, siblings, fiance, and/or significant others.

Beneficiary: Those designated by the officer as recipients of specific death benefits.

Benefits: Financial payments made to the family to assist with financial stability following the loss of a loved one.

Funeral Payments: Financial payments made to the surviving families of an officer killed in the line-of-duty, which are specifically identified for funeral expenses.

343.4 POSITION DESCRIPTION AND RESPONSIBILITIES

The following positions will be activated immediately upon the death or life threatening injury of a department member. While each of these is outlined individually, it is also recognized several positions may be combined, and assigned to one person. Each individual assuming a functional responsibility will be responsible for maintaining resources and information for his/her function and have those resources readily available.

Officer in Charge (OIC)

It is the responsibility of the on-duty supervisor to notify the chain of command of the incident as soon as possible. Immediately upon notification of the incident, the Chief of Police shall appoint an officer in charge (OIC); typically the involved officer's division commander.

In order to prevent duplication of efforts, maintain order, and to insure the process works for the benefit of the fallen officer and his/her family, the OIC shall coordinate all department functions regarding the incident.

The OIC shall make assignments for tasks and responsibilities for department personnel, including the Peer Assistance Crisis Team (PACT) and Honor Guard. Those unit leaders shall report the status of their tasks to the OIC. Department personnel shall not perform incident related tasks without the approval of the OIC unless exigent circumstances exist.

Family Liaison Officer (FLO)

This individual will be responsible for attending to the needs of the family of the department member who is killed or seriously injured. This position will be the coordinating point for planning, visitation at the funeral home, the actual funeral, and follow-up care for the family. Personnel assigned to this task will be accessible to the family at all times through the end of the funeral. This position may also be involved in follow-up care for the family as necessary. This assignment is responsible for assuring the wishes of the family are followed closely throughout the funeral planning process, the funeral service, and internment. The Family Liaison Officer (FLO) will work closely with the Department Liaison Officer during the process to obtain the necessary approval for any expenditures.

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In the event the fallen or injured officer has multiple families and/or an adversarial relationship exists between the families, the OIC may assign a separate FLO for each family.

Department Liaison Officer (DLO)

This individual must be a command level officer with the authority to allow the FLO to make financial obligations and purchases. The DLO will keep all agency personnel up to date on the plans and arrangements as he/she receives the information from the FLO. The DLO is the contact for any media representatives, who may contact the department for information regarding the injury or death. Media releases, reports, etc., which are to be released, regarding the death of any personnel, shall be provided to the family of the employee prior to being released to the public. The content of the media release may be communicated to the family in lieu of providing them with a physical copy of the pending release. Additionally, absolutely no information regarding the death of an employee shall be released prior to the deceased member's family being notified.

External Law Enforcement Liaison Officer

This individual will be responsible for being the point of contact and information conduit to other law enforcement agencies, and officers who are offering assistance, expressing condolences, or wanting to attend the funeral. This liaison will be responsible for sending out a teletype containing points of contact information consisting of phone and email information, as well as details related to the funeral service, procession, and internment.

Honor Guard Commander

This individual will have the responsibility for contacting and arranging honor guard, color guard, bagpipe players, buglers, etc. The Honor Guard Commander will work in very close contact with the FLO to make sure the family understands the options available, and to insure the family's wishes can be carried out within reason.

Benefits Officer

This individual is responsible for compiling all death benefits due to the survivors. Information on death benefits will be maintained, reviewed, and updated on an annual basis. The benefits explanation booklet available through Concerns of Police Survivors shall be a part of this information. The Benefits Officer will work in conjunction with the Administrative Division commander and the City of Fargo Human Resources Department to assemble this information as soon as possible upon the death of a member, and coordinate with the FLO to provide this information to the survivors. The Benefits Officer will prepare and file the necessary paperwork for these benefits on behalf of the family, as well as check the status of the claims until the benefits are paid to the survivors.

Survivor

For the purpose of this policy, the term survivor will apply first to the immediate family members of the deceased department member. The surviving spouse will be the decision maker regarding arrangements, and the person from whom the FLO will take directions. Should a

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department member be single, the FLO will work directly with the surviving parents and adult children, if any.

343.5 PROCEDURES

Death or Life Threatening Injury - Internal Notifications

(a) The Chief of Police or his/her command officer designee, may make a mutual aid request to surrounding agencies to provide police services within the City of Fargo, and pull department personnel out of service for PACT debriefing/diffusing.

(b) The Chief of Police or his/her command officer designee, will prepare a Code Red message notifying all department personnel of a line-of-duty death (not including the name of the fallen officer) or life threatening injury directing personnel to their city email for further details, and make it optional for personnel to report to the department where further information and PACT will be available.

Death or Life Threatening Injury - Survivor(s) Notification

(a) Immediately upon notification of a serious injury or death, the Chief of Police will appoint an OIC, who will appoint a Family Liaison Officer (FLO). PACT will be notified as they can retrieve the department member's emergency information located in the PACT Packet.

(b) The name of the deceased employee shall never be released to the media prior to notifying immediate survivors living in the area. The name of the fallen employee should not be transmitted over the radio system.

(c) If there is knowledge of a medical problem with an immediate survivor, medical personnel will be dispatched to the residence to coincide with the death notification.

(d) The death notification will always be made in person and should never be made alone. The Chief of Police or his/her designee, the Family Liaison Officer (FLO), the department chaplain (or the family's chaplain), and/or the member's requested representative as identified in the PACT Packet, will act as the informing representatives.

(e) If the above suggested persons are not readily accessible, notification should not be delayed until these people can assemble. If the department member has not yet died, all attempts will be made to get the family to the hospital prior to the member's death.

(f) When most public safety families see a department representative at the home or place of work, they will know something is wrong. Ask to be admitted into their home or place of work. Never make a death notification on the doorstep. Gather everyone in the home and ask them to sit down. Inform them slowly and clearly of the information you have regarding the incident. Make sure you use the employee's first name during the notification.

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(g) If the employee has already died, relay this information. Never give the family a false sense of hope. Use words such as "dead" and "died" rather than "gone away" or passed away."

(h) If the family wants to go to the hospital, they should be transported via non-marked department vehicle. It is highly recommended the family NOT drive themselves to the hospital. If a family member is adamant about driving to the hospital, it is recommended that the officer provides a non-emergent escort to the hospital.

(i) The department should find out if there are any young children in the home. Notification representatives will be responsible for arranging immediate baby-sitting needs, if requested.

(j) Due to the nature of possible radio transmissions, the officer transporting the family should notify police personnel or hospital liaison at the hospital by phone the family is en route.

(k) The surviving parents will also be afforded the courtesy of personal notifications if they live in the same geographic area. If the employee was married, notification will be at the request of the deceased employee's spouse. In this case, the parents' notification team will be department representatives designated by the Chief of Police, another department employee who knows the family well, and one of the department chaplains (or the parents' chaplain).

(l) If the immediate survivors live out of town, request PERSONAL death notification from the public safety agency in that area. Logistical arrangements should enable simultaneous telephone contact with our agency.

Assisting the Survivors at the Hospital

(a) If the family wishes, the FLO can be responsible for acting as the liaison for information between the hospital staff and the family. With the family's permission, additional information regarding the member's condition will be relayed from the FLO to the Department Liaison Officer (DLO) for release to the rest of the department.

(b) The family of the employee will be afforded the opportunity to see the employee as soon as they wish, and as soon as is practical. If it is possible for the family to be with and see the employee prior to death, immediate arrangements should be made. In the event of the employee's death prior to the families arrival, the survivors should be allowed to see the deceased employee if they wish. While the FLO should try to prepare the survivors for the condition of the employee's body, the family should not be overly protected from reality. The FLO must make clear the importance of evidence preservation, therefore prohibiting contact with the deceased body.

(c) In addition to the FLO, there will be at least one Fargo Police officer and chaplain present at the hospital at all times until the family departs. The primary responsibility of these personnel will be to shield the family from the media, unless the family wishes to speak with them. Should the employee not be deceased, there will be at least one Fargo Police officer posted at the hospital at all times. This officer will have the responsibility of assisting the FLO, family, and any other relatives who may congregate. The Department may also post an officer, for security purposes, outside of the injured officer's room.

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(d) The Department may also assign an officer, with a marked squad car, to be posted outside the injured or deceased employee's residence from the time of the injury/ fatality through the end of the funeral day. This officer will only be provided to those employee's who reside within the corporate limits of the City of Fargo.

(e) The Department Liaison Officer (DLO) will make hospital personnel aware of the fact this is a Workforce Safety and Insurance (WSI) claim and make the arrangements with the hospital for all WSI paperwork. As WSI paperwork and bills arrive after the incident, the DLO should make themselves available to the family for clarification and assistance with these details.

Support for the Survivors during the Wake/Funeral

(a) As soon as practical, the FLO will discuss arrangements with the survivor(s). The survivor(s) must be made aware of the potential magnitude of the police funeral. All options for the service will be presented to the family. The survivor(s) will make all decisions based off all of the options, and the department will accommodate all reasonable requests of the family.

(b) Members killed in the line-of-duty are eligible for certain ceremonial rituals at their viewing hours and funeral. It must be reiterated the survivor(s) has the final say regarding the funeral planning. The ceremonial rituals, outlined in Appendix 1 Funeral Protocol, are designed to be a guide in the planning and implementation of a employees funeral.

See attachment: Appendix 1 Funeral Protocols.pdf

343.6 BENEFITS

Information and Assistance - Benefits to the Surviving Family

(a) The Benefits Officer will gather information regarding all department, association, state, and federal benefits available to the surviving family and ensure the department's full support pursuing these benefits. The Benefits Officer is responsible for filing the appropriate paperwork and following through with the surviving family to ensure benefits are being received.

(b) The Benefits Officer should visit with the surviving family to discuss the benefits within a few days following the funeral. A prepared printout of the benefit payments due to the family, listing named beneficiaries, contacts at various benefit offices, and when they can expect to receive the benefit should be given to the family.

1. The same explanation procedure should be repeated within a month following the funeral since the initial contact is clouded by the emotional numbness of the family during the first benefits meeting.

2. A follow-up will be made every six (6) months until the surviving family receives every possible benefit.

(c) If there are surviving children from a previous marriage, the guardian of those children should also receive a printout of benefits to which the child or children are entitled.

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(d) The Benefits Officer should pay special attention to the problems with possible revocation of health benefits to the surviving family. The City of Fargo requires survivors to contact the City of Fargo Human Resources Department within 30 days if they wish to continue coverage.

See attachment: Line of Duty Death Benefits.pdf

343.7 LEGAL PROCEEDINGS

If criminal violations surrounded the death of the department employee, the survivor(s) will be informed of all developments prior to any department media release.

If there are court proceedings surrounding the circumstances of the department member's death, the department will relay that information to the survivor(s) as soon as possible.

343.8 EXTENDED SURVIVOR SUPPORT

The Family Liaison Officer (FLO) will encourage and assist the family with obtaining emotional support and/or professional counseling services.

It is of paramount importance to help the primary surviving family to maintain a relationship with the department, if they desire. The following are suggestions to maintain support:

(a) The FLO should schedule follow-up visits with the primary surviving family for at least two (2) years following the line-of-duty death, to include monthly phone calls, and greeting cards for special occasions/holidays.

(b) The FLO will ensure the primary surviving family members are invited to all memorial services, or other department functions deemed appropriate.

(c) The Benefits Officer will provide the primary surviving family members with information from organizations such as Concerns for Police Survivors (COPS), and other recognized police survivor organizations.

343.9 DEATHS OF RETIRED FARGO POLICE PERSONNEL

When a retired member of the Fargo Police Department (someone who is vested in the Fargo Police retirement system) dies within the State of North Dakota, or in close proximity to Fargo, the Department response will be based off the Department's needs and the reasonable wishes of the family of the deceased employee based on the following:

(a) The family wishes do not unreasonably interfere with day to day operations of the Department.

(b) The deceased officer will have retired from the Department in good standing (no pending complaints, or resignation due to a complaint).

(c) The circumstances of the retirees death is not related to any criminal activity by the retiree.

(d) A four (4) officer Honor Guard detail will be offered to the family.

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(e) The Chief of Police may approve or deny family requests as deemed appropriate on a case by case basis.

343.10 LINE-OF-DUTY DEATHS IN OTHER AGENCIES

When a member of the Fargo Police Department becomes aware of a law enforcement line-of-duty death within the State of North Dakota, or in close proximity to Fargo, they should immediately notify the Chief of Police through their respective chain of command.

As soon as practical after notification of a law enforcement line-of-duty death, the Chief of Police or his/her designee, shall notify all department personnel. The notification should include an order to lower any department flags to half-staff, and for department personnel to wear mourning bands on their badges.

Flags shall be lowered to half-staff and mourning bands worn until after the funeral of the involved officer.

The department's standard response to line-of-duty deaths in the tri-state region will include four Honor Guard representatives and two squad cars, unless additional officers are approved by the Chief of Police.

The Chief of Police may order observances as deemed appropriate on a case-by-case basis in the event of unusual line-of-duty death circumstances occurring within the State of North Dakota, or occurring outside of the state.

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Chapter 4 - Patrol Operations

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Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-organizational cooperation and information sharing.

400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles. They will patrol assigned jurisdictional areas of Fargo, identify community needs, provide support and assistance to the community, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours a day seven days a week.

Patrol will generally provide services within the limits of available resources. These include:

(a) Patrol that is directed at the prevention of criminal acts, traffic violations and accidents, the maintenance of public order and the discovery of hazardous situations or conditions.

(b) Crime prevention activities, such as residential inspections, business inspections and community presentations.

(c) Calls for service, both routine and emergency.

(d) Investigation of both criminal and non-criminal acts.

(e) The apprehension of criminal offenders.

(f) Community Oriented Policing and problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.

(g) The sharing of information between the patrol and other divisions within the Department, as well as other government agencies.

(h) The application of resources to specific problems or situations within the community that may be improved or resolved by Community Oriented Policing and problem-solving strategies.

(i) Traffic direction and control.

400.1.2 TERRORISM

It is the goal of the Fargo Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism-related and should document such incidents with a written report.

The supervisor should ensure that all terrorism-related reports are forwarded to the Investigation Division supervisor in a timely fashion. The Investigation Division supervisor shall review all terrorism-related reports as soon as practicable and contact the North Dakota Department of

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Emergency Services, Homeland Security Division when there is a reasonable suspicion that a terrorism threat exists.

400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-organizational cooperation and information flow between the various divisions of the Fargo Police Department.

400.2.1 INTEL UNIT

The Intel Unit, to include the crime analyst, will be the central unit for information exchange. Criminal information and reports can be submitted to the Intel Unit for distribution to all appropriate divisions within the Department through daily and special bulletins.

400.2.2 CASE REPORTS

A case report should be completed by any patrol officer who receives information about a criminal act occurring with Fargo PD's jurisdiction. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

400.2.3 PATROL BRIEFINGS

Patrol supervisors, investigative sergeants/detectives and special unit sergeants/detectives are encouraged to share information as much as reasonably possible. All supervisors and/or officers will be provided an opportunity to share information through daily patrol briefings, as time permits. Patrol supervisors or their designee, will utilize the department's electronic bulletin board to disseminate information during the patrol briefing. Shift commanders and patrol supervisors shall also discuss topics to include, but are not limited to, policy implementation, relevant court decisions, department issues, and crime and ILP issues.

400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers shall consider enforcement of applicable state and local laws when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved. However, officers and supervisors shall use their best judgement when deciding to make a physical arrest or complete a long-formed case report as the best means to de-escalate an incident.

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400.4 DISABLED PERSONS

Should an officer encounter a person who exhibits any indication of disability or impairment, which appears to cause an immediate danger to the person's health or well being, the officer shall attempt to intervene in order to prevent the condition from worsening. If the contact may result in the person being charged with a crime or taken to a place of detention, this effort must be made, whenever feasible, prior to charging or detention.

In seeking to determine whether a disabled person suffers from an illness, the officer shall make a reasonable search for an identifying device or identification card. This search may not be done in a manner or to an extent that would appear to a reasonable person in the circumstances as posing an unreasonable risk of worsening the disabled person's condition.

An officer who finds a disabled person without an identifying device or identification card is not relieved of the duty to that person to ascertain the existence of any illness. An officer who determines or has reason to believe that a disabled person is suffering from an illness that would cause his/her condition shall promptly notify the person's physician, if practicable. If the officer is unable to discover the physician's identity or cannot communicate with the physician, the officer shall make a reasonable effort to have the disabled person transported immediately to a medical practitioner or a facility where medical treatment is available. If the officer believes it is unduly dangerous to move the disabled person, the officer shall make a reasonable effort to obtain the assistance of a medical practitioner on-scene (N.D.C.C. § 23-28-03).

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Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Fargo Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, gender, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

401.2 POLICY

The Fargo Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural, or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively, and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor.

Members of the Fargo Police Department are expressly prohibited from engaging in "racial profiling" and "other bias based policing" activities.

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Members will not use the actual or perceived race, color, national origin, sex, gender identity, sexual orientation, religion, or disability, of any person, as the sole basis for developing reasonable suspicion or grounds for a traffic or street stop, or in deciding upon the scope and substance of post-stop actions.

Members must be able to articulate the specific police or public safety purpose of any traffic or street stop.

Members will immediately report any observed violations of this policy to a department supervisor.

Members should, when reasonably to do so, intervene to prevent any biased-based actions by another member.

401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

401.5 SUPERVISOR RESPONSIBILITY

Supervisors are responsible for diligently monitoring those individuals in their command for any behavior exhibited that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

(b) Supervisors should throughout each month review Mobile Video/Audio recordings, Mobile Digital Computer (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with this policy.

1. During the monthly reviews, supervisors shall immediately document any positive or negative findings of any alleged or observed violations of this policy, and forward their report to their shift commander.

2. Recordings or data that capture a potential instance of racial or bias-based profiling should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial/bias-based profiling.

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401.6 ADMINISTRATION

Each year, the Field Services Division Commander shall review the efforts of the Department to prevent racial or bias-based profiling and submit an overview in this annual report, including public concerns and complaints, to the Chief of Police. This annual report should not contain any identifying information regarding any specific complaint, citizen or officer. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report for the Department and discuss the results with those they are assigned to supervise.

401.7 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

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Briefing

402.1 PURPOSE AND SCOPE

This policy discusses the activity of briefing and includes the tasks that should be accomplished during this period.

402.2 BRIEFING

Briefing is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct briefing. However, officers may conduct briefing for training purposes, with supervisor approval.

Briefing should accomplish, at a minimum, certain basic tasks, including:

(a) Providing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles and major investigations.

(b) Notifying officers of changes in schedules and assignments.

(c) Notifying officers of new policies or changes in policies.

(d) Reviewing recent incidents for training purposes.

(e) Providing training on a variety of subjects.

402.3 PREPARATION OF MATERIALS

The individual conducting briefing and/or roll call training is responsible for collection and preparation of the materials necessary for a constructive briefing and/or roll call training. A supervisor may delegate this responsibility to a subordinate officer in his/her absence or for training purposes.

402.4 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be maintained by the patrol command staff, as appropriate.

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Crime and Disaster Scene Integrity

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

403.2 POLICY

It is the policy of the Fargo Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

403.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

403.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.

(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.

(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.

(d) Provide first aid to injured parties if it can be done safely.

(e) Evacuate the location safely as required or appropriate.

(f) Secure the inner perimeter.

(g) Protect items of apparent evidentiary value.

(h) Secure an outer perimeter.

(i) Identify potential witnesses.

(j) Start a chronological log noting critical times and personnel allowed access.

See attachment: Crime Scene Entry Roster.pdf

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403.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present, there are no injured persons to be treated, and/or there no longer exists an imminent dangerous threat, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

403.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

See attachment: Authority to Search Premises.pdf

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Ride-Along

405.1 PURPOSE AND SCOPE

The ride-along program provides an opportunity for persons to experience the law enforcement function firsthand. This policy provides the requirements, approval process and hours of operation for the ride-along program.

Any person requesting to accompany or "ride-along" with a sworn officer assigned to patrol duties, or who otherwise wishes to accompany an officer or civilian employee while the officer or employee is on-duty and engaged in the performance of their work activities, shall first obtain authorization to do so from a command officer or a sergeant. The command officer or sergeant authorizing any such request shall ensure the requirements and/or restrictions established within this policy are followed.

405.1.1 ELIGIBILITY

The Fargo Police Department ride-along program is offered to residents, students and those employed within the City. Reasonable efforts should be made to accommodate interested persons. Any applicant may be disqualified without cause from participating in the program.

Factors that may be considered in disqualifying an applicant include, but are not limited to:

- Being under 14 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

405.1.2 AVAILABILITY

The ride-along program is available on every day of the week. The ride-along times are restricted to no more than a four consecutive hours. Exceptions to this schedule may be made as approved by the Chief of Police, Division Commander, or Shift Commander.

405.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by one of the shift sergeants. The participant will complete and sign a ride-along waiver form. Information requested will include a valid drivers license, address, date of birth, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the ride-along form.

The requirements described above may be waived by a command officer or a sergeant for the purpose of having a dignitary, public official, or representative of the news media accompany an on-duty sworn officer or civilian employee. In addition, nothing in this policy shall prevent

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or preclude an on-duty law enforcement officer from another jurisdiction from accompanying or assisting any department member in the performance of their work activities.

The shift sergeant will schedule a date, based on availability, and enter comments on the daily roster indicating which officer or civilian employee the rider will be assigned to. The shift sergeant will forward all ride-along request/waiver or liability agreements, including those which have been denied, to the Office of the Chief of Police where the forms will be retained for a period of six months.

Command officers and/or sergeants shall have the discretion to approve or deny any requests they receive from a person who wishes to accompany an on-duty sworn officer or civilian employee while the officer or employee is engaged in the performance of their work activities. If the ride-along is denied after the request has been made, the command officer or sergeant denying the request will contact the person, the person's parents, or legal guardian, and advise him/her of the denial. The command officer or sergeant shall also attach a brief written explanation as to why the request was denied to the corresponding ride-along request form.

Any person participating in a department authorized internship, work-study, or other similar program shall complete and submit a single ride-along request/waiver of liability agreement prior to beginning any such program. The agreement shall describe all of the activities associated with the program, and shall include any time the person requests to ride-along with a sworn officer assigned to patrol duties, or time requested with any other on-duty officer or civilian employee.

See attachment: Updated 2016 RIDE ALONG WAIVER.pdf

405.2.1 PROGRAM REQUIREMENTS

Once approved, civilian participants will be allowed to ride no more than once every six months. An exception would apply to the following: department interns, approved work-study students, qualified volunteers, chaplains, and police applicants with approval of the Shift Commander.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one participant will be allowed in the officer's vehicle at a given time.

Any person authorized to ride-along with an on-duty sworn officer or civilian employee shall be attentive and courteous at all times. The person shall follow all lawful instructions provided to them by any member fo the department (see reverse side of attachment #1). Failure to comply with this requirement shall be sufficient cause for a command officer or sergeant to immediately dismiss the person from accompanying an officer or civilian employee.

405.2.2 SUITABLE ATTIRE

Any person approved to ride-along is required to be suitably dressed in appropriate attire. Business casual or professional attire is preferred. However, blue jeans, tennis shoes, and other causual attire are acceptable as long as it is not offensive or in disrepair. Sandals, tank tops, shorts, and

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ripped or torn blue jeans are not permitted. The Shift Commander or field supervisor may refuse a ride-along to anyone not properly dressed.

405.2.3 PEACE OFFICER RIDE-ALONGS
Off-duty members of this department will not be permitted to ride-along with on-duty officers.

Unless specifically authorized by the Chief of Police, no person other than an "on-duty" law enforcement officer from another jurisdiction may carry or otherwise have in their possession a firearm or other dangerous weapon while they are accompanying an on-duty sworn officer or civilian employee of the department while the officer or employee is engaged in the performance of their work activities.

405.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK
All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check,a North Dakota Criminal Justice Information Sharing (CJIS) and National Crime Information Center (NCIC) warrants check prior to approval as a ride-along participant (provided that the participant is not an employee of the Fargo Police Department).

405.3 OFFICER'S RESPONSIBILITIES

Officers shall consider the safety of the participant at all times. Officers will be responsible for ensuring the person riding is not negligently exposed to hazards associated with the officer or civilian employee's work activities.

Officers should use sound discretion when encountering a potentially dangerous situation, such as a high-speed pursuit. If practicable, the participant should be let out of the vehicle in a safe, well-lit place. The dispatcher will be advised of the situation and as soon as practicable have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Sworn officer or civilian employees may ask a command officer or sergeant to dismiss a request to ride-along or a current ride-along from accompanying them further, if the officer or civilian employee believes the person is in violation of this policy, or for other reasonable cause. The command officer or sergeant receiving any such request shall have final authority over any such decisions.

The shift sergeants are responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, a copy of the ride-along waiver form shall be returned to the shift commander with any comments that may be offered by the officer.

Officers shall take all reasonable steps to ensure senstive information is not shared with the ride-along to include criminal intelligence or information detrimental to any on-going cases.

405.4 CONTROL OF RIDE-ALONG

The officer shall maintain control over the participant at all times and instruct him/her in the conditions that necessarily limit participation. These instructions should include the following:

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(a) The participant will follow the directions of the officer.

(b) The participant will not become involved in any investigation, handling of evidence, discussions with victims or suspects or handling any police equipment.

(c) The participant may terminate the ride at any time and the officer may return the observer to his/her home, the place of the ride origin or to the station if the participant interferes with the performance of the officer's duties.

(d) Ride-along participants may be allowed to continue riding during the transportation and booking process, provided this does not jeopardize their safety.

(e) Officers will not knowingly allow any participant to be present in any residence or situation that would jeopardize his/her safety or cause undue stress or embarrassment to a victim or any other person.

(f) Under no circumstance shall a civilian participant be permitted to enter a private residence with an officer without the express consent of the resident or other authorized person.

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Hazardous Material Response

406.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees and others as a result of their exposure. To comply with applicable law, the following represents the policy of this department. The Fargo Police Department, in hazardous material incidents, will secure the scene, control vehicular and pedestrian traffic, and assist the Fargo Fire Department and other city departments. The Fargo Fire Department is the designated emergency response authority of the City of Fargo and as such will be in charge at the scene of a hazardous material incident. The Fargo Fire Department has the training and expertise in the handling of hazardous materials and compliance with Federal regulations.

406.1.1 HAZARDOUS MATERIAL DEFINED

Definitions related to this policy include:

CHEMTREC - Chemical Transportation Emergency Center, a public service of the Manufacturing Chemists Association. The center provides information about the product for those at the scene of emergencies, then promptly contacts the shipper of the chemicals involved for more detailed assistance and appropriate follow up. CHEMTREC is not intended and is not equipped to function as a general information source. Do not call CHEMTREC on problems other than chemical cargo emergencies.

Hazardous substance - A chemical or substance or a mixture of chemicals and substances defined as hazardous under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), known as Superfund (N.D.C.C. § 18-01-34).

Shipping Papers - Papers which list the specific cargo being transported. The papers list the sender, the receiver, the carrier, the destination and details of the contents, and the dangers associated with the materials.

406.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, train derailment, chemical spill, or fire. When employees come into contact with a suspected hazardous material, they should take certain steps to protect themselves and other persons.

The Fargo Fire Department is the agency trained and equipped to properly respond and mitigate most hazardous materials and biohazards.

Responders should not perform tasks or use equipment without proper training. Officers will assist within their level of training as a first responder.

A responder entering the area may require decontamination before he/she is allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

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The following steps should be considered at any scene involving suspected hazardous materials:

(a) If safe to do so, attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).

1. Determine wind direction and speed at the scene.
2. Approach the scene with caution and from an upwind direction
3. When there is any question whether materials are hazardous, officers will avoid contact with the material and will keep other persons away from the material.
4. Officers should refer to the DOT Emergency Response Guidebook either in their squad car or downloaded onto their department issued smart phone, and take the appropriate emergency action.
5. Identification is usually accomplished by descriptive data in shipping papers and placards. If this information is not readily obtainable due to an incapacitated driver, destruction of shipping papers or placards, or general safety concerns due to proximity, officers can contact CHEMTREC at 1-800-262-8200

(b) Notify the fire department through RRRDC.

(c) Provide first aid to injured parties if it can be done safely and without contamination.

(d) Begin traffic and crowd control measures

1. Traffic Control - major routes should be established and maintained. Private vehicles will be prevented from entering the area and will be removed if blocking emergency equipment. Road blocks and alternate routes should be established as needed.
2. Crowd Control - crowd control measures should be implemented as soon as possible to keep spectators away from the contaminated area. This will reduce the possibility of looting and other crimes in the affected area and minimize interference and injury.

(e) Any additional information which may be helpful to emergency responders in determining the best course of action

406.3 SUPERVISOR RESPONSIBILITIES

When notified of a hazardous material incident, the on-duty supervisor shall respond to the Fire Department Command Post to determine what level of assistance department personnel can provide. The department's roles during a hazardous material incident may include:

- Scene protection/isolation
- Traffic and crowd control
- Escorting necessary non-law enforcement emergency equipment
- General search and rescue

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- Assist in evacuation notifications and procedures

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to treat the exposure.

406.4 EVACUATION

The decision to evacuate an area in a hazardous material incident is generally that of the Fire Department. If no Fire Department officials are present to make that decision, the incident commander is empowered to make such a decision.

The policy of this department is to request voluntary compliance to requests for evacuation, and not to evict persons forcibly from their homes and businesses. In cases involving the mentally or physically ill, those unable to understand, including children, etc., proper action will be dictated by the circumstances. Nonresidents and those without lawful business in the area may be required to leave if deemed necessary.

Every reasonable effort must be made to safeguard the homes and property of those evacuated. This includes limiting access to the area, and if possible, patrolling to prevent looting and vandalism.

406.5 DECONTAMINATION

Any exposure to a hazardous material at an incident will require the decontamination of all exposed uniforms and equipment as determined by the appropriate responding HAZMAT expert.

406.6 REPORTING EXPOSURE

Department personnel who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an incident report that shall be forwarded via chain of command to the Division Commander as soon as practicable. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the incident report.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report.

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Hostage and Barricade Incidents

407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide direction for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

407.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

Inner Perimeter - The immediate area of containment for the incident.

Outer Perimeter - A control area surrounding the inner perimeter, providing a safe zone for access to the inner perimeter, as well as defining the limit of access by unauthorized personnel.

407.2 POLICY

It is the policy of the Fargo Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

407.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

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407.3.1 EMERGENCY COMMUNICATIONS
An officer with supervisory control over an incident in which there is probable cause to believe that an individual could suffer injury or death as a result of the incident may order a telecommunications company to cut, reroute or divert telecommunications transmissions for the purpose of controlling communications (N.D.C.C. § 8-10-11).

407.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

407.4.1 BARRICADE SITUATION
Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

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(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.

(j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

(k) Establish a command post.

407.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated, if practicable, pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

(i) Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

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(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.

(m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

407.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a SWAT response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options, listed here in no particular order, should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).

(h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.

(i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

407.6 RED RIVER SWAT RESPONSIBILITIES

It will be the Incident Commander’s decision, with input from the SWAT Commander, whether to deploy the SWAT team during a hostage or barricade situation. Once the Incident Commander

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authorizes deployment, the SWAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue to maintain operational command and control over the incident. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

407.6.1 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

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Response to Bomb Calls

408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Fargo Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

408.2 POLICY

It is the policy of the Fargo Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

408.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device using the bomb threat checklist as a guide.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Shift Commander is immediately advised and informed of the details. This will enable the Shift Commander to ensure that the appropriate personnel are dispatched and, as appropriate, the threatened location is given an advance warning.

See attachment: Bomb Threat Checklist.pdf

408.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

408.4.1 FARGO POLICE DEPARTMENT FACILITY

If the bomb threat is against the Fargo Police Department facility, the Shift Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

408.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Fargo Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Shift Commander deems appropriate.

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408.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

408.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Fargo, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(b) The nature of the threat.

(c) Whether the type and detonation time of the device is known.

(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.

(e) Whether the individual is requesting police assistance at the facility.

(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:

1. No evacuation of personnel and no search for a device.
2. Search for a device without evacuation of personnel.
3. Evacuation of personnel without a search for a device.
4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Shift Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

408.5.1 RESPONSE

Officers responding to a bomb threat will take the following steps:

(a) Position your vehicle in a manner, which protects the scene or controls pedestrian and vehicle traffic, but does not prevent other emergency response vehicles from access.

(b) Limit communications within 300 feet of the potential threat area or device to intrinsically safe portable radios or cellular phones.

(c) Ensure Fargo Fire Department and medical personnel are dispatched to the scene to stand by at a safe location.

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(d) Officers should not use any electronic communications equipment when they are within 50 feet of a potential threat area or device.

408.5.2 ASSISTANCE

The Shift Commander should be notified when police assistance is requested. The Shift Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Shift Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

(b) The plan for assistance.

(c) Whether to evacuate and/or search the facility.

(d) Whether to involve facility staff in the search or evacuation of the building.

1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.

2. The safety of all participants is the paramount concern.

(e) The need for additional resources, including:

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

408.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.

(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.

(c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:

1. Two-way radios

2. Cell phones

3. Other personal communication devices

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(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.

(f) A safe access route should be provided for support personnel and equipment.

(g) Search the area for secondary devices as appropriate and based upon available resources.

(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

(i) Promptly relay available information to the Shift Commander including:

1. The time of discovery.
2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

408.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

408.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.

(b) Request additional personnel and resources, as appropriate.

(c) Assist with first aid.

(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.

(e) Assist with the safe evacuation of victims, if possible.

(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.

(g) Preserve evidence.

(h) Establish an outer perimeter and evacuate if necessary.

(i) Identify witnesses.

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408.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Shift Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

408.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

408.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Shift Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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Mental Illness Commitments

409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place a person under a mental illness commitment for purposes of a mental health evaluation (N.D.C.C. § 25-03.1-01 et seq.).

409.2 POLICY

It is the policy of the Fargo Police Department to protect the public and individuals through legal and appropriate use of mental illness commitments.

409.3 AUTHORITY

When an officer has reasonable cause to believe that an individual requires treatment and there exists a serious and immediate risk of harm to that individual, other persons, or property, and preliminary intervention by a magistrate is not possible, the officer may take the individual into custody and transport him/her to a public treatment facility to be screened for admission (N.D.C.C. § 25-03.1-04; N.D.C.C. § 25-03.1-25).

Should emergency conditions exist that prevent the immediate transportation of the individual to a public treatment facility, a private facility that has adequate resources and capacity may hold the individual for up to 23 hours prior to transfer to a public treatment facility (N.D.C.C. § 25-03.1-25).

If an officer reasonably believes that the individual is not complying with an order for alternative treatment, that the alternative treatment is not sufficient to prevent serious risk of harm, and that considerations of time and safety do not allow intervention by a court, the officer may cause the individual to be taken into custody and detained at a treatment facility as provided by law (N.D.C.C. § 25-03.1-21).

Upon being taken into custody, an officer shall immediately advise the individual of the purpose of custody, of the intended uses and possible effects of any evaluation that the individual undergoes, and of the individual's rights to counsel as well as a preliminary or treatment hearing (N.D.C.C. § 25-03.1-25).

409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a mental illness commitment, he/she may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility. If the person so desires, the officer should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person for detention for the purpose of a mental health evaluation.

(b) If at any point the person changes his/her mind regarding voluntary evaluation, the officer should proceed with the involuntary detention for the purpose of a mental health evaluation, if appropriate.

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(c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission. If during the officer's investigation he/she has gathered enough information to support reasonable cause necessary to involuntarily commit the individual for an evaluation, the officer shall fill out an Evaluation and Detention form even if the person agreed to go willingly.

(d) If an officer does not find reasonable cause to involuntary commit the individual, but the individual is voluntarily transported to a mental health facility, the officer must enter comments into the dispatch run to document those facts.

409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving a person who may qualify for detention for the purpose of a mental health evaluation should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques, such as Crisis Intervention Team.

(d) Community or other resources that may be readily available to assist with mental health issues such as the Mobile Crisis team.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of officers and others.

Detention for the purpose of a mental health evaluation should be preferred over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

409.5 TRANSPORTATION

When transporting any individual for a mental illness commitment, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Although the preferred method of transportation is by ambulance, an officer may transport individuals in the patrol unit and, if appropriate and necessary, shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in an ambulance and the safety of any person, including the detainee, requires the presence of an officer during the transport, an officer may accompany the transport.

409.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the officer has reasonable cause to believe the person is a danger to

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themselves or others, the officer shall provide the staff member with the Evaluation and Detention form for the purpose of a mental health evaluation and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

409.7 DOCUMENTATION

Upon arrival to the appropriate facility, the officer shall complete and provide the Evaluation and Detention form to the facility staff . The Evaluation and Detention form must state the circumstances under which the individual was taken into custody and must describe the actions that led the officer to believe the individual requires treatment, and that, because of that person's condition, there exists a serious risk of harm to the individual, another person or property if the person is not immediately detained (N.D.C.C. § 25-03.1-25).

The officer should also provide a verbal summary to a receiving facility staff member regarding the circumstances leading to the involuntary detention.

409.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for a mental health evaluation should resolve the criminal matter by issuing a warning or a citation, as appropriate.

When an individual who may qualify for detention for the purpose of a mental health evaluation has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

(a) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the detention, and determine if an arrest is appropriate.

(b) Facilitate the individual’s transfer to jail.

(c) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for detention.

In the supervisor's judgment, the individual may instead be transported to the appropriate mental health facility. The supervisor should contact the Cass County States Attorney's Office to discuss the seriousness of the offense, the treatment options available, the ability of the Department to regain custody of the individual, department resources (posting a guard), and other relevant factors before making this decision.

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409.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a mental illness commitment, the handling officer should try to determine if the person owns or has access to any firearm or other deadly weapon. North Dakota Century Code does not allow specific authority to seize property from a person for the purpose of safekeeping, to include suicidal individuals. Doing so could create a liability for the department and the officer. In situations where there is no lawful reason to seize the firearm as evidence, the firearms may only be taken into custody with consent of the lawful owner or their designee. These persons should be encouraged to find alternative methods of securing the firearms such as, turning them over to a family member, a friend, or rendering the firearm unusable.

Firearms may be taken and logged in as safekeeping when:

(a) All other options for alternative storage have been exhausted, AND

(b) The owner has given permission for the firearm to be placed in police custody, AND

(c) A report has been completed documenting the reason for police custody and consent from the owner, AND

(d) A Safekeeping Receipt has been issued to the owner.

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling officer should further advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody. The department does background checks on all persons claiming the return or release of a firearm from the Property Unit. Firearms will not be returned to individuals who are not the lawful owner and/or who cannot lawfully possess them.

409.10 TRAINING

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, mental illness commitments and crisis intervention.

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Rapid Response and Deployment

412.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

412.2 POLICY

The Fargo Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

412.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If there is a reasonable belief, a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

(a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.

(b) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.

(c) Whether the suspect can be contained or denied access to victims.

(d) Whether the officers have the ability to effectively communicate with other personnel or resources.

(e) Whether planned tactics can be effectively deployed.

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(f) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (RRV SWAT and/or the RRV Negotiation team).

412.4 CONSIDERATIONS

When dealing with a crisis situation members should:

(a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.

(b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.

(c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.

(d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

412.5 PLANNING

The department's Emergency Management Coordinator should develop and coordinate critical incident planning with the Division commanders. Planning efforts should consider:

(a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.

(b) Availability of building plans and venue schematics of likely critical incident target sites.

(c) Communications interoperability with other law enforcement and emergency service agencies.

(d) Training opportunities in critical incident target sites, including joint training with site occupants.

(e) Evacuation routes in critical incident target sites.

(f) Patrol first-response training.

(g) Response coordination and resources of emergency medical and fire services.

(h) Equipment needs.

(i) Mutual aid agreements with other agencies.

(j) Coordination with private security providers in critical incident target sites.

412.6 TRAINING

The Administrative Lieutenant should include rapid response to critical incidents in the training plan. This training should address:

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(a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.

(b) Communications interoperability with other law enforcement and emergency service agencies.

(c) Patrol first-response training, including patrol rifle.

(d) First aid, including gunshot trauma.

(e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

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Reporting Law Enforcement Activity Outside of the Jurisdiction

413.1 PURPOSE AND SCOPE

This policy provides direction for reporting law enforcement activity, while on- or off-duty, that is occurring outside the jurisdiction of the Fargo Police Department.

413.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an outside agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Shift Commander and shall respond to the request as outlined in the Mutual Aid and Outside Agency Assistance Policy. If the request is of an emergency nature, the officer shall notify Dispatch before responding and thereafter notify a supervisor as soon as practicable.

413.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer who engages in self-initiated law enforcement activities of any type outside the immediate jurisdiction of the Fargo Police Department that are not part of a mutual aid request shall notify his/her supervisor or the Shift Commander as soon as practicable. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction, shall notify the Shift Commander as soon as reasonably practicable.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Division Commander.

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Immigration Violations

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to employees of the Fargo Police Department relating to immigration and interacting with federal immigration officials.

414.2 POLICY

It is the policy of the Fargo Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

414.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity, or national origin in any way that would violate the United States or North Dakota constitutions.

414.4 DETENTIONS

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

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An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

414.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

414.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Generally, an officer should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

414.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

414.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in department records

(c) Exchanging such information with any other federal, state, or local government entity

414.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

414.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

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Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigation Division supervisor assigned to oversee the handling of any related case. The Investigation Division supervisor should coordinate with the department crime victim liaison to:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

    1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

414.9 TRAINING

The Administrative Lieutenant should ensure officers receive training on this policy.

Training should include:

(a) Identifying civil versus criminal immigration violations.

(b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

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Emergency Utility Service

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for addressing City of Fargo utility service emergencies. This policy will address calls for service that are frequently directed to the Fargo Police Department.

415.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter. Any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. The public works department can only turn off the valve at the meter. The citizen can normally turn off the water to the residence from the meter.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practicable by Dispatch. Broken water main lines located on or near public streets may cause a significant public safety concern. Officers may need to assess the situation and coordinate with the Fargo Public Works Department to determine if police traffic control intervention is necessary.

415.1.2 ELECTRICAL LINES

The public works department does not maintain electrical lines to street light poles, but does maintain the metal street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The electric company or the public works department should be promptly notified, as appropriate.

415.1.3 RESERVOIRS, PUMPS AND WELLS

The Fargo Public Works Department maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

In the event of flooding, reservoirs may need to be checked to ensure individuals, especially children are not playing or swimming in the flood water. The department Public Information Officer may have to coordinate with the Public Works Department to advise individuals or warn parents to keep their children away from the reservoirs.

415.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies will be maintained by Dispatch.

415.2 TRAFFIC SIGNAL MAINTENANCE

The City of Fargo is responsible for maintenance for all traffic signals within the City other than those maintained by the North Dakota Department of Transportation (NDDOT).

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415.2.1 OFFICER'S RESPONSIBILITIES

Upon observing a damaged or malfunctioning signal, the officer will advise Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency. The officer shall assess the traffic situation to determine the need for temporary traffic control.

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Police Training Officers

417.1 PURPOSE AND SCOPE

The Police Training Officer (PTO) Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Fargo Police Department.

It is the policy of this department that all new police officers must successfully complete the PTO program. The PTO Program is designed to prepare the new officer to perform in a patrol assignment and to acquire all of the skills needed to operate in a safe, productive, and professional manner. It also prepares officers to become better problem solvers in the daily performance of their duties.

417.2 DEFINITIONS

Police Training Officer (PTO): PTOs are experienced patrol officers who are assigned to the Field Services Division, who have been selected by the department to mentor, coach, train, and evaluate recruit officers in the application of their previously acquired law enforcement knowledge and skills.

Recruit Officer: Any entry level or lateral police officer who has been newly appointed to the department, and has not graduated the PTO program.

Lateral Police Officer: An officer who has previous law enforcement experience with another agency.

417.3 POLICE TRAINING OFFICER

PTOs are a vital part of the PTO program. They have the numerous responsibilities to include:

(a) Review the recruit officer's work and facilitate the learning for recruit officers

(b) Complete required training documentation in a timely manner

(c) Exhibit patience and professionalism with all recruit officers, coworkers, and the public

(d) Maintain their own skills and abilities as required to perform the essential duties of a police officer

(e) Attend in-service training as necessary

(f) Uphold the department common purpose and quality standards

(g) Adhere to all department standards of conduct and serve as a role model for other officers

(h) Display leadership, a positive attitude, strong work ethic, and professional appearance

417.3.1 SELECTION PROCESS

PTOs will be selected based on the following requirements:

(a) Strong desire to help new recruit officers to learn

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(b) Minimum of two years of patrol experience with the department

(c) Demonstrated ability as a positive role model both inside and outside the department

(d) Receive feedback (both positive and critical) and evaluation by supervisors and peers

(e) Strong communication, organizational, and leadership skills

(f) Display knowledge and understanding of policies, procedures, and laws

417.3.2 PTO TRAINING

An officer selected as a PTO shall successfully complete a PTO course approved by the Department prior to being assigned as a PTO. PTOs are expected to attend on-going training to improve and enhance their law enforcement skills. They are also expected to stay up-to-date on changes to department policies, procedures, local, and state laws.

417.3.3 PTO RANK

PTOs who have successfully trained at least one recruit officer and with the approval of the PTO Administrator, will be allowed to wear a double chevron on their sleeves of their uniforms.

PTOs will fall under the department's rank structure in accordance with Policy 200, Organizational Structure. However, becoming a PTO is not considered a promotion.

PTOs who transfer to other lateral assignments or resign as PTOs, and who are not a member of the Board of Evaluators, must remove the chevrons from their uniforms.

417.3.4 REMOVAL FROM PTO DUTIES

The position of PTO is considered a secondary assignment, and it is not a promotion. PTO's who fail to satisfactorily maintain their skills, professionalism, or leadership can be removed from their status as a PTO at any time.

417.4 POLICE TRAINING SERGEANT

The Police Training Sergeant (PTS) is the direct supervisor to a recruit officer. It is preferable a PTS should have prior training and experience as PTO in order to be assigned as a PTS, but there may circumstances where the department selects a sergeant to be a PTS, who was never a PTO.

The responsibilities of the PTS includes:

(a) Meet bi-weekly with the recruit officer and their assigned PTO to discuss the recruit's performance, training expectations, and learning issues.

(b) Review all recruit officer and PTO documentation.

(c) Ensure all training documentation is properly filed.

(d) Handle short-term scheduling issues as needed.

(e) Provide guidance to the assigned PTO when necessary.

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417.5 POLICE TRAINING OFFICER PROGRAM COORDINATOR

The PTO Program Coordinator will be selected from the rank of sergeant within the Field Services Division by the PTO Program Administrator and the Field Services Division Commander. The responsibilities of the PTO Coordinator include, but are not limited to:

(a) Provide leadership to the PTO training team and ensure communication about the program is shared with all team members.

(b) Set recruit schedules and PTO assignments.

(c) Facilitate PTO meetings and retreats.

(d) Ensure PTO performance reviews are completed and proper follow-up is conducted.

(e) Advise and assist the cadre of PTO Sergeants.

(f) Monitor individual PTO performance and keep the PTO Administrator updated about their performance.

(g) Ensure all training documentation is complete and maintained.

(h) Attend Board of Evaluator meetings.

(i) Participate in the selection and training of new PTOs, PTSs and Board of Evaluator (BOE) members.

417.6 POLICE TRAINING OFFICER PROGRAM ADMINISTRATOR

The PTO Program Administrator should be a Field Services Division lieutenant, who has experience and familiarity with the PTO program. The PTO Administrator's responsibilities include, but are not limited to:

(a) Oversee the operations of the PTO program.

(b) Provide updates about recruit training to the senior command staff.

(c) Oversee the selection and training of the PTOs and PTSs.

(d) Determine policies and procedures related to the PTO program.

(e) Handle disciplinary issues within the PTO program.

417.7 RECRUIT OFFICER TRAINING REQUIREMENTS

Recruit officers shall be required to successfully complete the PTO program to maintain employment with the Fargo Police Department. Each recruit officer must complete 13 weeks of phase training, a one-week midterm evaluation, a one-week non-traditional training period, and a two-week final evaluation, for a total of 17 weeks of training. The length of the training program could be extended if it is determined the recruit officer needs additional time for development.

The training period for lateral police officers can be shortened to a minimum of eight (8) weeks depending on their demonstrated performance and level of experience. The lateral police officer must also pass a final evaluation.

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To the extent possible, recruit officers should be assigned to a variety of PTO's, shifts, and geographical areas during the training program.

417.8 TRAINING DOCUMENTATION

Documentation of the recruit officer's performance in the PTO program is an important component of the training process and shall be completed as outlined below. All documentation will become part of each recruit officer's permanent training record.

417.8.1 RECRUIT OFFICER DOCUMENTATION

(a) All recruit officers will be required to complete a daily learning journal which will describe their daily activities and contain their self-assessment of their daily performance. These journals will be submitted daily to their assigned PTO for review.

(b) All recruit officers must complete a Coaching and Training Report (CTR) at the end of each phase of their training. This report will contain their self-assessment of their performance in the 16 Core Competencies.

(c) All recruit officers will complete two Problem Based Learning Exercises (PBLE). These exercises will be assigned at the start of training. The first PBLE must be completed prior to the start of the midterm evaluation, and the second PBLE must be completed prior to the start of the final evaluation.

417.8.2 PTO DOCUMENTATION

(a) PTOs will complete a daily learning journal while assigned a recruit officer. This journal will contain a summary of the recruit officer's daily activities as well as the PTO's assessment of the recruit's performance. The journal shall be shared with the recruit officer.

(b) PTOs will complete their portion of the CTR at the completion of each phase of training. The CTR will be shared with the recruit officer.

(c) PTOs assigned as Evaluators will complete a Coaching and Training Evaluation (CTE) at the end of the midterm and final evaluations. The CTE will be shared with the recruit officer.

417.8.3 PTS DOCUMENTATION

All PTSs will complete a bi-weekly form which will provide a summary of the bi-weekly meeting held with the recruit officer and the assigned PTO.

417.9 BOARD OF EVALUATORS

The Board of Evaluators (BOE) consists of a group of PTOs, who have been re-assigned to other lateral assignments within the department such as Investigations, Narcotics, K-9, etc. The members maintain an inactive status, but are still considered part of the PTO program. Members are selected by the PTO Coordinator and PTO Administrator based on the PTO's past performance as a trainer.

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The BOE will meet at the conclusion of the midterm evaluation and the final evaluation to determine if the recruit officer has successfully passed either evaluation. During a convened BOE meeting, the members will listen to testimony from the assigned PTOs and the assigned PTS, as well as review any relevant training documentation. At the conclusion of the meeting, the BOE will submit a written recommendation to the PTO Coordinator concerning the recruit officer's continuation, removal, or graduation from the program. The Chief of Police and/or the PTO Administrator will have the final determination regarding a recruit officer's graduation from the program.

The BOE will consist of no less than three members during a convened meeting.

417.10 EXTENSIONS TO TRAINING

Occasionally, recruit officers may need additional time to learn the skills needed to be a successful police officer. The department recognizes not every recruit officer will complete training at the same pace as others, and extensions to the training program may be necessary.

Each extension of training is unique to the individual recruit officer and can vary in length. The goal of the training extension will be to continue substantial progress towards successful graduation. Training extensions may be followed by an evaluation period to assess the progress of the recruit officer.

417.10.1 LEARNING ACTIVITY PACKAGE

When a recruit officers training is extended due to performance or learning issues, the assigned PTO, PTS, and the PTO Coordinator will create a learning activity package (LAP) for the recruit officer. The LAP will contain the following:

(a) A summary of the recruit officer's training deficiency

(b) The expected outcomes and learning objectives of the training extension

(c) Detailed tasks and activities which will help the recruit officer overcome their training deficiency

(d) A list of resources which can be used by the recruit officer and the PTO to help in the recruit officer's learning

The LAP will be given to the recruit officer prior to the start of the training extension. Also, a copy of the LAP will be retained in the recruit officer's training documentation.

417.10.2 COMPLETION OR CONTINUATION OF EXTENSION

An extension period may be followed by an evaluation period to further assess the recruit officer's progress. A training extension period will end once it's determined a recruit officer has satisfactorily achieved the objectives of the assigned LAP by the BOE. If the BOE determines the recruit officer has not achieved the objectives of the LAP, the BOE will determine if a continuation of the original LAP is needed or decide if a new LAP is necessary.

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417.11 FAILURE TO COMPLETE THE PTO PROGRAM

If it is determined by the BOE and the PTO training team that the recruit officer is not making sufficient progress towards the completion of the PTO program, the process for the removal from the program will be initiated upon the approval of the PTO Administrator and the Field Services Division Commander. The process will include:

(a) A recommendation to the Chief of Police to remove the recruit from training

1. If approved by the Chief of Police, the recruit officer will be placed on paid administrative leave

(b) A formal Office of Professional Standards complaint will be initiated by the PTO Administrator

(c) The Office of Professional Standards will conduct interviews, review the overall training record for the recruit officer, and submit a written recommendation of the findings to the Chief of Police

417.12 PTO PROGRAM COMPENSATION

Refer to Policy 1019 Compensation.

417.12.1 MEETINGS, BOARD OF EVALUATORS, AND TRAINING

(a) If a PTO or PTS is required to attend a BOE, outside of their regularly scheduled work period, they will receive a minimum of two (2) hours of straight time or 2 hours of NR time.

(b) If a PTO or PTS is required to attend any other meeting, or in-service training, this time will be NR time.

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Contacts and Temporary Detentions

419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

419.1.1 DEFINITIONS

Consensual encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - This type of search is used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot, and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

419.2 POLICY

The Fargo Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

419.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable

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suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicions.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Fargo Police Department to strengthen community involvement, community awareness, and problem identification.

419.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts that, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.

(b) Actions suggesting that he/she is engaged in a criminal activity.

(c) Presence in an area at an inappropriate hour of the day or night.

(d) Presence in a particular area is suspicious.

(e) Carrying suspicious objects or items.

(f) Excessive clothes for the climate or clothes bulging in a manner that suggests he/she is carrying a dangerous weapon.

(g) Location in proximate time and place to an alleged crime.

(h) Physical description of a suspect or clothing worn that matches clothing worn by a suspect in a recent crime.

(i) Prior criminal record or involvement in criminal activity as known by the officer.

419.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or area where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The actions and demeanor of the suspect.

(f) Visual indications that suggest the suspect is carrying a firearm or other dangerous weapon.

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Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

419.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

419.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should make note of the consent in the narrative portion of the applicable call for service. Officers may not force a person in a consensual encounter in a public place to pose, or require them to face the camera during the photographing. Officers, in such encounters, are not permitted to keep citizens at a location while waiting for someone to take their photo.

419.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Photographs of persons located in public areas, where they have no expectation of privacy, are allowed without the person's consent, if the person is in such a position that the officer can take the picture without seeking consent, and the officer does not force the person to pose for the photo.

Field photographs may also be taken without consent if they are taken during a detention which is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate the subject was involved in, or was about to become involved in criminal conduct. The subject should not be ordered to remove, or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be retained in compliance with this policy and the records retention schedule. All other copies of photographs, whether electronic or physical, shall be deleted/destroyed after the photograph has been properly entered in the records management system, unless approved by a supervisor.

419.6 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices as best as possible in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken. Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

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419.7 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and uploaded to the department's Bulletin Board, and/or submitted to the Intel Unit with either an associated FI card, or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted with the related case report for entry into the case file..

If a photograph is not associated with an investigation where a case number has been issued, the officer will forward the photograph to one of the following locations:

(a) If the photograph and associated FI or memorandum is relevant to criminal gang enforcement, the officer will forward the photo and documents to the Intel Unit and to the Metro Street Crimes supervisor. The Metro Street Crimes supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

(b) Photographs that do not qualify for retention in the criminal gang file, or that are not evidence in an investigation with an assigned case number shall be forwarded to the Intel Unit. These photographs will be purged in accordance with intelligence purging guidelines.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in compliance with the department’s records retention schedule.

419.8 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

(a) Identifying all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Department members.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

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Criminal Intelligence and Organizations

420.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Fargo Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

420.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates criminal intelligence information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates.

Criminal street gang - Any ongoing organization or group of three or more persons, whether formal or informal, that acts in concert or agrees to act in concert with a purpose that any of those persons alone or in any combination commit or will commit two or more predicate gang crimes (N.D.C.C. § 12.1-06.2-01(3)).

420.2 POLICY

The Fargo Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

420.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

The Fargo Police Department Intelligence Unit will be responsible for maintaining each criminal intelligence system that has been approved for department use. The Intelligence Unit supervisor shall ensure the following:

(a) Members using any such system are appropriately selected and trained.

(b) Use of every criminal intelligence system is appropriately reviewed and audited.

(c) Any system security issues are reasonably addressed.

420.3.1 SYSTEM ENTRIES

It is the Intelligence Unit supervisor’s responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence

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system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the Intelligence Unit supervisor should ensure copies of those documents are retained by the Intelligence Unit. Any supporting documentation for an entry shall be retained by the Intelligence Unit in accordance with 28 CFR Part 23 and N.D.C.C. § 44-04-18.7

The Intelligence Unit supervisor should ensure that any documents retained by the Intelligence Unit are appropriately marked as intelligence information. Such documents may not be purged without the approval of the Intelligence Unit supervisor. Information sent to the Intelligence Unit to be considered for inclusion in the department intelligence system should be labeled in the subject line of an e-mail or prominently placed on the document as "Criminal Intelligence" as defined in N.D.C.C. § 44-04-18.7. For auditing purposes, shortened or alternate versions of "criminal Intelligence" should not be used.

420.3.2 STORAGE OF CRIMINAL INTELLIGENCE INFORMATION

It is the role of the Fargo Police Department Intelligence Unit to properly store criminal intelligence information in a database which captures the following:

(a) Originating date of information

(b) type of information

(c) Source of information

(d) Status

(e) Evaluation (reliability)

(f) Officer who provides the information

(g) Any locations, subjects, vehicles connected to that information

(h) Any documentation to supplement the information (i.e. photos, videos, audio files, documents, etc.)

420.3.3 DISSEMINATION OF CRIMINAL INTELLIGENCE INFORMATION

It is the responsibility of the Intelligence Unit to properly disseminate criminal intelligence information in accordance with 28 CFR part 23 on the intended recipient's need to know.

420.3.4 PURGING OF CRIMINAL INTELLIGENCE INFORMATION

It is the responsibility of the Intelligence Unit to ensure criminal intelligence information files are not stored more than five (5) years in accordance with 28 CFR Part 23. Criminal intelligence information may be extended beyond five (5) years if additional criminal intelligence information is obtained regarding that specific person, location, vehicle, etc, and the information obtained is of the same subject type. The Intelligence Unit will run a monthly purge at the beginning of each month to ensure all outdated files are purged. The Intelligence Unit will keep a record of all purged items which states the following:

(a) Internal reference number

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(b) Date and time entered into the intelligence database

(c) Date and time of last update to that file

(d) Type of information

420.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system (CIS). However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved CIS only as provided in this section. Once information qualifies for inclusion, it should be submitted to the Intelligence Unit responsible for consideration of CIS entries.

420.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within 30 days, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible Intelligence Unit supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Division or Property Unit, but should be copies of, or references to, retained documents such as copies of reports, field interview (FI forms, Dispatch records or booking forms).

(c) No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

420.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than 30 days. At the end of 30 days, the contents must be purged or entered in an authorized criminal intelligence system, as applicable.

The Intelligence Unit supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the Intelligence Unit supervisor.

420.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information to the Fargo Police Department Intelligence Unit. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.

(b) Information related to a drug-trafficking operation.

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(c) Vandalism indicating an animus for a particular group.

(d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Intelligence Unit supervisor to train members to identify information that may be particularly relevant for inclusion.

420.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system as defined in 28 CFR Part 23 and N.D.C.C. § 44-04-18.7 regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and may not be furnished to other law enforcement agencies or non-law enforcement persons or organizations.

420.7 CRIMINAL STREET GANGS

The Metro Area Street Crimes Unit supervisor should ensure that there are an appropriate number of department members who can:

(a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with identification of criminal street gangs, criminal street gang members and patterns of criminal gang activity.

(b) Coordinate with other agencies in the region regarding criminal street gang crimes and information.

(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

420.8 TRAINING

The Intelligence Unit supervisor should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

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Shift Commanders

421.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with department policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

421.2 DESIGNATION AS ACTING SHIFT COMMANDER

When a Lieutenant is unavailable for duty as a Shift Commander, in most instances the qualified sergeant shall be designated as acting Shift Commander. This policy does not preclude designating a less senior officer as an acting Shift Commander when operational needs require .

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Mobile Audio/Video

422.1 PURPOSE AND SCOPE

The Fargo Police Department has equipped marked patrol cars with Mobile/Audio Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy is to establish standard parameters by which the department's Mobile/Audio Video recording system is to be utilized by department personnel, to include how any video/audio recording captured or otherwise obtained through the use of the system is to be accessed and/or retained.

Department personnel having access to the department's Mobile/Audio Video recording system shall utilize the system as described within this policy. This includes the parameters associated with recording, accessing, viewing, duplicating, and/or managing any video and/or audio information captured or obtained through the use of the system. All video and /or audio recordings obtained through the use of the system shall be considered the property of the Fargo Police department and will only be used for the official business purposes of the department.

422.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MAV system to transmit or store video or audio data.

In-car camera system and Mobile Audio Video (MAV) system - Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at a minimum, a camera, microphone, recorder and monitor.

In-custody - Being in the custody of a sworn officer as the result of an arrest or judicial order.

MAV technician - Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

Primary Officer - The sworn officer designated or identified as being responsible for the police action, to include the completion of any case report, associated with a call for service or other incident involving department personnel.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

422.2 POLICY

It is the policy of the Fargo Police Department to use mobile audio and video technology to more effectively fulfill the mission of the Department and to ensure these systems are used securely and efficiently.

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422.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field; this includes department issued smart phones and digital audio recorders. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. Only Fargo Police Department issued or approved recording systems are to be used.

At the start of each shift, officers should test the MAV system's operation in accordance with manufacturer specifications and department operating procedures and training. Any problems or defects with the system or equipment shall be reported to an on-duty Field Services Division supervisor as soon as practical. A problem or defect with the MAV recording system, which renders the system inoperable within that vehicle does not preclude an officer from using the vehicle in the performance of their work duties.

422.4 ACTIVATION OF MAV

The MAV system is designed to turn on whenever the unit's emergency lights are activated, the speed threshold is met, the vehicle is involved in a significant accident, or the system can be turned on manually. The system remains on until it is turned off manually. The audio portion can be independently controlled and can be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

422.4.1 REQUIRED ACTIVATION OF THE MAV

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances, it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system shall be activated in any of the following situations when it is practical, reasonable, and/or necessary for an officer to do so:

(a) All field contacts involving actual or potential criminal conduct within video or audio range:

1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
2. Priority responses
3. Vehicle pursuits
4. Suspicious vehicles
5. Arrests
6. Vehicle searches
7. DUI investigations including field sobriety tests

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8. Crimes in progress

(b) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.

(c) Any other circumstance where the officer believes that a recording of an incident would be appropriate.

The requirement to record all enforcement actions taken by an officer does not extend to every action associated with an enforcement action.Officers may choose not to record certain activities associated with an enforcement action such as communicating with other officers, witnesses, or a complainant.Officers are expected to exercise their discretion and judgment towards determining the need or relevance of recording their work activities beyond those which are required.

Employees are strictly prohibited from intentionally manipulating the department's MAV recording system in any manner so to as to avoid recording any enforcement action (except as described above), any activity associated with the operation of the police vehicle, or any other activity where the use of the MAV system is required.

422.4.2 CESSATION OF RECORDING

Once activated, the MAV system shall remain on until the incident has concluded. For the purpose of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Employees are not prohibited from manipulating the MAV system to avoid or limit the unnecessary recording of an activity which is routine in nature such as travel, the transportation of a person not in custody, or the extended transportation of a person who is in custody from one jurisdiction to another.

422.4.3 WHEN ACTIVATION NOT REQUIRED

Activation of the MAV system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation (N.D.C.C. § 12.1-15-02).

422.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved accidents), a supervisor shall ensure all applicable vehicles with recordings relative to the incident are driven to a data download site as soon as possible. The recordings may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

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422.5 REVIEW OF MAV RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the Department is strictly prohibited, except to the extent permitted or required by law.

When reasonably possible, a copy of the original media shall be used for external viewing or listening (unless otherwise directed by the courts).

Recordings may be reviewed in any of the following situations:

(a) For use when preparing reports or statements

(b) By a supervisor investigating a specific act of officer conduct

(c) By a supervisor to assess officer performance

(d) To assess proper functioning of MAV systems

(e) By an investigator participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation

(f) By department personnel who request to review recordings

(g) An officer who is captured on or referenced in the video or audio data may review such data and use the data for any purpose relating to his/her employment.

(h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee

(i) By the media through proper process or with permission of the Chief of Police or the authorized designee

(j) To assess possible training value

(k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection.

Employees are strictly prohibited from deleting and/or altering any video and/or audio recording captured through the use of the department's MAV recording system. Employees may add notes or commentary to any such recording as long as the accuracy and integrity of the video and/or audio recording is not compromised.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

422.6 DOCUMENTING MAV USE

All video and/or audio recordings obtained through the use of the department's MAV recording system related to the arrest of any person for a criminal offense, or those recordings obtained as

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part of any criminal investigation, felony motor vehicle stop, motor vehicle pursuit, or response to resistance incident, shall be appropriately categorized and identified with a corresponding case report number by the officer responsible for capturing the recording. The officer shall further note the existence of any such recording with the corresponding case report's arrest narrative.

In the absence of an arrest associated with a case report in which a video and/or exists, the officer shall complete the department's Arbitrator 360 Video/Audio Disclosure report and submit it for attachment to the case report.

See attachment: Video-Audio Disclosure Form.pdf

All video and/or audio recordings obtained through the use of the department's MAV recording system related to traffic enforcement actions shall be appropriately categorized by the officer responsible for capturing the recording. In addition, officers shall note the existence (or non-existence) of any video/audio recording upon any traffic citation issued by the officer.

It shall be the responsibility of the primary officer involved in an incident or traffic enforcement action where a video and/or audio recording obtained through the use of the department's MAV recording system exists, to ensure all video and/or audio recordings associated with the incident or traffic enforcement action are categorized appropriately and retained in accordance with the parameters of this policy.

422.7 RECORDING MEDIA STORAGE AND INTEGRITY

All video and/or audio recordings obtained through the use of the department's MAV recording system shall be appropriately categorized by the officer responsible for capturing the recording and retained for no less than 90 days from the date of the recording or as otherwise determined by the following categories:

Category	Retention Period
Test	90 days
No Event	90 days
Non-Criminal Traffic	180 days
RTR/Other Policy	365 days
Criminal Traffic	three (3) years
Misdemeanor Non-Traffic	three (3) years
Felony	ten (10) years

All video and/or audio recordings shall be automatically purged and deleted from the storage server at the end of the established retention period unless a command officer determines there is reason to retain the video/audio recordings longer.

Only upon authorization received from the Chief of Police or a division commander may a video/audio recording obtained through the use of the department's MAV system be

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deleted, destroyed, or purged from retention by the department outside the parameters established above (ex. purging video/audio recordings once the Evidence Property Manager has recieved notice from the courts that the department can purge physical evidence relative to a case which is located in the department's property room).

422.7.1 COPIES OF RECORDING MEDIA
Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. Requests to duplicate, copy, or release any video/audio recording obtained through the use of the department's MAV system and retained by the department, shall be in writing and submitted to the Administrative Services Division commander. Only upon authorization received from the Administrative Services Division commander may any such video/audio recording be duplicated, copied, or released. The Administrative Services division commander my appoint a designee, who shall have the authority to duplicate, copy, and/or release any video/audio recordings obtained through the use of the department's MAV system unless otherwise permitted within this policy.

Personnel assigned to the Office of Professional Standards (OPS) may duplicate any video/audio recording obtained through the use of the department's MAV system for the purpose of examining or resolving any personnel complaint or other internal affairs issue.

422.7.2 MAV RECORDINGS AS EVIDENCE
Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer, or against the Fargo Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

422.8 SYSTEM OPERATIONAL STANDARDS

(a) MAV system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.

(b) The MAV system should be configured to minimally record for 30 seconds prior to an event.

(c) The MAV system may not be configured to record audio data occurring prior to activation.

(d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer’s transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.

(e) Officers using digital transmitters that are synchronized to their individual MAV shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.

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(f) With the exception of law enforcement radios or other emergency equipment, other electronic devices (such as audio and video playing devices) should not be used inside MAV-equipped law enforcement vehicles while the MAV system is recording in order to minimize the possibility of causing electronic or noise interference with the MAV system.

(g) Officers shall not erase, alter, modify, or tamper with MAV recordings. Only MAV technicians (select IS personnel) have the ability to erase MAV Recordings at the authorization of the Chief of Police or division commander.

422.9 MAV TECHNICIAN RESPONSIBILITIES

The MAV technician is responsible for:

(a) Retrieving and storing of all recorded media.

(b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:

1. Ensures it is stored in a secured location with authorized controlled access.
2. Monitors the system to ensure adequate server storage is available.

(c) Erasing of media:

1. Pursuant to a court order.
2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.

(d) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

422.10 AUDIO RECORDINGS

Any time the MAV system is used in the capacity of an audio recorder, the Use of Audio/Video Recorders Policy shall apply.

422.11 TRAINING

All members who are authorized to use the MAV system shall receive instruction on how to properly operate the MAV system prior to its use. This is generally accomplished by a Police Training Officer (PTO) when a new officer is in the PTO program.

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Mobile Digital Computer Use

423.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Digital Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

423.2 POLICY

Fargo Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

423.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

423.4 CARE OF MDC'S

Employees are responsible for the proper care and use of the MDC which they are using, and may be administratively and financially liable in the event of loss or damage, in accordance with city and department policy.

Physical damage to or loss of the MDC and/or its components shall be reported immediately to the on-duty supervisor.

Employees will not place drinks, food, or other items directly on the computer, or in a location which may cause a spill onto the MDC.

Magnetic objects shall not be placed close to the MDC (e.g. emergency dash lights, magnetic clips, etc.).

MDC's malfunctioning or in need of repair shall be reported to the City of Fargo IS Department as soon as practical.

423.5 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Shift Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions

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about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the MDC system is prohibited and may result in discipline.

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or close the MDC when it is unattended and unsecured. This added security measure will minimize the potential for unauthorized access or misuse.

Each officer assigned to a patrol unit equipped with a MDC should log onto the system as soon as possible at the beginning of his/her shift. Conversely, the officer shall log off the system at the end of his/her shift.

423.5.1 USE WHILE DRIVING

When operating a vehicle, the safe operation of the vehicle is the officer's primary responsibility. The use of the MDC is always of secondary importance. Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

423.6 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Shift Commander or other department established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

(a) All contacts or activity shall be documented at the time of the contact.

(b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

All MDC messages sent via the MDC are recorded and subject to open records discovery. MDC messages will be reviewed randomly to assure proper content. Specific and focused reviews will be conducted when warranted.

423.6.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) shall be transmitted over the police radio or through the MDC system.

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Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident.

423.6.2 EMERGENCY ACTIVATION

If there is an emergency activation on the MDC, and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Shift Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

423.7 EQUIPMENT CONSIDERATIONS

423.7.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify Dispatch. In the event the officer needs to enter comments into a call for service, it shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio. Extended comments must be relayed to dispatch via cellular or landline communications, or added later on a functional computer. This will ensure the radio remains available for other emergency or routine communications.

The employee experiencing the MDC malfunction shall promptly notify the IS Department regarding the date, time, and nature of the MDC malfunction. The employee shall also leave a notice on the MDC indicating the MDC is not operational.

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Portable Audio/Video Recorders

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. **Portable audio/video recording devices include all recording systems whether body-worn, hand held, or integrated into portable equipment such as department issued smart phones and digital recorders.**

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Fargo Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.2 POLICY

The Fargo Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

424.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department.

424.4 SURREPTITIOUS USE OF THE PORTABLE RECORDER

North Dakota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (N.D.C.C. § 12.1-15-02).

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

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

424.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member will report the failure to his/her supervisor, and obtain a functioning device as soon as reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful.

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When using a portable recorder, the assigned member when feasible, should record his/her name, FPD employee number and the current date and time at the beginning and the end of the period of use. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording. Any recordings which have evidentiary value shall be logged into the appropriate evidence storage system at the end of the officer's shift.

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

424.6 ACTIVATION OF THE PORTABLE RECORDER

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

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

(a) All investigations of domestic assault or related crimes such as a violation of a protection order.

(b) All in custody interviews pertaining to felony crimes or misdemeanor personal crimes.

  (a) In custody will refer to all situations where a person is under arrest or detained in a manner to which a reasonable person would believe they are not free to leave.

  (b) The issuing of the Miranda warnings and subsequent interview in its entirety will be recorded either by an audio or audio/video recording device

(c) In addition to the above, during criminal investigations the officer may choose to record, at their discretion, any interview which they believe may be necessary in furtherance of the investigation or which has a likelihood of the person being interviewed to recant or challenge the account of the interview.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

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

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

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Officers will document within the case synopsis/narrative or supplemental report that a recording was made and that a copy of the recording has been placed into laserfiche.A narrative report will summarize the relevant content of the interview.The summary need not detail the entire content of the recorded statement, but rather the pertinent information as to the elements of the offense or specific facts relevant to the investigation.Officers should make sure all recordings are thoroughly reviewed prior to completing a narrative summary.

424.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

424.6.2 USE OF PORTABLE RECORDER IN DRUG OFFENSE INVESTIGATIONS

Officers may use a portable recorder to intercept wire or oral communications in drug offense investigations in compliance with a court order (N.D.C.C. § 29-29.2-02). Upon expiration of the order, the officer designated in the court order shall provide the issuing judge all documents and other information pertaining to the communications pursuant to the order or as required by law.

Intercepted communications shall be maintained in their entirety, without editing or alteration, and shall be maintained in accordance with Records Retention Policy.

424.7 PROHIBITED USE OF PORTABLE RECORDERS

While using department issued recording devices, such as a cell phone or digital recorder, members are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

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

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

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

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

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

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

(a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone's privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

(g) The recording or portions of the recording may be protected under the North Dakota Open Records Law (N.D.C.C. § 44-04-18.7).

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

424.9 REVIEW OF RECORDED MEDIA FILES

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

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

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records or Office of Professional Standards prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

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424.10 RETENTION OF RECORDINGS

Portable recordings are public records (N.D.C.C. § 44-04-17.1(16)). All recordings prepared for use in connection with public business, or which contain information relating to public business shall be retained for a period consistent with the requirements of the organization's records retention schedule, but in no event for a period less than 180 days. However, once an officer has transferred the recording to evidence the officer may remove the recording from his/her portable recording device.

424.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

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Public Recording of Law Enforcement Activity

425.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

425.2 POLICY

The Fargo Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

425.3 DEFINITIONS

Media: the storage source for visual or audio recordings, whether by film, analog, or digital means.

Recording: Capturing of images, audio, or both, by means of camera, cell phone, audio recorder, or other device.

425.4 RECORDING LAW ENFORCEMENT ACTIVITY

Persons who are lawfully in public spaces or locations where they have a legal right to be present; such as their home, place of business, or the common areas of public and private facilities and buildings, have a First Amendment right to record things in plain sight or hearing to include police activity. Police may not threaten, intimidate, or otherwise discourage or interfere with the recording of police activities. Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:

1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the officers.
4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.

(c) The individual may not present an undue safety risk to the officers, him/herself or others.

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425.5 OFFICER RESPONSE

Officers should promptly request a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

Arrests of a person who is recording in public shall be related to an objective, articulable violation of the law unrelated to the act of recording.The act of recording does not, in itself, provide grounds for detention or arrest.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

Arrest of an individual does not provide an exception to the warrant requirement justifying search of the individual's recording equipment or media.While equipment may be seized incident to arrest, downloading, viewing, or otherwise accessing files requires a search warrant, consent, or exigent circumstances. Files and media shall not be altered or erased under any circumstances.

425.6 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

425.7 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

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(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

(a) To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

(b) If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable.Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

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Foot Pursuits

427.1 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public, or the suspect. Officers are expected to act reasonably, based on the totality of the circumstances.

427.2 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

427.3 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual that the officer reasonably believes is about to engage in, is engaging in, or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity alone shall not serve as justification for engaging in a foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.

(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.

(c) A canine search.

(d) Thermal imaging or other sensing technology.

(e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to

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immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

427.4 GENERAL GUIDELINES

Foot pursuits are dangerous and the decision to initiate, or continue a foot pursuit may change as the foot pursuit evolves. Officers must consider many factors to include, but are not limited to: their physical condition, lighting conditions, environmental conditions, loss or malfunction of equipment, loss of sight of the suspect, whether back-up is close, situational awareness, and many others. If at any time the officer reasonably believes the need to immediately apprehend the suspect is outweighed by the danger to themselves or the public, the officer should consider terminating the foot pursuit.

427.5 RESPONSIBILITIES IN FOOT PURSUITS

427.5.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should consider whether to attempt to overtake and confront the suspect, or attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

(a) Location and direction of travel

(b) Call sign identifier

(c) Reason for the foot pursuit, such as the crime classification

(d) Number of suspects and description, to include name if known

(e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be implemented and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify Dispatch of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

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427.5.2 ASSISTING OFFICER RESPONSIBILITIES
Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize nonessential radio traffic to permit the involved officers maximum access to the radio frequency.

427.5.3 SUPERVISOR RESPONSIBILITIES
Upon becoming aware of a foot pursuit and depending on the totality of the circumstances, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever reasonably possible. The supervisor does not, however, need to be physically present to exercise control over the foot pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers, or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

If the supervisor deems it appropriate, upon apprehension of the suspect, the supervisor may proceed to the termination point to direct the post-pursuit activity.

427.6 REPORTING REQUIREMENTS
If an arrest is made or suspect is known, the initiating officer shall complete appropriate case/arrest reports documenting, at a minimum:

(a) Date and time of the foot pursuit.

(b) Initial reason and circumstances surrounding the foot pursuit.

(c) Alleged offenses.

(d) Involved vehicles and officers.

(e) Whether a suspect was apprehended as well as the means and methods used.

    (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.

(f) Arrestee information or suspect information, if applicable.

(g) Any injuries and/or medical treatment.

(h) Any property or equipment damage.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

As with all reports, the supervisor will review the report to make a preliminary determination if any additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, the initiating officer need not complete a formal report.

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Automated License Plate Readers (ALPR)

428.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. The ALPR is used by the Fargo Police Department to convert data associated with vehicle license plates and use it for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. The ALPR may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

428.2 DEFINITIONS

ALPR - Equipment consisting of cameras and computer software used to automatically recognize and interpret characters on vehicle license plates, and capture digital images.

Hit/Alarm - An indication by visual and/or auditory notice of a potential match between data stored and a license plate scanned by the system. A hit/alarm is not conclusive confirmation of a match and further investigation is always required before taking enforcement action.

Hot List - A database populated with license or partial license plates for which a concern to officer safety or investigative interest exists.

BOSS Application - Interface for user maintenance, data queries, import and export of data, and dispatch functions of the central repository of data collected by the ALPR system. This application can be accessed and reviewed for investigative purposes from designated department computers.

428.3 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, shall be managed by the Field Services Division Commander. The Field Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment. The ALPR data retention and access shall be managed by the Criminal Investigations Division Commander and he/she will assign personnel under his/her command to administer the day-to-day operation of the data management.

428.4 ALPR OPERATION

Use of ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

(a) An ALPR shall only be used for official and legitimate law enforcement business.

(b) An ALPR may be used in conjunction with any patrol operation or official department investigation. Reasonable suspicion or probable cause is not necessary before using ALPR.

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(c) Upon receiving a hit, and prior to initiating a traffic stop, the ALPR operator shall utilize all information available to determine the accuracy of the hit.A receipt of a hit is not sufficient probable cause to initiate a stop without verification.

1. Operators shall visually verify the vehicle license plate numbers and state of issuance on all hits.
2. If an operator verifies a hit is still active, the operator shall take the appropriate action in accordance with department policy and procedures.
3. Operators shall report any action taken to the Intel Unit to determine if Hot List information needs to be updated or purged.

(d) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas surrounding homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(e) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(f) No ALPR operator may access Criminal Justice Information Sharing (CJIS) data unless otherwise authorized to do so.

(g) If practicable, the officer should verify an ALPR response through CJIS before taking enforcement action that is based solely upon an ALPR alert.

(h) When ALPR equipped vehicles need to washed, the employee may utilize a touchless car wash service or hand wash the vehicle.If an employee hand washes the vehicle, the lens for the ALPR system must be hand cleaned with a soft "water only" damp cloth.Operators must not attempt to adjust the ALPR equipment.

428.4.1 ALPR HOT LISTS

(a) The officer requesting to add information to a Hot List will fill out an Intel submission form, and forward it via email to a on-duty supervisor.

(b) The Intel form must be reviewed and approved by an on-duty supervisor. The on-duty supervisor will note their approval by forwarding the form to the Intel Unit.

(c) The Intel officer(s) will review the information and enter it on the appropriate Hot List.

(d) It is the responsibility of the requesting officers to notify the Intel Unit if the information is no longer needed on the Hot List.

(e) The Intel Unit will review and remove information from the Hot List, which is 30 days old unless the information is the subject of an ongoing criminal investigation. Retention of information beyond 30 days will be only upon the approval of a Criminal Investigations Unit supervisor and must be reviewed every 30 days for continued retention.

428.5 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by ALPR are for the official use of the Fargo Police Department, because such data may contain confidential information, it is not open to public

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review. The ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

No employee shall upload data into the ALPR system without approval from their on-duty supervisor.

The Criminal Investigations Division Commander is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for the period identified in the department records retention schedule, which has been identified as 90 days. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action, or is subject to a lawful action to produce records. In those circumstances, other than criminal cases, the applicable data should be downloaded from the server onto portable media and given to the requesting party. ALPR data connected to a criminal case should be processed in accordance with department's evidence processing manual.

428.6 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Fargo Police Department will observe the following safeguards regarding access to and use of stored data:

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Manager and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile work station and server shall be accessible only through the Boss Application, which is a login/password-protected system capable of documenting all access of information by name, date and time.

(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted every six (6) months by the Intelligence Unit supervisor who will then forward his/her findings to the Criminal Investigations Division commander.

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Crisis Intervention Incidents

431.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

431.1.1 DEFINITIONS

Definitions related to this policy include:

Behavioral Health Condition - Any permanent or temporary condition adversely affecting human behavior to include mental illness, emotional disturbance, chemical influence, or intoxication.

Consumer - For the purpose of this policy, subjects who use the mental health care system or may be in need of it shall be referred to as consumers.

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions.

431.2 POLICY

The Fargo Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

431.3 SIGNS

A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstances or events which causes the person to engage in erratic, disruptive, or dangerous behavior which may be accompanied by impaired judgment. Members should be alert to any of the following possible signs of mental health issues or crises:

(a) A known history of mental illness

(b) Threats of or attempted suicide

(c) Loss of memory

(d) Incoherence, disorientation or slow response

(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas

(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt

(g) Social withdrawal

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(h) Manic or impulsive behavior, extreme agitation, lack of control

(i) Lack of fear

(j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

431.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Division Commander to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

431.5 CRISIS INTERVENTION PROGRAM

(a) The crisis intervention team will be composed of volunteer sworn personnel, of any rank, who have completed the appropriate certification course.

(b) The department will strive to maintain membership and certification for about one third of the Field Services personnel.

(c) No officer shall identify themselves publicly as a CIT officer until they have completed and have been certified in a department approved CIT certification course.

(d) A Field Services lieutenant will be selected to manage and administer the CIT program. Supervision and administrative duties include:

1. Selecting new team members.
2. Ensuring training and certification standards are met, maintained, and updated.
3. Tracking CIT activity and evaluating the effectiveness of the program.
4. Manage the ongoing development of the CIT program.

431.6 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

(a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.

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(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

(c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.

(d) Attempt to determine if weapons are present or available.

(e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.

(f) Secure the scene and clear the immediate area as necessary.

(g) Employ tactics to preserve the safety of all participants.

(h) Determine the nature of any crime.

(i) Request a supervisor, as warranted.

(j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

(k) If circumstances reasonably permit, consider and employ alternatives to force.

431.7 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills.
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.

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- Argue, speak with a raised voice or use threats to obtain compliance.

If officers recognize they are faced with an individual with a behavior health condition who is in crisis, and the officer cannot establish effective rapport with the subject, the officer should request a CIT officer.

Once a CIT officer has established rapport with a consumer, the beat officer or other officers on scene will not interfere with or interrupt a CIT officer who is attempting to de-escalate a consumer in crisis unless their assistance is requested by the CIT officer, or they observe unsafe circumstances at the scene which requires their intervention to maintain the safety of everyone involved.

431.8 CRISIS INTERVENTION TEAM RESPONSIBILITIES

(a) CIT officers will respond to calls for service where they are requested to intervene with consumers in crisis, or when someone in crisis is likely to be encountered.

(b) CIT officers will not interrupt or interfere with other officers attempting to de-escalate a consumer in crisis unless they observe unsafe circumstances at the scene which would require them to intervene.

(c) At the scene of an incident involving a consumer in crisis, a CIT officer shall become the primary point of contact with the consumer for the beat officer on the call unless effective communication has already been established by other officers on scene.

(d) Regardless of which officer becomes the primary point of contact with a consumer, a CIT officer may be used as a resource to refer them to the appropriate mental health or chemical dependency services.

431.9 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

(a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.

(b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.

(c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

431.10 SUPERVISOR RESPONSIBILITIES

Fargo Police Department supervisors shall maintain overall supervision responsibility for all department personnel, including CIT officers, duiring a crisis intervention incident.

If possible, a supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

(a) Attempt to secure appropriate and sufficient resources.

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(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).

(c) Re-direct or countermand CIT activity if the supervisor perceives the CIT officer is conducting themselves in a manner which puts themselves, other officers, the public, or the consumer in an unsafe condition.

(d) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(e) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

(f) If the incident warrants, conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.

(g) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

431.11 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

The beat officer on any crisis intervention incident will retain overall reporting responsibility, but the CIT officer, or other officer who established rapport, will assume responsibility of communications with the consumer and documenting any mental health commitment or referral reports.

All CIT related activity should be documented by the CIT officer on the call in accordance with current department reporting procedures. In the event a CIT incident is resolved without a report or commitment documentation, the CIT officer will be responsible for recording a brief account of the incident in the comments section of the call for service.

431.11.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy when appropriate.

431.12 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS

Civilian members may be required to interact with persons in crisis in an administrative capacity, such as records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.

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(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer shall be promptly summoned to provide assistance.

431.13 EVALUATION

The Field Services Division Commander should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will be submitted to the Chief of Police.

431.14 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

To maintain certification, CIT officers must attend a minimum of eight (8) hours of CIT training every year. The training hours must be reported to the department's training unit, the department's CIT administrator, and to the North Dakota CIT Association.

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First Amendment Assemblies

432.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

432.2 POLICY

The Fargo Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

432.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

(a) Engage in assembly or demonstration-related discussion with participants.

(b) Harass, confront or intimidate participants.

(c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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432.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assisting in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

432.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

432.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

432.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or the race, ethnicity, national origin or religion of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

432.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established when ICS is considered. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

(a) Command assignments, chain of command structure, roles and responsibilities.

(b) Staffing and resource allocation.

(c) Management of criminal investigations.

(d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).

(e) Deployment of specialized resources.

(f) Event communications and interoperability in a multijurisdictional event.

(g) Liaison with demonstration leaders and external agencies.

(h) Liaison with City government and legal staff.

(i) Media relations.

(j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.

(k) Traffic management plans.

(l) First aid and emergency medical service provider availability.

(m) Prisoner transport and detention.

(n) Review of policies regarding public assemblies and use of force in crowd control.

(o) Parameters for declaring an unlawful assembly.

(p) Arrest protocol, including management of mass arrests.

(q) Protocol for recording information flow and decisions.

(r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.

(s) Protocol for handling complaints during the event.

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(t) Parameters for the use of body-worn cameras and other portable recording devices.

432.5.3 MUTUAL AID AND EXTERNAL RESOURCES
The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

432.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

432.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER® devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

432.8 ARRESTS

The Fargo Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

(a) Reasonable measures to address the safety of officers and arrestees.

(b) Dedicated arrest, booking and report writing teams.

(c) Timely access to medical care.

(d) Timely processing of arrestees.

(e) Full accountability for arrestees and evidence.

(f) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

432.9 MEDIA RELATIONS

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

432.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

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432.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan

(b) Any incident logs

(c) Any assignment logs

(d) Vehicle, fuel, equipment and supply records

(e) Incident, arrest, use of force, injury and property damage reports

(f) Photographs, audio/video recordings, Dispatch records/tapes

(g) Media accounts (print and broadcast media)

432.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event

(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)

(c) Problems identified

(d) Significant events

(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

432.12 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

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Civil Disputes

433.1 PURPOSE AND SCOPE

This policy provides members of the Fargo Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by North Dakota law.

433.2 POLICY

The Fargo Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

433.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

(a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.

(b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.

(c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.

(d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.

(e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts will take an unreasonable amount of time.

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433.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order, but is disputing the validity of the order or its applicability, the investigating officer should document the following:

(a) The person's knowledge of the court order or whether proof of service exists.

(b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor.

433.4.1 STANDBY REQUESTS

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location, unless the person making the standby request can show legal standing to the property.

433.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented, in either the case report or comments in the call for service as appropriate.

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433.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

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Medical Aid and Response

434.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

434.2 POLICY

It is the policy of the Fargo Police Department that all officers and other designated members be trained to provide a basic level of emergency medical aid and to facilitate an emergency medical response.

434.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR and use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should notify Dispatch and if necessary, request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex and age, if known.
4. Whether the person is conscious, breathing and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel regarding whether to transport the person for treatment.

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434.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes, or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

434.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision, and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a mental illness commitment in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person, who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members may sign refusal-for-treatment forms as witnesses, but shall consult with a supervisor prior to signing any forms accepting financial responsibility for treatment.

434.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

434.7 AIR AMBULANCE

When on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response. Given the

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proximity of EMS personnel to the two local trauma units, and the operational requirements of the air ambulance; it is unlikely an air ambulance would be utilized within the City of Fargo. However, in the chance an air ambulance is requested, officers will be responsible for scene security by restricting vehicular and pedestrian traffic near the landing zone.

434.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after he/she has received training in a nationally recognized course in CPR and AED use (N.D.C.C. § 32-03.1-02.3).

Absent clear and convincing documentation that a "Do Not Resuscitate Order" exists for a patient, officers will initiate AED intervention.

(a) Clear and convincing proof consists of a signed order presented to the officer that the officer knows is that of the patient, or the verbal verification of the existence of an order provided by an individual that the officer knows is a physician.

434.8.1 AED USER RESPONSIBILITY

Employees who, as part of their work shift, are assigned or operate department vehicles which are equipped with an AED shall check the AED at the beginning of the shift to ensure it is properly charged and functioning. This also includes checking for the expiration on the electrode patches. Any AED that is not functioning properly will be taken out of service and given to the Quartermaster, who is responsible for ensuring appropriate maintenance. If a member discovers a set of electrode patches are expired the member will turn the expired electrode patches into the Quartermaster and obtain new electrode patches.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The used electrodes and/or pads can be replaced by FM Ambulance if the electrode pads are compatible with our AED's. It will be the officer's responsibility to ask FM Ambulance personnel for the new electrodes and/or pads. Officers can also acquire new electrode pads from the Quartermaster.

Once the AED is attached to a patient and powered on, the AED records and save important information about the condition of the patient's heart and the results of any shocks delivered. Upon request of the emergency room physician or FM Ambulance personnel, regardless of whether a shock was delivered, the AED will be given to FM Ambulance personnel who will download the AED event summary data.

Any member using an AED shall notify Dispatch as soon as possible and request response by EMS.

For officers operating police vehicles with a trunk, when temperatures are cold enough to affect the operations of the AED, officers shall place the AED in the front to ensure the AED is warm enough to function when needed.

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434.8.2 AED REPORTING
Any member using an AED will enter comments into the narrative portion of the dispatch incident or complete a case report detailing its use, whichever is appropriate.

434.8.3 AED TRAINING AND MAINTENANCE
The Administrative Lieutenant shall ensure appropriate training is provided to members authorized to use an AED (N.D.C.C. § 32-03.1-02.3). Training on CPR and the AED will be completed in accordance with the department's training schedule.

If an officer determines there is an issue with an AED, the officer will bring the AED to the Quartermaster's office, and the Quartermaster will be responsible for ensuring AED devices are appropriately serviced. If available, the Quartermaster will retain records of all maintenance in accordance with the established records retention schedule.

434.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION
Members who are trained to deliver opioid overdose medications may administer those medication in accordance with protocol specified by the health care professional, who prescribed the medication for use by the member (N.D.C.C. § 23-01-42).

434.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES
Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store, and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shifts to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Narcotics lieutenant.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

434.9.2 OPIOID OVERDOSE MEDICATION REPORTING
Any member administering opioid overdose medication should detail its use in the narrative portion of the dispatch incident or an appropriate case report.

434.9.3 OPIOID OVERDOSE MEDICATION TRAINING
The Administrative Lieutenant should ensure re-occurring training is provided to members authorized to administer opioid overdose medication.

434.10 FIRST AID TRAINING
Subject to available resources, the Administrative Lieutenant should ensure officers receive periodic first aid training appropriate for their position.

434.11 SICK OR INJURED ARRESTEE
If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the

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officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

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Medical Marijuana

436.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production, or use of marijuana under North Dakota's medical marijuana laws.

436.1.1 DEFINITIONS

Definitions related to this policy include (N.D.C.C. § 19–24.1–01):

Allowable amount of usable marijuana – Possession of no more than three ounces of dried leaves or flowers, or the amount that can be purchased in concentrated form, or combination of both as set forth in N.D.C.C. § 19-24.1-01.

Registered designated caregiver - An individual who agrees to manage the well-being of a registered qualifying patient with respect to the qualifying patient's medical use of marijuana and who has been issued a valid registry identification card from the North Dakota Department of Health (DOH).

Registered qualifying patient - An individual who has been diagnosed by a health care provider as having a debilitating medical condition and issued a valid registry identification card from the North Dakota DOH.

436.2 POLICY

It is the policy of the Fargo Police Department to prioritize resources to avoid making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

North Dakota medical marijuana laws are intended to provide protection from prosecution to those who produce, process, sell, dispense, and use medical marijuana. However, North Dakota medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Fargo Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under North Dakota law and the resources of the Department.

436.3 INVESTIGATION

Investigations involving the possession, delivery, production, or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim

(b) Investigations involving a registered qualifying patient

(c) Investigations involving a registered designated caregiver

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436.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production, or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal claim may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

436.3.2 INVESTIGATIONS INVOLVING A REGISTERED QUALIFYING PATIENT

Officers shall not take enforcement action against a registered qualifying patient for acquiring, using, or possessing medical marijuana or related supplies who are in compliance with North Dakota's medical marijuana program. This will generally include a registered qualifying patient in possession of his/her registry identification card who possesses no more than an allowable amount of usable marijuana (N.D.C.C. § 19–24.1–32).

Enforcement action should not be taken because a registered qualifying patient is not in physical possession of his/her registry identification card if it can be established the person is a registered qualifying patient.

436.3.3 INVESTIGATIONS INVOLVING A REGISTERED DESIGNATED CAREGIVER

Officers shall not take enforcement action against a registered designated caregiver for assisting a registered qualifying patient to acquire, use, or possess medical marijuana or related supplies in compliance with North Dakota's medical marijuana program (N.D.C.C. § 19–24.1–32).

Enforcement action should not be taken because a registered designated caregiver is not in physical possession of his/her registry identification card if it can be established the person is a registered designated caregiver. A registered designated caregiver may receive compensation for associated costs (N.D.C.C. § 19–24.1–32).

436.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Registry identification cards specify when a patient is authorized to use the dried leaves or flowers of marijuana (N.D.C.C. § 19–24.1–11).

(b) Because enforcement of medical marijuana laws can be complex, time-consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at another time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Any other relevant factors, such as available department resources and time constraints.

(c) Manufacturing facilities, dispensaries, and registered compassion center agents are also protected from prosecution for possession and transfer or marijuana or related products when conducted in accordance with North Dakota's medical marijuana program (N.D.C.C. § 19–24.1–32).

(d) Before proceeding with enforcement related to a manufacturing facility, dispensary, or a registered compassion center agent, officers should consider conferring with appropriate legal counsel and the North Dakota DOH.

(e) Registry cards can be verified through the North Dakota DOH's secure verification system (N.D.C.C. § 19–24.1–31).

436.3.5 EXCEPTIONS

Officers may take enforcement action if the person (N.D.C.C. § 19–24.1–33):

(a) Possesses or consumes an allowable amount of usable marijuana:

1. On a school bus or school van that is used for school purposes.
2. On the grounds of any public or private school.
3. At any location while a public or private school sanctioned event is occurring at that location.
4. On the grounds of a correctional facility.
5. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the North Dakota Department of Human Services (DHS).

(b) Undertakes specified offenses related to smoking in public.

(c) Allows the smoke or vapor to be inhaled by a minor who is not the registered qualifying patient.

(d) Operates, navigates, or is in actual physical control of a motor vehicle, aircraft, train, or motorboat while under the influence of marijuana.

436.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

436.5 PROPERTY SUPERVISOR RESPONSIBILITIES

The Evidence Property Manager (EPM) should ensure that marijuana, drug paraphernalia, or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed. The EPM is not responsible for caring for live marijuana plants.

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Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the EPM should, as soon as practicable, return to the person from whom it was seized any useable marijuana, plants, drug paraphernalia, or other related property.

The EPM should not destroy marijuana that was alleged to be for medical purposes except upon receipt of a court order.

The EPM may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigation Division supervisor.

436.6 REPORTING

436.6.1 REPORTABLE INCIDENTS

Officers who reasonably believe one of the following has occurred are required to report the incident to the North Dakota DOH within five days on the form provided by the DOH (N.D.A.C. § 33-44-01-34):

(a) Individuals who are found to be in possession of usable marijuana dispensed pursuant to the state medical marijuana program and who are not registered cardholders.

(b) Registered qualifying patients or designated caregivers who are found in possession of more than the allowable amount of usable marijuana.

436.6.2 ADVERSE REACTIONS

Officers who reasonably believe that an incident involving an overdose or adverse reaction may be related to the use of usable marijuana are required to report the incident to the North Dakota DOH as set forth in N.D.A.C. § 33-44-01-35.

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Chapter 5 - Traffic Operations

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Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The goal of traffic law enforcement is to reduce traffic accidents and improve the safety and quality of life for the community through traffic law compliance. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, traffic conditions and other data. This department provides enforcement efforts, not only in proportion to the frequency of their occurrence in accident situations but also in terms of traffic-related needs.

500.2 TRAFFIC ENFORCEMENT DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Fargo Police Department. Information provided by the department's Crime Analyst, analytics program, or the North Dakota Department of Transportation (NDDOT) are valuable resource for traffic accidents, and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of traffic laws and address accident-causing violations during those periods and at those locations where the incidence of accidents is increased. As a matter of routine, all officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators. Officers, supervisors, and command officers should consider using high and low visibility enforcement tactics when addressing traffic and crash issues.

Other factors to be considered for deployment are citizen requests, construction zones, school zones, or special events.

500.3 ENFORCEMENT

Enforcement actions should correspond with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance. The visibility and quality of an officer’s work effort will correspond with the philosophy of this policy. Several methods are effective in the reduction of accidents.

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500.4 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to reduce the danger to employees who may be exposed to hazards presented by passing traffic, construction vehicles and disaster recovery equipment (23 CFR 655.601).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the employee.

500.4.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as an officer.

500.4.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the cargo area of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each bicycle. Each vest should be stored inside the re-sealable plastic bag that is provided to protect and maintain the vest in a serviceable condition. Before going into service, each employee shall ensure a serviceable high-visibility vest is properly stored in the vehicle.

Additional high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The department's quartermaster should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

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Traffic Accident Response And Reporting

501.1 PURPOSE AND SCOPE

The public safety responsibilities of law enforcement include responding to traffic accidents, providing aid and assistance, documentation of the incident and identification of criminal activity. The Fargo Police Department prepares traffic accident reports in compliance with the North Dakota Motor Vehicles Code (N.D.C.C. Title 39) and as a public service makes traffic accident information available to the public.

501.2 DEFINITIONS

Reportable Motor Vehicle Crash - Any motor vehicle crash resulting in the death or injury of any person, or property to the extent by which the person(s) involved in the crash are required by law to notify a law enforcement agency.

Non-reportable Motor Vehicle Crash - Any motor vehicle crash not defined as a reportable motor vehicle crash.

Hit-and-Run Motor Vehicle Crash - A motor vehicle crash where any one of the persons directly involved in the crash leaves the scene of the crash prior to fulfilling all of the requirements established by law relative to the person's involvement in the crash.

Preventable Motor Vehicle Crash - A motor vehicle crash where the operator of any motor vehicle directly in the crash failed to do everything *reasonably* possible to avoid the crash.

501.3 CALL RESPONSE

Officers should respond without delay when dispatched to a traffic accident. A traffic accident with reported injuries may include an emergency response if the officer reasonably believes such a response is appropriate.

501.3.1 RESPONSE CONSIDERATIONS

An officer responding to and upon arrival at an accident should consider the following:

(a) The most appropriate route to the incident

(b) Proper placement of the emergency vehicle to provide protection for officers and the scene

(c) Potential for involvement of hazardous materials

(d) Additional support that may be necessary (e.g., traffic control, medical aid, HAZMAT, ambulance, tow vehicles and airship landing)

(e) Providing first aid to any injured parties if it can be done safely, and obtaining medical assistance as necessary

(f) Traffic control and protection of the scene

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(g) Clearance of the roadway

501.4 ACCIDENT INVESTIGATION

An officer assigned to investigate a traffic accident shall make every reasonable effort to determine the following:

(a) Identification and interview of all involved parties

(b) Identify and interview of any witnesses

(c) Determine if a crime has occurred and taking appropriate enforcement action

(d) Identify and protection of items of apparent evidentiary value

(e) Document the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on appropriate report forms.

(f) Determine if any property, evidence, or other items should be collected to aid in the crash investigation

1. Any property, evidence or other items shall be processed and recorded in accordance with the department's Property and Evidence policy.

2. To avoid the unnecessary collection and/or storage of items relative to a motor vehicle crash, officers are not required to collect, process, or record any item associated with a motor vehicle crash if the crash resulted in property damage only. However, officers are not prohibited from doing so if the crash investigation warrants the collection of any such item.

501.5 TAKING ENFORCEMENT ACTION

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of local ordinances, or state traffic statutes contributed to the accident, officers should issue a traffic citation or a misdemeanor citation to the offending driver.

Incidents involving more serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced immediately. If a driver subject to enforcement is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

501.6 TRAFFIC ACCIDENT REPORTING

501.6.1 OFFICER RESPONSIBILITIES

Department members shall utilize North Dakota Department of Transportation (NDDOT) forms for the reporting of traffic accidents that meet the following criteria (N.D.C.C. § 39-08-10; N.D.C.C. § 39-08-13):

(a) Injury or death of any person

(b) Apparent property damage of $4,000 or more

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The investigating officer shall complete the motor vehicle crash report in its entirety, to include a narrative description of the crash, and a diagram detailing the crash.

Accidents involving an undomesticated animal and resulting in property damage only to the driver's vehicle are exempt from the notice requirements of N.D.C.C. § 39-08-09.

Officers shall notify a supervisor as soon as practicable of any traffic accident involving serious injury or death to any person.

Upon completion of an investigation, officers shall attach a sticker to the window of any damaged vehicle showing that the accident in which the vehicle was involved has been investigated (N.D.C.C. § 39-07-12).

Officers shall ensure the operators of the vehicles involved, or any other person directly involved in the crash, fulfill all of the requirements established by law relative to their involvement in the crash.This shall include, but is not limited to, exchanging their name, address, and other information to others involved in the crash.

Officers shall to provide their name, police ID number, and the crash report number to the operators of the motor vehicles involved in the crash, and to any other person(s) directly involved in the crash.

Officers assigned to investigate a crash may forego the completion of a non-reportable motor vehicle crash if **ALL** persons directly involved in the crash agree an investigation and report are not necessary, and further agree to exchange information as required by law with the other persons involved in the crash.At no time shall officers dissuade any person involved in a non-reportable motor vehicle crash or non-reportable hit-and-run motor vehicle crash from having the crash investigated and recorded.

A person involved in a reportable, non-reportable, or hit-and-run motor vehicle crash requests to have the crash recorded at a time other than immediately after the crash, the officer assigned to investigate the crash shall complete the appropriate motor vehicle crash report, even if the operators and/or other occupants of all vehicles involved in the crash are not present at the time the officer initiates the investigation.

All traffic accident reports taken by members of this department shall be forwarded to their shift supervisors for approval.

501.6.2 SUPERVISOR RESPONSIBILITIES

All shift supervisors will be responsible for reviewing crash reports for content, clarity, and completeness. If the crash report conforms to department standards, the supervisor will approve the report and will reject all reports which do not meet department standards.

A supervisor shall respond to the scene of any traffic accident involving serious injury or death of a person and, without delay following positive identification of any person seriously injured or deceased, notify the person’s immediate family, as defined by law, or make arrangements for notification by clergy or another suitable person (N.D.C.C. § 39-08-10.1).

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This department shall not release the identity of any person seriously injured or deceased in a traffic accident until one of the following occurs:

(a) A member of the immediate family has been notified and given an opportunity to notify other immediate family members; or

(b) Twenty-four hours have elapsed from the time positive identification was made.

501.6.3 MODIFICATIONS TO TRAFFIC ACCIDENT REPORTS
A change or modification of a written report that alters a material fact in the report may be made only by the person who prepared the report prior to its approval and distribution. A written supplemental report may be made by any authorized employee.

501.7 REPORTING SITUATIONS

501.7.1 TRAFFIC ACCIDENTS INVOLVING CITY VEHICLES
Any reportable, non-reportable, or hit-and run motor vehicle crash involving a vehicle owned or otherwise authorized for use by the City of Fargo shall be investigated and recorded as described within this policy.

An officer assigned to investigate any motor vehicle crash involving a City of Fargo vehicle, shall provide the operator of the vehicle with the City of Fargo Motor Vehicle Crash report. The investigating officer will advise the operator of the City of Fargo motor vehicle to complete the City of Fargo Motor Vehicle Crash form and forward it to the operator's immediate supervisor.

Photographs of the accident scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

Motor vehicle crash reports involving a city of Fargo vehicle will be forwarded to the NDDOT only if the crash is considered reportable by law.

All motor vehicles authorized for use by the Fargo Police Department personnel are considered City of Fargo vehicles. The procedure for investigating and recording motor vehicle crashes involving city of Fargo vehicles as described within this policy shall be followed anytime a department motor vehicle is involved in a motor vehicle crash.

If a motor vehicle authorized for police use is involved in a motor vehicle crash, an on-duty Field Services Division sergeant will investigate and record the crash. In the absence of an on-duty Field Services sergeant, a Field Services lieutenant or the Field Services Division commander may designate a sworn officer to investigate and record the crash.

If a motor vehicle authorized for use by department personnel is involved in a motor vehicle crash outside of the city of Fargo, the operator of the vehicle will ensure a motor vehicle crash report is completed by the appropriate law enforcement agency. The operator of the vehicle will notify their immediate supervisor of the crash and complete the City of Fargo Motor Vehicle Crash Report form as soon as possible.

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501.7.2 INJURY OR FATALITY TRAFFIC ACCIDENTS WITH POLICE DEPARTMENT EMPLOYEES

When an employee of this department, either on- or off-duty, is involved in a traffic accident within the jurisdiction of the Fargo Police Department and it results in a serious injury or fatality, the traffic sergeant, the on-duty supervisor, or Shift Commander should request the North Dakota Highway Patrol (NDHP) or other outside agency as deemed appropriate by the Chief of Police to complete an investigation and report.

The term serious injury is defined as any injury that may result in a fatality.

501.7.3 TRAFFIC ACCIDENTS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Sergeant, on-duty supervisor, or Shift Commander may request assistance from the NDHP or other outside agency for the investigation of any traffic accident involving any City official or employee where a serious injury or fatality has occurred.

501.7.4 TRAFFIC ACCIDENTS INVOLVING INJURED ANIMALS

Department members should refer to the Animal Control Policy when a traffic accident involves disposition of an injured animal.

501.8 NOTIFICATION OF TRAFFIC SERGEANT

In the event of a serious injury or death-related traffic accident, the on-duty Field Services supervisor should evaluate the circumstances of the traffic accident and seek assistance from an advanced crash investigator or crash reconstructionist. In the absence of a Traffic Sergeant, the Shift Commander or any supervisor may assign an advanced crash investigator or crash reconstructionist to investigate the traffic accident.

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Vehicle Towing and Release

502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing and impounding a vehicle by or at the direction of the Fargo Police Department.

502.2 DEFINITIONS

Impounded vehicle with evidence hold - Vehicle taken into police custody for evidentiary purposes or for pending civil forfeiture proceedings.

Impound vehicle - Vehicle taken into police custody for violations of city ordinance and state law to include: recovered stolen vehicles, unauthorized-use vehicle of which no evidence processing is necessary, vehicles which constitute an obstruction to the roadway, hazard, detriment to public safety, snow removal operations, public safety, public health or morals, or vehicles which may be damaged, disabled or otherwise involved in an accident, or unclaimed within the city are declared to be nuisance.

502.3 IMPOUNDS AND STORAGE

When circumstances permit the handling employee should, prior to having a vehicle towed; make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 48 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately (N.D.C.C. § 39-10-47; N.D.C.C. § 39-10-48). Employees do not have to make an effort to notify a registered owner of a vehicle of the intent to impound, if excessive parking ticket fees exists.

If any personal property or cargo has been spilled from a vehicle is presenting a hazard, the property or cargo may also be removed immediately (N.D.C.C. § 39-10-47).

The responsibilities of those employees storing or impounding a vehicle are as follows.

502.3.1 VEHICLE IMPOUND REPORT

Department members requesting towing, seizure, or impound of a vehicle shall complete a Vehicle Impound Report in Aegis Mobile and must be approved by a department supervisor before the Records Unit can merge the form into the RMS. The contract tow company will have access to the Vehicle Impound Report through authorized access to the RMS.

502.3.2 REMOVAL FROM A TRAFFIC ACCIDENT SCENE

When a vehicle has been involved in a traffic accident and must be removed from the scene, the officer will ask the driver if they prefer a private tow or city contract tow, and shall relay the request for the specified towing company to Dispatch. When there is no preferred company requested, the city contracted tow company will be selected. In most cases, crash vehicles will be towed to the contract tow company accident lot for storage and no further documentation is required.

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If the owner is incapacitated or unavailable for any reason and it is necessary for the Department to assume responsibility for a vehicle involved in an accident, the officer shall impound the vehicle. The officer will then conduct an impound inventory using the Vehicle Impound Report in Aegis Mobile.

Some crash vehicles have evidentiary value for a traffic crash reconstruction. In these instances, the crash vehicles will be impounded, an impound inventory completed using a Vehicle Impound Report, and categorized as an impounded vehicle with an evidence hold and logged into the evidence processing software.

502.3.3 STORAGE AT AN ARREST SCENE

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. The vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed (e.g., traffic hazard, high crime area).

If a vehicle is impounded due to the arrest of the driver, the officer shall complete an impound inventory by completing the Vehicle Impound Report in Aegis Mobile.

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

- A traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the registered owner of the vehicle is present, and is willing and able to take control, or relinquish control to a valid licensed passenger of any vehicle that was not involved in criminal activity.
- Whenever the vehicle does not need to be towed and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

502.3.4 IMPOUND VEHICLE WITH EVIDENCE HOLD PROCEDURES

Any vehicle taken into custody for evidentiary purposes or for pending civil forfeiture proceedings will adhere to the following:

(a) Prior to the vehicle being towed, the employee will run a check through NCIC and CJIS to determine if the vehicle has been reported stolen.

(b) The vehicle will be transported to the City of Fargo impound lot by the contracted tow company.

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(c) The vehicle will be stored in the impound lot, unless it is necessary to preserve evidence on the exterior of the vehicle, in which case it may be stored inside the impound lot garage.

1. Vehicles which are leaking fluids cannot be stored inside the impound lot garage.

(d) The investigating officer will complete the impound section of Aegis Mobile, which includes an impound inventory. In the reason for impound section the officer will select "evidence."

(e) The investigating officer will enter the vehicle and the vehicle keys as separate items in Tracker (only the vehicle keys should be seized; all irrelevant keys should be removed and left with owner if possible).

(f) The keys will be logged into evidence at the police department during the work period in which they are seized.

(g) If access to the interior of the vehicle is legal and available, the evidence bar code label for the vehicle will be placed on a wire tag, attached to the steering wheel, and the "Evidence" or "Seized" placard will be placed on the dash.

(h) If access to the interior of the vehicle is not allowable, the evidence bar code label will be affixed to the lower exterior of the driver's side windshield, and the "Evidence" or "Seized" placard will be placed under the windshield wiper.

(i) The investigating officer will lock the vehicle.

(j) The investigating officer will send an email to the property unit staff notifying them of the vehicle seizure and reason for seizing (evidence or pending civil forfeiture).

(k) The investigating officer will ensure the evidence processing is done in a timely manner.

(l) When impounding two or more vehicles for investigative purposes officers need to refer to the Property and Evidence Processing Manual for instructions on entering the second and subsequent vehicles.

1. The software does not normally allow more than one vehicle to be entered and the manual will instruct the officers on how to enter the vehicles.

502.3.5 IMPOUND VEHICLE PROCEDURES

Any vehicle taken into police custody for violations of city ordinance, state law, recovered stolen vehicle, or an unauthorized-use vehicle of which no evidence processing will adhere to the following:

(a) Prior to the vehicle being towed, the employee will run a check through NCIC and CJIS to determine if the vehicle has been reported stolen.

(b) The vehicle will be towed to the City of Fargo impound lot by the contracted tow company.

(c) The vehicle will be stored in the impound lot.

(d) The investigating officer or non-sworn employee will complete the impound section of Aegis Mobile.

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(e) The investigating officer or non-sworn employee will lock the vehicle.

(f) No holds will be recorded in the impound record.

502.3.6 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, or to comply with parking regulations. Generally, officers should gain permission from the person in charge of the vehicle prior to moving it.

502.3.7 IMPOUND FOR OTHER AGENCY

In the event another agency requests a member of this department to impound a vehicle as a result of their criminal investigation the following shall apply:

(a) The impound officer will verify the vehicle to be impounded and the reason for impound with the respective case agent.

(b) Impound officer will coordinate with the requesting agency to determine the appropriate towing company and location where the impounded vehicle is to be transported.

(c) Determine any special considerations and complete an Assist Other Agency report.

1. The impound officer will document in the Assist Other Agency report the condition of the vehicle at the time of impound and any contents of the vehicle which are visible.

2. An internal search of the vehicle may compromise any subsequent evidence collection conducted by the case agency.

502.3.8 RECORDS DIVISION RESPONSIBILITY

Vehicle Impound Reports shall be promptly processed so that they are immediately available for release or review should inquiries be made.

Upon the request of the contracted impound agent, the Records Division shall:

(a) Determine the names and addresses of any individuals having an interest in the vehicle through North Dakota Department of Transportation (NDDOT) or CJIS databases. Within 10 days of the impoundment by department personnel, the contracted impound agent shall notify any individual identified as having an interest in the vehicle of the impoundment unless all of the following apply (N.D.C.C. § 39-26-05):

1. The vehicle is more than seven model years of age.

2. The vehicle lacks vital component parts.

3. The vehicle does not display a current valid license plate for North Dakota or any other state or foreign country.

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(b) Send notice by mail to each individual identified as having an interest in the vehicle. If the identity and address of the registered owner and all lienholders cannot be determined with reasonable certainty, the notice shall be published once in a newspaper of general circulation in the City. The notice shall include (N.D.C.C. § 39-26-06):

1. The date and place where the vehicle was taken into custody.
2. The year, make, model, and serial number of the abandoned motor vehicle.
3. The place where the vehicle is being held.
4. Information for the owner, any lienholders or secured parties that they have a right to reclaim the vehicle.
5. A statement that failure of the owner, lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver of all right, title and interest in the vehicle and a consent to sell the vehicle at a public auction.

(c) Not place holds on any vehicle which has not been marked as evidence.

502.4 TOWING SERVICES

The City of Fargo periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms will be used when:

(a) It is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) A vehicle is being held as evidence in connection with an investigation.

(c) It is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list.

502.5 VEHICLE INVENTORY

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

If the apparent potential for damage to a locked container reasonably appears to outweigh the protection of the items inside, other options to consider regarding locked containers include, but are not limited to, obtaining access to the locked container from the owner, placing the locked

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container into safekeeping or obtaining a written waiver of responsibility for the contents of the locked container.

502.6 PRESERVATION OF EVIDENCE

An officer removing a vehicle who has probable cause to believe the vehicle or its contents constitute any evidence which tends to show a criminal offense has been committed, or tends to show a particular person has committed a criminal offense, should ensure all legally required and reasonably necessary efforts to preserve the evidence are taken until the evidence is released to the owner or otherwise disposed of according to law.

502.7 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, an officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search should take alternative methods of securing and/or preserving the vehicle or property. North Dakota Century Code does not grant specific authority to seize property from another for the purpose of safekeeping, and doing so could create an unnecessary liability for the department and officer. Property may be taken and logged in as safekeeping when:

(a) All other options for alternative storage have been exhausted AND

(b) The owner has given permission for the property to be placed in police custody AND

(c) A report has been completed documenting the reason for police custody and consent from the owner AND

(d) A safekeeping receipt has been issued to the owner.

When in doubt contact a supervisor for guidance.

502.8 RELEASE OF IMPOUNDED VEHICLES

Impounded Vehicle with Evidence Hold will be released in the following manner:

(a) The vehicle is held at the impound lot until any applicable fees are paid, and the investigating officer, or supervisor authorizes its release.

(b) The investigating officer or supervisor, who authorizes the release, will be responsible for notifying the property room staff via email that the vehicle can be released and the identity of the person it can be released to. The officer or supervisor will update the disposition in the departments CAD/RMS to "LE holds removed".

(c) The property room staff will notify the impound agent that the vehicle can be released unless arrangements are made for the investigating officer, detective, or property room staff to do the release.

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(d) The releasing party (impound agent, investigating officer, or property room staff) will verify that the person taking possession of the vehicle is the person identified by the investigating officer or supervisor.

(e) If the vehicle is to be driven from the lot, the releasing party will also verify current insurance, registration, and licensed driver.

Impound Vehicle will be released in the following manner:

(a) The contracted towing agent will be responsible for attempting to notify the last known registered owner of the impounded vehicle.

(b) The vehicle is held at the impound lot until all applicable fees and fines are paid.

(c) The impound agent will verify ownership of the vehicle.

(d) If the vehicle is to be driven from the lot, the releasing party will also verify current insurance, registration, and licensed driver.

502.8.1 WAIVER OF FEES

Waiving of impound fee is possible and appropriate in some circumstances. Storage fees will be waived for any period of time in which a vehicle is not authorized for release. If impound fees are contested by the vehicle owner, the owner should be referred to the Office of Professional Standards (OPS), who shall be the liaison between the department and the contracted tow company for storage fee issues. Each circumstance of contested impound fees will be evaluated by OPS, and a determination as to whether or not fees will be waived will be decided on a case-by-case basis.

(a) Fees acquired on vehicle which was impounded while on city property can be waived if determined appropriate by OPS.

(b) Fees acquired on a vehicle which was impounded while on private property cannot be waived by OPS since those fees must be paid to the contracted tow company.

(c) Towing fees cannot be waived by OPS since those fees must be paid to the contracted tow company.

(d) Vehicle seized as evidence, which in some way have accumulated impound fees, can be waived by OPS if deemed appropriate.

(e) Towing fees, along with storage fees from private property impounds, could be paid by the City of Fargo to the contracted tow company under certain circumstances. This would require the City of Fargo to be billed by the contracted tow company for their fees. This type of circumstance would be rare and would have to authorized by the Administrative Services Division commander.

(f) All transactions and determinations pertaining to impound and towing fees will be initially handled by OPS. OPS will be responsible for communicating with the contracted tow company and the property room staff regarding these issues.

502.8.2 LIEN CHECKS

The Fargo Police Department will conduct lien checks on impounded vehicles. The checks will by completed by a Police Support Specialist when notice is received from the contract tow

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company, but within 10 days as specified under state law. The Police Support Specialist will submit a lien holder request, once a month, for all vehicles still stored in the impound lot with North Dakota and Minnesota plates.

The Police Support specialist will forward the lien holder information received from the North Dakota or Minnesota to the impound agent, who will notify the lien holder of the vehicle in impound.

Whenever police department personnel conduct a lien check on a vehicle for the purpose of seizing or auctioning a vehicle they will be required to file that paperwork in the Records office. The lien holder information is kept on file in Records for six (6) years. After six (6) years, the paperwork will be purged.

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Traffic Citations

505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the collection of data, the procedure for dismissal, correction and voiding of traffic citations.

505.2 RESPONSIBILITIES

Employees of this department shall use the North Dakota Uniform Traffic Complaint and Summons form for all traffic and parking offense citations (N.D.C.C. § 29-05-31). Employees shall provide any person issued a citation with an appropriate envelope for use in mailing the bond (N.D.C.C. § 39-07-07).

505.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued. Any request from a recipient to dismiss a citation shall be referred to the on-duty Field Services shift supervisor. Upon a review of the circumstances involving the issuance of the traffic citation, the on-duty shift supervisor may request the dismissal of the traffic citation. The citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for dismissal has been denied shall be referred to the appropriate court.

505.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed but not issued.

505.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall notify an on-duty Field Services supervisor. The supervisor will notify the Records Unit, Fargo Municipal Court, and the City Prosecutor's office regarding the citation.

505.6 DISPOSITION OF TRAFFIC CITATIONS

All handwritten copies of all traffic citations issued by members of this department shall be forwarded to the Records Unit for processing prior to the end of the shift during which the citation was issued. The citation copies shall then be filed with the Records Division.

505.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to state and local laws.

505.7.1 APPEAL STAGES

Appeals may be pursued sequentially at two different levels:

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(a) Administrative reviews are conducted by the department's designated employees, which will review written or documentary data. Requests for administrative reviews are available at the front desk or online located on the Fargo Police website. These requests are informal written statements outlining why the parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be submitted to the correct processing agency.

(b) The appellant may petition the Municipal court for a hearing by filing with the clerk of the Municipal court and posting fees as required.

505.7.2 TIME REQUIREMENTS

Administrative review or appearance before a magistrate will not be available if the violator does not adhere to the mandated time limits.

(a) Requests for an administrative appeal must be received by the department within 5 days of issuance of a notice of parking violation. The violator can fill out the City of Fargo Parking Ticket Administrative Appeal form online or in person at the police department.

(b) The administrative review, conducted by the designated department representatives, must be completed within 5 days of receiving an appeal notice.

(c) If a parking ticket appeal is denied, a violator may request an appeal hearing before a magistrate. The appeal must be made in person, to the Fargo Municipal Court and within 5 days of the department's denial.

505.7.3 COSTS

(a) There is no cost for an administrative review.

(b) An appeal through Municipal Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant, in addition to any previously paid fines, if the appellant’s liability is overruled by the Municipal Court.

505.8 JUVENILE CITATIONS

Juvenile citations are similar to adult citations except that certain juvenile offenses, including those involving a criminal offense, would be processed through the juvenile referral procedure. Criminal driving offenses include all Infractions and Misdemeanors.

Juvenile Court does not have jurisdiction over a juvenile for a non-criminal driving offense, regardless whether or not the offender has ever been licensed. Juvenile offenders must be processed through Fargo Municipal Court for any non-criminal driving offense by issuing a citation.

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Disabled Vehicles

506.1 PURPOSE AND SCOPE

The Fargo Police Department has adopted this policy regarding providing assistance to motorists in disabled vehicles within this organization's jurisdiction.

506.2 OFFICER RESPONSIBILITIES

When an on-duty officer observes a disabled vehicle, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer or other department member to respond as soon as practicable.

506.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After assistance is rendered or arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of department resources, and the vulnerability of the disabled motorist. Squad cars should not be used to jump start other vehicles given the electronics and communication systems mounted on or in the squad car.

506.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. This to avoid the potential liability to the department for any claims of wrong doing against the officer, who may have attempted to fix the problem. Mechanical repairs are best left for trained automotive technicians or automotive mechanics.

Assisting a disabled motorist change a flat tire is not considered a mechanical repair.

506.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle (either under human power or by mechanical means) should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

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Abandoned Motor Vehicles

507.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording, and storage of vehicles abandoned in violation of abandoned vehicle laws (N.D.C.C. § 23.1-15-01 et seq.).

507.1.1 DEFINITIONS

Definitions related to this policy include:

Abandoned motor vehicle - A motor vehicle is abandoned if (N.D.C.C. § 23.1-15-01):

(a) It is on public property for more than 48 hours:

1. Illegally, or
2. It lacks vital component parts.

(b) It is on private property:

1. Without consent of the person in control of the property, or
2. It has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(c) It has been voluntarily surrendered by its owner for disposal.

Vital component parts - The parts of a motor vehicle that are essential to its mechanical functioning, including but not limited to the motor, drive train, and wheels.

507.2 MARKING VEHICLES

Vehicles on public roadways suspected of being abandoned in violation of North Dakota laws shall be documented via the computer aided dispatch (CAD) system. No case number is required at this time.

A visible chalk, crayon or paint mark should be placed on the rear window or left rear tire tread at the fender level unless the vehicle is missing tires or other vehicle conditions or the weather prevents marking. Any deviation in markings shall be documented via the CAD system.

If a marked vehicle has been moved or the markings have been removed during a 48-hour investigation period, the vehicle shall be marked again for the 48-hour abandonment violation and a CAD update completed.

507.2.1 MARKED VEHICLE FOLLOW-UP

Community Service officers shall be responsible for the follow-up investigation of all abandoned violations noted on the marked vehicle cards or CAD system.

507.3 VEHICLE STORAGE

Any abandoned vehicle qualifying for a tow should be removed by the authorized towing service and a Vehicle Impound Report, located in Aegis Mobile, and a thorough impound inventory shall be completed by the officer authorizing the storage of the vehicle.

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507.3.1 VEHICLE STORAGE REPORTING

The Vehicle Impound Report shall be submitted in the CAD/RMS to the Records Division immediately following the storage of the vehicle. It shall be the responsibility of the Records Division personnel to process the information from the Vehicle Impound Report to ensure the contract towing agent has access to the impound information. The contracted tow agent is responsible for attempting to notify the last known registered owner as specified in the Vehicle Towing and Release Policy.

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to establish requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

It is the policy of the Fargo Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 INITIAL INVESTIGATION

600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by conducting, at a minimum:

1. An initial statement from any witnesses or complainants.
2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:

1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Commander.
4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
5. Collect any evidence.
6. Take any appropriate law enforcement action.
7. Complete and submit the appropriate reports and documentation.

(c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, but if the civilian employee encounters any resistance, or if any conditions indicate the presence of danger, the assistance of an officer shall be requested.

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600.3.3 PATROL SUPERVISOR/SHIFT COMMANDER RESPONSIBILITIES

The following applies in all major cases/incidents:

(a) It will be the responsibility of the on-duty patrol supervisor or shift commander to take all steps necessary to ensure that a sufficient and complete preliminary investigation has been completed.

(b) To report to the scene and assume command of all major incidents.

(c) Ensure that investigative duties are conducted in a thorough manner.

(d) To relinquish "functional control" of the crime scene investigation to an investigator called to the scene.

(e) The on-duty supervisor or shift commander will still have incident command until properly relieved by another Field Services supervisor or CID supervisor.

(f) Remain on scene until he/she is assured that all necessary preliminary responsibilities have been coordinated and assigned.

(g) Be responsible for the timely notification of the PIO of the main facts and releasable information surrounding the incident.

(h) Ensure that a thorough, complete, and professional case report is prepared by patrol personnel involved in the incident. This will include coordinating the preparation of the initial case report to ensure that all the necessary information is documented.

(i) Review and approve the case report as soon as practical to ensure the report is accurate and complete.

600.3.4 INVESTIGATIONS RESPONSIBILITIES

The following incidents require the immediate notification of the Investigations Unit commander or Narcotics Unit commander. An investigator will be assigned to respond to the scene and will assume responsibility for the completion of the preliminary investigation and any follow-up investigation.

(a) All homicides

(b) Suspicious deaths

(c) Apparent drug overdose deaths

(d) Aggravated assaults or sexual assaults where there is a likelihood the victim may die.

(e) Any critical injury caused by or received by law enforcement officers, on or off duty.

The following incidents may require immediate response by an investigator:

(a) Armed robberies of bank or loan institutions

(b) Burglaries where there is an excessive loss

(c) Kidnapping/extortion

(d) Missing persons with suspected foul play

(e) Hostage situations

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(f) Bombings or bomb discovery

(g) Other situations upon the approval of the shift commander or supervisor

(h) Suspicious fires

(i) Major drug incidents (Narcotics)

(j) Major gang activity/incidents (Street Crimes)

(k) Fatal crashes

600.4 INVESTIGATIVE FOLLOW-UP

One of the Investigations Unit supervisors will have the responsibility of assigning criminal investigations follow-ups to either investigators or to patrol officers based on the type of investigation.

Officers assigned follow-up investigations on cases are responsible for the timely follow-up of their assigned reports. The investigation should proceed from the point where the preliminary investigation has been completed and may include, but is not limited to:

(a) Re-interviews of victims and witnesses and/or additional interrogation of suspect(s) as required.

(b) Collection of additional information/evidence and arrangement for evidence analysis and evaluation.

(c) Recovery and preservation of stolen property.

(d) Arrangement for polygraph examination if needed.

(e) Review similar cases to determine if other crimes have been committed by the suspect

(f) To identify and apprehend the suspect(s)

(g) Proper case documentation and presentation to prosecutors.

600.5 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.5.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

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No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigation Division supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.6 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

(a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.

(b) The case has been submitted to the appropriate prosecutor but no charges have been filed and further investigation is not reasonable and/or has not been requested by the prosecutor.

(c) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.

(d) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.

(e) Investigation has proved that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse, Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

600.7 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation, and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information, and report the discovery

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to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department established record keeping systems (see the Records Maintenance and Release and Criminal Street Gangs policies).

600.8.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. The case report shall document such access was used in the investigation and list the name of the supervisor who approves the use.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related case report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

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Asset Forfeiture

601.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with specified designated offenses.

601.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Fargo Police Department seizes property for forfeiture or when the Fargo Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

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

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the forfeiture counsel.

Property subject to forfeiture - Includes the following:

(a) Property subject to general criminal forfeiture includes (N.D.C.C. § 29-31.1-01):

1. Property that is illegally possessed or is contraband.
2. Property, other than a residence or real estate, that has been used or is intended to be used to commit a criminal offense or flee, where the co-owner has not been convicted of the criminal offense.
3. Proceeds of a criminal offense.
4. Property offered or given to another as an inducement for the commission of a criminal offense.
5. A vehicle or other means of transportation used in the commission of a felony, the escape from the scene of a felony, or in the transportation of property that is the subject matter of a felony.
6. Personal property used in the theft of livestock or the transportation of stolen livestock.

(b) Property subject to forfeiture under the Uniform Controlled Substances Act includes (N.D.C.C. § 19-03.1-36):

1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of the Uniform Controlled Substances Act, imitation controlled substances and the containers for the preceding items.

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2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance and the containers for the preceding items.
3. All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale or receipt of controlled substances.
4. Drug paraphernalia.
5. All money or anything else of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of the Uniform Controlled Substances Act, and all real and personal property, assets, profits, etc., acquired or derived from the unlawful purchase, attempted purchase, delivery, attempted delivery, manufacturing or attempted manufacturing of any controlled substance or imitation controlled substance.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

601.2 POLICY

The Fargo Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or any person's due process rights.

It is the policy of the Fargo Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeitures.

601.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy and in accordance with applicable state and federal law.

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method.

601.3.1 PROPERTY SUBJECT TO SEIZURE

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer (N.D.C.C. § 29-31.1-03; N.D.C.C. § 19-03.1-36):

(a) Property subject to forfeiture authorized for seizure by a court order.

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(b) Property that officers have probable cause to believe qualifies as property subject to forfeiture and the property is seized under circumstances in which a warrantless seizure would be reasonable (i.e., property would be lost without immediate seizure).

601.3.2 PROPERTY NOT SUBJECT TO SEIZURE
The following property should not be seized for forfeiture:

(a) Property of someone who had no part in the commission of the offense and who had no knowledge of the criminal use or intended use of the property (N.D.C.C. § 29-31.1-07; N.D.C.C. § 19-03.1-36).

(b) Cash and property that does not meet forfeiture thresholds.

601.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

(a) Complete the applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.

(b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

(c) Forward the original seizure forms and related reports to the forfeiture reviewer promptly after the seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, “Seized Subject to Forfeiture.” Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

601.5 MAINTAINING SEIZED PROPERTY

The Property Evidence Manager is responsible for ensuring compliance with the following):

(a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.

(b) All property received for forfeiture is checked to determine if the property has been stolen.

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(c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.

(d) Property received for forfeiture is not used unless the forfeiture action has been completed.

(e) Forfeitable property is retained until such time as its use as evidence is no longer required (N.D.C.C. § 29-31.1-08).

601.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a course approved by the Department on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly N.D.C.C. § 19-03.1-36 et seq., N.D.C.C. § 29-31.1-01 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and legal counsel or the appropriate court while ensuring prompt legal review and court processes of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.

(d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form, and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:

1. Names and contact information for all relevant persons and law enforcement officers involved.
2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
3. A space for the signature of the person from whom cash or property is being seized.
4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure, and a detailed description of the items seized.

(g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be

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developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs), or General Orders. The training should cover this policy and address any relevant statutory changes and court decisions.

(h) Reviewing each asset forfeiture case to ensure that:

1. Written documentation of the seizure and the items seized is in the case file.
2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
4. Property is promptly released to those entitled to its return (N.D.C.C. § 29-31.1-02).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

(i) A written plan should be available that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to department inventory is in accordance with all applicable laws and consistent with the use and disposition of similar property (N.D.C.C. § 29-31.1-06).

(k) Upon completion of any forfeiture process, ensuring that no property is retained by the Fargo Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.

(l) Complying with any reporting requirements as set forth in N.D.C.C. § 19-03.1-36.8.

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

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601.7 DISPOSITION OF FORFEITED PROPERTY

(a) For property forfeited under general criminal forfeiture laws (N.D.C.C. § 29-31.1-01 et seq.), the Fargo Police Department may (N.D.C.C. § 29-31.1-06):

1. Retain forfeited property for official use, or transfer the custody or ownership of any forfeited property to any federal, state or local agency.
2. Sell forfeited property that does not require destruction and is not harmful. The proceeds from the sale and other forfeited funds, must be used first for the payment of all costs and expenses related to all forfeiture actions and processes with any remaining proceeds to be deposited, subject to N.D.C.C. § 54-12-14, in the appropriate general fund.
3. Dispose of forfeited property in accordance with the order of the court if the property cannot be retained, used or sold by the Fargo Police Department.

(b) For property forfeited under the Uniform Controlled Substances Act (N.D.C.C. § 19-03.1-36 et seq.), the Fargo Police Department may (N.D.C.C. § 19-03.1-36):

1. Retain forfeited property for official use, or transfer the custody or ownership of any forfeited property to any federal, state or local agency. The department shall ensure the equitable transfer of any forfeited property to the appropriate federal, state or local law enforcement agency so as to reflect generally the contribution of that agency participating directly in any of the acts that led to the seizure or forfeiture of the property. A decision to transfer the property is not subject to review.
2. Sell forfeited property which is not required to be destroyed by law and which is not harmful to the public. The proceeds must be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs, with any remaining proceeds to be deposited, subject to N.D.C.C. § 54-12-14, in the appropriate general fund. When two or more law enforcement agencies are involved in seizing a conveyance, the remaining proceeds may be divided proportionately.
3. Require the attorney general to take custody of forfeited property and remove it for disposition in accordance with law.
4. Forward forfeited property to the U.S. Department of Justice Drug Enforcement Administration (DEA) for disposition.
5. Use the forfeited property, including controlled substances, imitation controlled substances and plants to enforce the Uniform Controlled Substances Act. However, forfeited controlled substances should not be used to arrest a person for simple possession of a controlled substance under N.D.C.C. § 19-03.1-23 when the forfeited controlled substances were supplied by a law enforcement officer or the officer’s agent

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property

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Informants

602.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of confidential informants and sources of information.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Benefit - any of the following conferred on a confidential informant, cooperating individual, or third party:

(a) Leniency in a criminal case, probation, or parole matter, including a decision whether to arrest, charge an offense, or to limit the number or severity of charges;

(b) Sentence reduction of any kind or amount;

(c) A favorable sentencing or bond recommendation; or

(d) Monetary payments made by a law enforcement agency.

Case Agent - The law enforcement investigator or detective who is directing or dealing with a Confidential Informant (CI) or Source of Information (SOI) as part of an on-going criminal investigation.

Confidential Informant (CI) - An informant who cooperates with law enforcement agency and:

(a) Is willing to attempt a controlled buy, controlled sale, or agrees to surreptitiously record a target offender; and

(b) Seeks or is offered a benefit.

Source of Information (SOI) - A person who cooperates with a law enforcement agency and:

(a) Provides information regarding violations of law or the location of a wanted individual(s);

(b) Does not attempt a buy or controlled sale

(c) Does not agree to surreptitiously record a target offender; and

(d) Seeks or is offered a benefit.

602.2 POLICY

The Fargo Police Department recognizes the value of confidential informants and sources of information to law enforcement efforts and will strive to protect the integrity of the CI/SOI process. It is the policy of this department that all funds related to CI/SOI payments will be routinely audited and that payments to individuals will be made according to the criteria outlined in this policy.

602.3 USE OF CONFIDENTIAL INFORMANTS

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602.3.1 INITIAL APPROVAL

Before using an individual as an confidential informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the CI in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility. Other factors to consider:

(a) The CI's ability to engage in controlled law enforcement operations to include, but are not limited to controlled purchases of evidence and recorded conversations of evidentiary value between the CI and potential suspects

(b) The motivation of the CI which may include public service, money, or consideration of existing criminal charges for themselves or others (Citizen Informant's requesting compensation or consideration will be deemed as a CI).

(c) Any CI requesting consideration on any existing criminal charges, regardless of whether for themselves or another, which consist of crimes of violence, or criminal acts involving a victim other than society must be approved by the Narcotics Unit Lieutenant.

(d) The approving supervisor will take into account the following prior to approving the use of any CI:

1. The severity of the criminal charge,
2. The victim's desire for prosecution,
3. The arresting officer and agencies input, and
4. The prosecuting authority's input.

(e) The case agent shall explain to any potential CI seeking benefit that the Fargo Police department cannot guarantee consideration, but can only provide the prosecuting authority with the results of the CI's cooperation and recommendation for consideration.The case agent shall advise the potential CI the power to grant any consideration solely rests with the prosecuting authority.

Members of this department should not guarantee absolute safety or confidentiality to a CI.

602.3.2 JUVENILE CONFIDENTIAL INFORMANTS

The use of CIs under the age of 16 is prohibited (N.D.C.C. § 29-29.5-02).

In all cases, a juvenile 16 years of age or older may only be used as a CI with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable

(d) The Chief of Police or the authorized designee

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602.3.3 CONFIDENTIAL INFORMANT AGREEMENTS

All confidential informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant (N.D.C.C. § 29-29.5-05; N.D.A.C. § 109-02-06-01).

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

See attachment: SOI Agreement form.pdf

See attachment: POST Approved CI Agreement 7-1-2018.pdf

602.3.4 CONFIDENTIALITY OF INFORMANTS

Any information that is not public knowledge that would tend to identify an informant is confidential and may be disclosed only as permitted by law (N.D.C.C. § 44-04-18.3(4); N.D.A.C. § 109-02-06-01).

602.3.5 JUVENILE CONFIDENTIAL INFORMANT QUALIFICATIONS

A confidential juvenile informant may only be used if all of the following are true (N.D.C.C. § 29-29.5-02):

(a) The juvenile is married, emancipated, active duty military or subject to criminal charges.

(b) The officer reasonably believes there are no other reasonable avenues to obtain evidence of the crime being investigated and the risk of harm to the juvenile is minimal.

(c) The juvenile has consulted with legal counsel.

602.3.6 MANDATORY CONTENTS OF CONFIDENTIAL INFORMANT AGREEMENTS

An agreement for the use of a confidential informant as defined in N.D.C.C. § 29-29.5-01 must be in writing and include (N.D.C.C. § 29-29.5-05; N.D.A.C. § 109-02-06-01):

(a) The CI's right to remain silent, the right to speak with legal counsel at any time, and the right to cease working as a CI.

(b) A statement of the benefit, which will be recommended upon substantial compliance with the CI/SOI agreement.

(c) A statement that an absolute guarantee or promise may not be made to the CI other than law enforcement will truthfully report cooperation.

(d) A statement of the inherent risk associated with acting as a CI.

(e) The responsibilities of the CI, including testifying truthfully if called as a witness in a court proceeding.

(f) A written waiver of right to counsel which must be executed separately and attached to the CI/SOI agreement.

    (a) The waiver must be signed by the CI and an officer and include language stating that consulting legal counsel at any time will not invalidate the agreement.

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(g) The parameters of the agreement, detailing the anticipated number of buys, sales, acts, or the duration of service.

(h) A description of any penalty for violating the terms of the written agreement, including any additional criminal charges.

(i) A warning that sexual relations with an intended target of a police investigation is a violation of the agreement and may be a violation of the law.

(j) A statement that money or property loaned or entrusted to the CI by the Fargo Police Department may not be used for personal use and must be accounted for at all times.

(k) Specification of any known crimes of violence committed by a target offender.

(l) Signatures of the CI and the [officer/deputy] using the CI. If the CI is a juvenile, the signature of the custodial parent or guardian shall also be obtained (N.D.C.C. § 29-29.5-02).

The agreement should be terminated, and the CI notified whenever the CI is no longer needed by the officer who signed the agreement with the CI. The officer should document the termination and notice to the CI by a dated notation on the terminated agreement. A new agreement is needed to reactivate the CI.

602.3.7 CONFIDENTIAL INFORMANT SAFETY

An officer using a CI should take reasonable steps to protect the safety of the CI used for a controlled buy, controlled sale, or surreptitious recording including (N.D.A.C. § 109-02-06-01):

(a) Requesting a criminal history report on reasonably known target offenders and verbally notifying the CI when the report reasonably identifies any target as having a committed any crimes involving intentionally causing or threatening to cause death physical bodily injury.

(b) Developing an operational safety plan.

602.3.8 CONFIDENTIAL INFORMANT DEATH

If a CI who has agreed to attempt a controlled buy, controlled sale, or to surreptitiously record a target offender dies during the course of an investigation, the supervisor will notify the North Dakota Attorney General and request an independent investigation into the CI's death (N.D.C.C. § 29-29.5-06).

602.4 USE OF SOURCES OF INFORMATION

602.4.1 INITIAL APPROVAL

Before using an individual as a SOI, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the SOI in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Other factors to consider:

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(a) The motivation of the SOI which may include public service, money, or consideration of existing criminal charges for themselves or others.

(b) Any SOI requesting consideration on any existing criminal charges, regardless or whether for themselves or another, which consists of crimes of violence, or criminal acts involving a victim other than society must be approved by the Narcotics Unit Lieutenant.

(c) The approving supervisor will take into account the following prior to approving the use of any SOI (if applicable):

1. The severity of the criminal charge,
2. The victim's desire for prosecution,
3. The arresting officer and agencies input, and
4. The prosecuting authority's input.

(d) The case agent shall explain to the any potential SOI seeking a benefit that the Fargo Police Department cannot guarantee consideration, but can only provide the prosecuting authority with the results of the SOI's cooperation and recommendation for consideration. The case agent shall advise the potential SOI the power to grant any consideration solely rests with the prosecuting authority.

Members of this department should not guarantee absolute safety or confidentiality to an SOI.

602.4.2 JUVENILE SOURCES OF INFORMATION

The use of SOI's under the age of 16 is prohibited.

In all cases, a juvenile SOI 16 years of age or older may only be used as an information with the written consent of each of the following:

(a) The juvenile's parents or legal guardian

(b) The juvenile's attorney, if any

(c) The court in which the juvenile's case is being handled, if applicable

(d) The Chief of Police or the authorized designee.

602.4.3 SOURCE OF INFORMATION AGREEMENTS

All SOI's are required to sign and abide by the provisions of the designated department SOI agreement. The officers using the SOI shall discuss each of the provisions of the agreement with the SOI.

Details of the agreement are to be approved by a supervisor before being finalized with the informant.

Refer to section 602.3.3 for the CI/SOI Agreement form.

602.4.4 CONFIDENTIALITY OF SOURCES OF INFORMATION

Any information that is not public knowledge that would tend to identify a SOI is confidential and my be disclosed only as permitted by law (N.D.C.C. § 44-04-18.3(4)).

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602.5 CONFIDENTIAL INFORMANT AND SOURCE OF INFORMATION INTEGRITY

To maintain the integrity of the CI/SOI process, the following must be adhered to:

(a) The identity of an CI/SOI acting in a confidential capacity shall not be withheld from the Chief of Police, Division Commander, Narcotics Unit supervisor, or their authorized designees.

  (a) Identities of CIs/SOIs acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by CI/SOI shall not be condoned.

(c) A CI/SOI shall be told that they are not acting as police officers, employees or agents of the Fargo Police Department, and that they shall not represent themselves as such.

(d) The relationship between department members and CIs/SOIs shall always be ethical and professional.

  (a) Members shall not become intimately involved with a CI/SOI (N.D.A.C. § 109-02-06-01).

  (b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Narcotics Unit supervisor.

  (c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with a CI/SOI.

(e) Officers shall not meet with CIs/SOIs in a private place unless accompanied by at least one additional officer or with prior approval of the Narcotics Unit supervisor.

  (a) Officers may meet CI/SOI alone in an occupied public place, such as a restaurant.

  (b) The case agent will establish a contact schedule with the CI/SOI. The CI/SOI will be expected to contact the case agent on a minimum of a weekly or bi-weekly basis.

(f) When contacting CIs/SOIs for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when department funds are paid to a CI/SOI, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the CI/SOI will receive any form of leniency or immunity from criminal prosecution.

(i) Any applicable direction from the Peace Officer Standards and Training Board should be followed (N.D.A.C. § 109-02-06-01).

602.5.1 UNSUITABLE CONFIDENTIAL INFORMANTS OR SOURCES OF INFORMATION

The suitability of any CI/SOI should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that a CI/SOI may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the CI/SOI should not be used by any member. The supervisor shall determine whether the CI/SOI should be used by the Department and, if so, what conditions will

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be placed on his/her participation or any information the CI/SOI provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether a CI/SOI is unsuitable include but are not limited to the following:

(a) The CI/SOI has provided untruthful or unreliable information in the past.

(b) The CI/SOI behaves in a way that may endanger the safety of an officer.

(c) The CI/SOI reveals to suspects the identity of an officer or the existence of an investigation.

(d) The CI/SOI appears to be using his/her affiliation with this department to further criminal objectives.

(e) The CI/SOI creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The CI/SOI engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The CI/SOI commits criminal acts subsequent to entering into an informant agreement.

602.6 CONFIDENTIAL INFORMANT AND SOURCE OF INFORMATION FILES

CI/SOI files shall be utilized as a source of background information about the CI/SOI, to enable review and evaluation of information provided by the CI/SOI, and to minimize incidents that could be used to question the integrity of department members or the reliability of the CI/SOI.

CI/SOI files shall be maintained electronically. The Narcotics Unit Sergeant or the authorized designee shall be responsible for maintaining CI/SOI files. Access to the CI/SOI files shall be restricted to the Chief of Police, Division Commander, Narcotics Unit Lieutenant, Narcotics Unit Sergeant, and the detectives managing cases involving CIs/SOIs.

The Investigation Division Commander should arrange for an audit using a representative sample of randomly selected CI/SOI files on a periodic basis, but no less than one time per year. If the Narcotics Unit Sergeant is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the CI/SOI files.

602.6.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each CI/SOI and shall be coded with an assigned informant control number. A CI/SOI history that includes the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

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(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) Briefs of information provided by the informant and his/her subsequent reliability

  (a) If a CI/SOI is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

(i) Name of the officer initiating use of the CI/SOI

(j) Signed agreement

(k) Update on active or inactive status of a CI/SOI

602.7 CONFIDENTIAL INFORMANT AND SOURCE OF INFORMATION PAYMENTS

Except CIs/SOIs used for controlled buys, controlled sales, or surreptitious recordings, no person will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the CI's/SOI's personal involvement in the case
- The significance, value, or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The CI's/SOI's previous criminal activity
- The level of risk taken by the CI/SOI

CIs/SOIs used for controlled buys, controlled sales, or surreptitious recordings shall be informed in writing of any compensation amounts prior to any controlled buy, controlled sale, or surreptitious recording (N.D.A.C. § 109-02-06-01).

602.7.1 PAYMENT PROCESS

Approved payments to a CI/SOI should be in cash using the following process:

(a) Payments will be paid in cash from the Narcotics Unit buy/expense fund.

  (a) The Narcotics Unit supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 require approval form the Narcotics Unit commander or Patrol commander.

(c) Payments exceeding $1,000 require approval from the Criminal Investigations Division commander or other Division commander.

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(d) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.

(a) The cash transfer form shall include the following:

(a) Date

(b) Payment amount

(c) Fargo Police Department case number

(d) A statement that the CI/SOI is receiving funds in payment for information voluntarily rendered

(b) The cash transfer form shall be signed by the CI/SOI.

(c) The cash transfer form will be kept in the CI's/SOIs file.

602.7.2 REPORTING OF PAYMENTS

Each CI/SOI receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the CI/SOI should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the CI/SOI and by doing so jeopardize any investigation, the safety of officers or the safety of the CI/SOI (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

602.7.3 AUDIT OF PAYMENTS

The Narcotics Sergeant or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Narcotics Unit Lieutenant designee should conduct an audit of all CI/SOI funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

602.8 TRAINING

The Administrative Lieutenant should make available training approved by the North Dakota Attorney General on the use of confidential informants. Training should include the components of this policy, any related department procedures, and any North Dakota Peace Officer Standards and Training rules regarding the use of confidential informants.

Members who use or recruit CIs/SOIs, including supervisors who approve the use of CIs/SOIs, shall complete initial training and refresher training at least every three years (N.D.C.C. § 29-29.5-04).

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Eyewitness Identification

603.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification procedures involving show-ups, photo arrays, and lineups. In addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence, which either supports or eliminates the suspect identification.

603.1.1 DEFINITIONS

Definitions related to the policy include:

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

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification/Show-ups - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

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

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup/Photo Array - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the 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.

603.2 POLICY

The Fargo Police Department shall adhere to the procedures for conducting eyewitness identification in order to enhance and maximize the reliability of identification, minimize erroneous identifications, and gather evidence which conforms to contemporary eyewitness identification protocols. This policy recognizes the sequential and simultaneous approaches are both valid methods of conducting an identification procedure and does not recommend one over the other. Regardless of the method utilized, the basic procedures outlined in this policy should be followed.

603.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

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Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

603.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigation Division supervisor's shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An instruction to the witness that is as important to exclude innocent persons as it is to identify a perpetrator.

(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.

(g) If the identification process is photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.

(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

(j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

The process and related forms should be reviewed at least annually and modified when necessary.

603.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way; influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

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In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

603.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup should do so using the sequential or simultaneous procedures for identification.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding

603.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as single-person show-ups or one-on-one identifications, generally should be avoided or used where exigent circumstances make it impracticable to conduct a photo or live lineup identification. Officers should use caution any time a show-up identification is used, and must consider whether the show-up is limited in duration and the least intrusive means of confirming or dispelling the reasonable and articulable suspicion.

A show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness prior to conducting the show-up.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.

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3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the individual who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) Officers should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

1. Officers should be cautioned that any statements made by the suspect while being detained could be suppressed unless Miranda warnings are given.

(e) The person who is the subject of the show-up should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

(g) Officers should avoid words or conduct of any type, which may suggest to the witness that the individual is or may be the perpetrator.

(h) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(i) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect, but rather use a lineup or photo array for the remaining witnesses.

1. If a witness positively identifies a subject of a show-up as the suspect, officers should obtain a witness confidence statement and document the contact information for any additional witnesses for follow up, if necessary.

(j) Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it possible.

(k) Video record the identification process using an in-car camera or other recording device when available.

(l) Document the time and location of the show-up, the officers present, the results of the procedure, and any other relevant information.

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603.8 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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Brady-Giglio Information Disclosure

604.1 PURPOSE AND SCOPE

This policy establishes procedures for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

604.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Fargo Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

604.2 POLICY

The Fargo Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Fargo Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Under the "Brady-Giglio" Rule, prosecutors are required to disclose any information to a defense attorney in a criminal case which may adversely affect the credibility of a witness for the prosecution, including a law enforcement officer, even if it is not requested by the defense or is inadmissible at trial.

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., informants whose identity is protected or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

604.4 BRADY COORDINATOR

The Chief of Police shall delegate certain responsibilities to a *Brady* Coordinator, which has been identified as the Office of Professional Standards (OPS).

The responsibilities of the *Brady* Coordinator include, but are not limited to:

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(a) Working with the appropriate prosecutors' offices and the City Attorney's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.

(b) Whenever potential *Brady* information concerning any department member becomes known to the Department or is placed into a personnel or OPS file of any member of this department, the *Brady* Coordinator will coordinate with the Chief of Police to disclose the *Brady* information to the appropriate prosecutors' offices.

604.5 DISCLOSURE OF PERSONNEL INFORMATION

On a yearly basis, the Chief of Police will provide a letter to the appropriate prosecutors' offices indicating the presence of *Brady* information on any department employee. If during the course of the year, any subsequent *Brady* information develops on an employee, the *Brady* coordinator will ensure an updated letter is provided to the appropriate prosecutors' offices.

This does not restrict any of the relevant prosecutors' offices from contacting the *Brady* coordinator directly for any inquires relative to department *Brady* information.

604.6 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

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Sexual Assault Investigations

606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in N.D.C.C. § 12.1-20-02 et seq.

Sexual Assault Response Team (**SART**) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

606.2 POLICY

It is the policy of the Fargo Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

606.3 INITIAL OFFICER RESPONSE

Initial responding officers shall:

(a) Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.

(b) If applicable, evaluate the scene for people, vehicles, or objects involved as well as possible threats.

(c) Relay all vital information to responding officer and supervisors, including any possible language barriers.

(d) If applicable, secure the crime scene to ensure evidence is not lost, changed, or contaminated.

(e) Request assistance from Investigations personnel via the on-duty supervisor, when appropriate.

(f) Begin a search for the suspect when appropriate.

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If the initial assessment by the officer and supervisor shows a need for additional officers, the initial officer assumes responsibility for the victim while additional officers assume responsibility for preserving the scene, gathering evidence, searching for the suspect and other tasks.

Assisting the Victim

(a) Officers shall show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.

(b) Ensure that if the victim is being taken to a hospital that advanced notice is given. This will ensure than an examination room is made available and medical staff are notified.

(c) A release for medical information form should be completed at the hospital, if possible.

606.4 PRELIMINARY INTERVIEW OF THE VICTIM

The initial interview may take place at the scene of the crime, hospital, or other location. The initial investigating officer has the responsibility of interviewing the victim and completing an initial case report. The purpose of the interview is to obtain information concerning the basic elements of the crime, location, and time of offense, and accurate description and/or identity of the suspect, as well as information needed to determine what evidence might be available. If necessary, pertinent information should be given to assisting officers as soon as possible.

In interviewing the victim, the officer should allow the victim to speak freely and spontaneously. The victim should be questioned concerning specific details of the sexual aspects of the crime only to the extent necessary to establish what evidence there may be and what needs to be collected, what crime has been committed, and any suspect information.

The officer should explain to the victim:

(a) What information is needed and why

(b) The types of evidence which may be important to the investigation

(c) The purpose of a medical examination (to discover and treat any injuries and gather evidence for possible prosecution)

(d) The decision to prosecute can be made at a later time, evidence collection needs are immediate

(e) It should be emphasized to the victim the importance of not bathing, changing clothes, or in any other way destroying possible evidence

606.5 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

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(d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates and support for the victim.

(f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable.

606.6 INVESTIGATION AND REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation.

606.6.1 DETAILED VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

Victims are often reluctant or embarrassed to discuss details. Recanting or changing one or more aspects of a prior statement is not necessarily an indication of false reporting or that the case is unfounded. If the responding officer has reason to believe the incident may be without merit, he/she should document the evidence and inconsistencies. Due to physical and emotional trauma, and the myths and stereotypes associated with sexual assault, inconsistencies in the victim's report are not uncommon. No opinions of whether the case is unfounded shall be included in the report.

606.6.2 CONTACTING AND INTERVIEWING THE SUSPECT

The investigating officer(s) shall follow department procedures on identifying the suspect, conducting the suspect interview, and collecting evidence in a sexual assault investigation.

Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

606.6.3 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Sexual Assault Victim

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When the facts of the case indicate that collection of biological evidence is warranted, it should be collected within 96 hours following the assault unless good cause is shown for the delay in performing the examination. Any evidence obtained during the medical examination may not be used against the victim for the prosecution of the victim for a separate offense (N.D.C.C. § 12.1-34-07).

If a drug-facilitated sexual assault is suspected, it is critical to the investigation that a urine sample from the victim be collected by a medical professional.

In cases where a GSI collection kit has been completed, the assigned detective must complete one of the following actions based on the listed status of the case. The victim's authorization or declination to have the GSI kit examined is contained within the Appendix C of the GSI Kit paperwork. A scanned copy of this document is placed in the case file and the assigned detective must verify authorization before requesting the kit be sent to the state lab for analysis.

(a) Unfounded cases (allegations do not meet the statutory definition or facts presented were false and evidence establishes the crime did not actually occur) will require a case summary supplement detailing why the case is unfounded and a notification shall be sent to the Evidence Property Manager directing the GSI kit and other evidence be disposed of.

(b) Inactive cases whose victims have declined to authorize the submission of the kit for analysis will require the assigned detective or officer re-contact the victim during the initial case review and during the annual case review thereafter (as assigned by the Evidence Property Manager) to determine if the victim now wishes to proceed and if not, would they provide permission for the kit to be disposed of. If the victim indicated the kit could be disposed of, the detective or officer will complete the review from and a short supplement to the case report indicating the victim has authorized the disposal of the kit and other evidence in the case. If the victim wants the kit submitted, the officer or detective will have the case status changed to "active" and follow the steps listed below. If the victim still wishes to retain the kit, but not proceed with the investigation, the detective will complete the review form and a short supplement to the case indicating the kit will be maintained. The kit will be retained until such time as the victim indicates the kit can be destroyed or until the seven (7) year statutory limitation has expired.

(c) Arrest and/or active cases where permission from the victim exists will require the assigned detective to complete the required state lab submission forms and notify the Evidence Property Manager to submit the GSI kit to the state lab for analysis. **All kits meeting active or arrest criteria will be submitted to the state lab.** This would include, but not limited to situations where the suspect admits to sexual contact/ acts or the victim's statements indicating fact exist which may preclude the locating of forensic evidence (ex. the suspect wore a condom or the victim had prior consenting sexual contact with the suspect or others).

See attachment: LAB EVIDENCE SUBMISSION FORM.pdf

Sexual Assault Suspect

Protocol for Suspect Examination

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(a) It is essential the victim and the suspect examinations must take place in different locations.

(b) Immediately after the preliminary suspect interview, the investigating officer shall determine whether a forensic sexual assault examination should be obtained for the suspect.

(c) A search warrant may be needed to collect any evidence from the body of the suspect or even to collect clothing. If the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be obtained and provided in the case report.

606.6.4 GATHERING AND PRESERVING EVIDENCE

It is critical the chain of custody of evidence be maintained by all personnel involved in evidence collection. All evidence will be collected and processed in accordance with the department's Property and Evidence Manual and this policy.

Not all sexual assault incidents will have identifiable scenes containing recoverable and/or timely evidence. When presented with an identifiable crime scene containing recoverable evidence a decision should be made whether recovery is best done by a patrol officer with crime scene investigation duties or by a detective. In cases where a search warrant is required to enter a scene for crime scene processing the Investigations Division will take control of the incident.

In addition, Investigative personnel will be summoned to the scene in cases where evidence must be collected from immovable objects, where specialized collection techniques or equipment are needed, where spatter and other similar fluid evidence is to be documented and collected, and in cases where the scene requires specific processing needs such as special photography, lighting, measurements, and/or high profile cases.

606.6.5 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Investigation Division supervisor.

Classification of a rape case as unfounded requires the Investigation Division supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence to support the recanted information before the case should be determined as unfounded.

606.6.6 AUDITING CASE DISPOSITIONS

The Investigation Division supervisor will ensure case dispositions are reviewed on a periodic basis.

606.7 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing

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information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigation Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

606.8 TRAINING

Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim's response to trauma.

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

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Warrant Service

607.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

607.2 POLICY

It is the policy of the Fargo Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

607.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

607.4 SEARCH WARRANTS

The designated officer or case officer will prepare the affidavit and search warrant, consulting with the applicable supervisor or prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and/or the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

607.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence

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to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

607.6 WARRANT PREPARATION

The affiant (officer who prepares a warrant) should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution.

(b) A clear explanation of the affiant's training, experience and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Information Disclosure Policy).

607.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk. The incident commander shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

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(c) Reasonable efforts are made during the search to maintain or restore the condition of the location.

(d) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(e) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(f) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(g) A copy of the search warrant is left at the location.

(h) The condition of the property is documented with video recording or photographs after the search.

607.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

607.9 ACTIONS AFTER WARRANT SERVICE

The officer who issued the warrant shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement

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- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the appropriate operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Fargo Police Department are utilized appropriately. Any concerns regarding the requested use of Fargo Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If officers intend to serve a warrant outside Fargo Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Fargo Police Department when assisting outside agencies or serving a warrant outside Fargo Police Department jurisdiction.

607.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

607.12 TRAINING

The CID Unit supervisors should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service, and reporting requirements.

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Operations Planning and Deconfliction

608.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

608.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

608.2 POLICY

It is the policy of the Fargo Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

608.3 OPERATIONS DIRECTOR

The Chief of Police has designated the Intel Unit commander to be the operations director regarding the planning and deconfliction of high risk operations. The operations director will report to the incident commander of the high risk operation.

The operations director will develop and maintain a risk assessment form to assess, plan, and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved commanders and supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

608.4 RISK ASSESSMENT

A risk assessment should be conducted on all higher risk warrants regardless of the circumstances. This will help to ensure department members are identifying safety issues and minimizing hazards.

608.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

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When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

See attachment: Revised RRVS-025 Attachment A Risk Assessment.pdf

608.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

608.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

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(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. Red River SWAT (SWAT)
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel
6. Persons trained in negotiation
7. Additional surveillance
8. Canines
9. Property or analytical personnel to assist with cataloguing seizures
10. Forensic specialists
11. Specialized mapping for larger or complex locations

(b) Contact the appropriate department members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

608.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

608.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

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(a) Operation goals, objectives and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)

2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids

3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.

(k) Communications plan

(l) Responsibilities for writing, collecting, reviewing and approving reports.

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608.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with Fargo Police Department policy 420 Criminal Intelligence and Organizations..

608.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel, who will be directly involved with the search for property, should be directed to read the search warrant. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

(a) It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation.

(b) The radio channel for the operation needs to be monitored by Dispatch.

(c) The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

608.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT commander/supervisor shall assume operational control of the execution of the high risk entry. The incident commander shall have overall control and responsibility of the incident.

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608.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

608.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

608.11 TRAINING

The SWAT commander or the CID unit commanders should ensure officers and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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Chapter 7 - Equipment

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Department-Owned and Personal Property

700.1 PURPOSE AND SCOPE

The policy addresses the care of department-owned property and the role of the Department when personal property, the property of another or department-owned property is damaged or lost.

700.2 DEFINITIONS

Definitions related to this policy include:

Personal property - Items or equipment owned by, provided by or purchased totally at the expense of the department member. This definition includes optional equipment identified in the Uniform Regulations Policy

700.3 POLICY

It is the policy of the Fargo Police Department that members shall properly care for department property assigned or entrusted to them. Those who suffer loss or damage to personal or department-owned property while performing their assigned duties should be reimbursed appropriately.

700.4 DEPARTMENT-ISSUED PROPERTY

Selected property and equipment issued by the Department shall be documented in the appropriate quartermaster equipment tracking system; receipt shall be acknowledged by the employee at the time of issuance by a means determined by the Administrative Division Commander. Upon separation from the Department, all issued property and equipment shall be returned, unless approved by the Chief of Police or Division commander. Employees may be financially liable for any damaged or missing equipment upon separation from employment with the department.

700.4.1 CARE OF PROPERTY

Members shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property that has been assigned or entrusted to them. Intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to, the cost of repair or replacement.

(a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.

1. A supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Division Commander, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.

2. A review by command staff should determine whether additional action is appropriate.

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(b) The use of damaged or unserviceable department property should be discontinued as soon as practicable and notice given to a supervisor. The item should be replaced with a comparable item as soon as available.

(c) Except when otherwise directed by a command officer or otherwise reasonable by circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

700.5 PERSONAL PROPERTY

Carrying and/or using personal property or equipment on-duty requires prior approval by a command officer within the employees chain of command. The member should submit for approval a description of the property, and the reason and length of time it will be used. Personal property of the type routinely carried by persons who are not performing law enforcement duties, and that is not a weapon, is excluded from this requirement.

700.5.1 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage to, or loss of, personal property must be made through the proper chain of command.

The supervisor or unit commander receiving a claim for reimbursement shall investigate and direct a memo to the appropriate Division Commander, which shall include the result of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

Upon review by command staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the respective Division commander, who will then forward the replacement request to the Chief of Police Administrative Assistant.

The Department will not replace or repair costly items (e.g., jewelry, exotic equipment, etc.) that are not reasonably required as a part of work. The department will reimburse employees for damage, or loss of, personal property up to $50.

700.6 DAMAGE TO PROPERTY OF ANOTHER

Anyone who intentionally or unintentionally damages or causes to be damaged the real or personal property of another while performing any law enforcement function shall promptly report the damage through that individual's chain of command. The officer or civilian who **unintentionally** caused the damage shall promptly fill out and submit the Fargo Police General Liability Incident Report through the chain of command to the Administrative Division commander. The officer or civilian who intentionally caused the damage, when performing any legally justified law enforcement function, will not be required to fill out the Fargo Police General Liability Incident Report.

The supervisor receiving such a report shall investigate and direct a memo to the appropriate chain of command to the Administrative Division Commander, which shall include the result

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of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

A review of the incident by the chain of command should be completed to determine whether misconduct or negligence was involved.

See attachment: General Liability Incident Report (other than auto).pdf

700.6.1 DAMAGE BY PERSONNEL OF ANOTHER AGENCY

Personnel from another agency may intentionally or unintentionally cause damage to the real or personal property of the City of Fargo or of another person while performing their duties within the jurisdiction of this department. It shall be the responsibility of the department member present or the member responsible for the property to report the damage as follows:

(a) A verbal report shall be made to the member's immediate supervisor as soon as circumstances permit.

(b) A written memorandum shall be submitted before the member goes off-duty or as otherwise directed by the supervisor.

The written memorandum, accompanied by the supervisor's written evaluation of the damage, shall be forwarded to the appropriate Division Commander. It shall be the responsibility of the other agency, whose employee intentionally or unintentionally caused the damage to the real property of the Fargo Police Department, to replace or repair the damaged property.

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Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, Personal Digital Assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.2 POLICY

The Fargo Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable open records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

701.3 PRIVACY POLICY

The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service is without any expectation of privacy that the member might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued or personally owned PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of member misconduct and, as practicable, will be done in the presence of the affected member. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

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701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

The following actions are prohibited from use on department issued PCD's unless authorized by the Chief of Police or his designee:

(a) Making toll calls or calls to sites that incur additional charges for a service, to include 411.

(b) Calls to any country outside the United States.

(c) Taking the phone outside the United States.

(d) Failure to use the protective case provided by the department.

(e) Excessive personal use of the phone outside of the provider network resulting in a higher cost plan. Employees on or off duty may make personal calls with the phone within reasonable limits.

701.5 PERSONALLY OWNED PCD

Members may carry their own PCD while on-duty, subject to the following conditions and limitations:

(a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.

(b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.

(c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.

(d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.

1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.

(e) The device shall not be utilized to record or disclose any department business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Department, without the express authorization of the Chief of Police.

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(f) Use of a personally owned PCD for official department work constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, open records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with all telephone access numbers for the device if requested.

(g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Fargo Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

701.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, as much as practical out of the sight of the public, and shall not be disruptive to the work environment, unless an emergency exists.

(b) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.

(c) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official Fargo Police Department business.

(d) Members will not access social networking sites for any purpose that is not official Fargo Police Department business.

(e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

(f) Members are not required to carry, access or monitor department issued PCD's and are not to respond to work related electronic communications using a PCD while off-duty unless authorized. If an off-duty member is in an authorized status that allows for appropriate compensation consistent with policy or if the off-duty member has prior express authorization from his/her supervisor, the member may engage in department business-related communications on their department issued PCD. Should members engage in such approved off-duty communications or work, members entitled to compensation shall document the time worked. Members who independently document off-duty department-related business activities shall provide their supervisor a description of the work conducted and the number of hours worked.

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701.7 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors shall monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if a member is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

701.8 USE WHILE DRIVING

The use of a PCD while operating a motor vehicle can cause unnecessary distractions and presents a negative image to the public. On-duty members operating emergency vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location when utilizing the device (N.D.C.C. § 39-08-23(3)).

701.9 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. Whenever reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

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Vehicle Maintenance

702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining department vehicles so that they are properly equipped, maintained, refueled and present a clean appearance.

702.2 DEFECTIVE VEHICLES

When department vehicles become inoperative or in need of a repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who becomes aware of the defective condition. An email will be sent to the Emergency Services Technician at the Central Garage, describing the correction needed, and if possible the vehicle shall be promptly parked at the Central Garage vehicle maintenance area for repair.

The employee's supervisor should be notified when an assigned vehicle becomes inoperative or needs repair.

702.2.1 SUSPECTED DAMAGE OR POOR PERFORMANCE

Vehicles that may have suffered damage, perform poorly or have diminished control or safety features shall be immediately removed from service for inspection and repair.

702.2.2 SEVERE USE INSPECTION

Vehicles operated under severe use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer’s use parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Severe conditions may include rough roadway or off-road operation, hard or extended braking, pursuits or prolonged high-speed operation.

702.2.3 REMOVAL OF WEAPONS

All firearms shall be removed from a vehicle and properly secured in the armory prior to the vehicle being released for maintenance, service or repair when performed by an outside vendor.

702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

702.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is in the vehicle:

- AR-15 Rifle
- AED in pelican case

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- Exterior tactical vest with plates in pelican case
  - 2 - 30 round AR-15 magazines
  - Tourniquet
  - Isreali bandage
- Cell phone charger
- RADAR tuning forks
- Chalk or green paint spray can
- 1 Roll crime scene barricade tape
- 1 First-aid kit, CPR mask
- 1 Emergency blanket
- 1 Fire extinguisher
- 1 Bloodborne pathogen kit, including protective gloves and NIOSH particulate respirator mask
- Spit hood
- 1 Hazardous waste disposal bag
- 1 Traffic safety vest
- 100 ft tape measure
- Window punch
- Cardboard animal carrier
- RIPP restraint

702.3.2 UNMARKED VEHICLES

An employee driving an unmarked department vehicle shall ensure that, at minimum, the equipment listed below is in the vehicle:

- 1 First-aid kit, CPR mask
- 1 Emergency blanket
- 1 Bloodborne pathogen kit, including protective gloves and NIOSH particulate respirator mask
- 1 Fire extinguisher
- 1 Hazardous waste disposal bag
- 1 Traffic safety vest

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- 1 Spare tire, jack, and lug wrench

702.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Whenever practicable, vehicles should be fully fueled at the conclusion of the officers duty shift, when placed into service, or refueled before the level falls below one-quarter tank. Vehicles shall only be refueled at an authorized location.

702.5 WASHING OF VEHICLES

When practical, all units shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers on patrol shall notify a dispatcher before going to the car wash. Only one marked unit should be at the car wash at a time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Confidential documents should be placed in a designated receptacle provided for the shredding of this material.

702.6 CIVILIAN EMPLOYEE USE

Civilian employees using marked vehicles for their duty shift, shall ensure all weapons are removed from the vehicle before going into service. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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Vehicle Use

703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Fargo to provide assigned take-home vehicles.

703.2 POLICY

The Fargo Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

703.3 USE OF VEHICLES

703.3.1 SHIFT ASSIGNED VEHICLES

The Shift Commander or on-duty Field Services sergeant shall ensure the shift assignment roster, indicating member assignments and vehicle numbers, is completed for each shift. This is accomplished through the scheduling and payroll system (SPA). If an officer exchanges his/her vehicle due to mechanical issues he/she shall notify the Central Garage via email of the mechanical defect for that particular vehicle.

703.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the appropriate division supervisor for that specific vehicle to ensure the vehicle is available. An officer who is working a shift or detail outside his/her normal duty hours may not have their assigned vehicle available due to another officer, who is assigned to that vehicle, using the vehicle. In this instance, the officer should find a vehicle which is available.

This subsection does not apply to those who are assigned to transport vehicles to and from the Central Garage or car wash.

703.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

703.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

703.3.5 MOBILE DIGITAL COMPUTER

Members assigned to vehicles equipped with a Mobile Digital Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the MDC in the vehicle is not working the member shall find a vehicle with a working MDC and notify Fargo IS to have the MDC repaired. Use of the MDC is governed by the Mobile Digital Computer Use Policy.

703.3.6 VEHICLE LOCATION SYSTEM

Patrol vehicles equipped with a MDC, with New World Mobile installed, have a built in GPS system designed to track the vehicle’s location. While the system may provide vehicle location, members are not relieved of their responsibility to use required communication practices to report their location and status.

System data may be accessed by supervisors at any time.

703.3.7 KEYS

Patrol assigned vehicle keys will be stored near the north entrance/exit door to the parking garage of the Field Services station. At the end of the officer's shift, officers are expected to hang their squad car keys on the key rack mounted on the wall. Members approved to operate marked patrol vehicles are issued a copy of the Ford squad car key as part of their initial equipment distribution. Members who are assigned another make of vehicle should contact the Quartermaster to receive a key for that make of vehicle.

The loss of a key shall be promptly reported through the members chain of command.

703.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles to and from work are permitted to transport family members as long as it does not unduely extend the duration of the trip. Members are permitted to transport other City of Fargo employees to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

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703.3.9 ALCOHOL
Members may not violate state law regarding vehicle operation while intoxicated.

703.3.10 PARKING
Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned stalls at all department facilities. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. This includes the indoor parking garage located at the Field Services station. Members are permitted to park their private vehicles in department assigned stalls after normal business hours to utilize the fitness center or to conduct errands of 30 minutes or less, with the exception of the indoor parking garage located at the Field Services station. Privately owned motorcycles shall be parked in designated areas.

703.3.11 ACCESSORIES AND/OR MODIFICATIONS
There shall be no modifications, additions, or removal of any equipment or accessories without written permission from the assigned vehicle Division Commander.

703.3.12 CIVILIAN MEMBER USE
If circumstances necessitate, civilian members using marked emergency vehicles shall ensure all weapons have been removed before going into service. This does not apply if a civilian member is shuttling squad cars to different police approved parking/storage areas. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES
Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

703.4.1 ON-DUTY USE
Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

703.4.2 UNSCHEDULED TAKE-HOME USE
Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

(a) The circumstances were created by the needs of the Department.

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(b) Other reasonable transportation options are not available.

(c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Fargo City limits.

(d) Vehicles will be locked when not attended.

(e) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

703.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the members duties, job description and essential functions; and the members employment or appointment status. Members who reside outside the City of Fargo may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Criteria for use of take-home vehicles include the following:

(a) Vehicles should only be used for work-related purposes. Members will be allowed to make personal errands and transport immediate family members when the stop or transport does not unduely extend the duration of the trip between work and the member's residence.

(b) Vehicles will not be used when off-duty except:

1. In circumstances when a member has been placed on call by the Chief of Police or Division Commanders and there is a high probability that the member will be called back to duty.

2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.

3. When the member has received permission from the Chief of Police or Division Commanders.

4. When the vehicle is being used by the Chief of Police, Division Commanders or members who are in on-call administrative positions.

5. When the vehicle is being used by on-call investigators.

(c) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation. Except for when the member is working under cover, doing surveillance, or any situation when it is unsafe or inadvisable due to operational needs.

(d) Unattended vehicles are to be locked and secured at all times.

1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).

2. All weapons shall be secured while the vehicle is unattended.

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3. All department identification, portable radios and equipment should be secured.

(e) Vehicles are to be parked off-street at the members residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms Tasers, other weapons, and body armor shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).

(f) Vehicles are to be secured at the members residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.

1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.

2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.

(g) The member is responsible for the care and maintenance of the vehicle.

703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Fargo Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

703.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

(a) Members shall make daily inspections of their assigned vehicles for service/ maintenance requirements and damage.

(b) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.

(c) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.

(d) When leaving the vehicle at the maintenance facility, the member will notify the Central Garage Emergency Services technician/mechanic via email of the mechanical problem. If the Central Garage Service technician requests the vehicle for routine maintenance, it will be the assigned members responsibility to drop off their vehicle at the Central Garage. Or in the event the vehicle needing service is assigned to the Field

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Services Division for patrol use, the on-duty patrol supervisor will make arrangements to have the squad car transported to the Central Garage.

(e) All weapons shall be removed from any vehicle left for extended maintenance.

(f) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to them for inspection to ensure the vehicles are being maintained in accordance with this policy, each patrol sergeant gets two to three vehicles assigned to them to inspect.

703.5 UNMARKED VEHICLES

Unmarked vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a supervisor. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also be recorded on the shift assignment roster.

703.6 DAMAGE, ABUSE AND MISUSE

Department members shall operate any department or City of Fargo motor vehicle assigned for their use in a careful and prudent manner, and in accordance with law and any training and established department policies and procedures relative to the operation of such vehicles. When any department vehicle is involved in a traffic accident or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic accident report shall be filed with the agency having jurisdiction (see the Traffic Accident Response and Reporting Policy).

Damage to any department vehicle that was not caused by a traffic accident shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the respective Division Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

703.7 ATTIRE AND APPEARANCE

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

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Chapter 8 - Support Services

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Crime Analysis

800.1 PURPOSE AND SCOPE

This policy provides guidelines for utilizing crime analysis to meet the overall law enforcement efforts of the Fargo Police Department. It addresses the collection and dissemination of crime analysis data that is useful to long-range planning and that can assist in identifying enforcement priorities.

800.2 POLICY

It is the policy of the Fargo Police Department to utilize crime analysis for crime control and prevention. This entails gathering, analyzing and correlating data to effectively deploy the department's resources.

800.3 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to, the following:

- Crime reports
- Field Interview (FI) cards
- Parole and probation records
- Dispatch activity records
- Local and regional Intel centers

800.4 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.5 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate divisions or members on a timely basis. Information that is relevant to the operational or tactical plans of specific line members should be sent directly to them. Information relevant

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to the development of the department's strategic plans should be provided to the appropriate command staff. When information pertains to tactical and strategic plans, it should be provided to all affected members.

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Property and Evidence

801.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property.

801.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Department Storage Facility - A duly designated building, facility, or other location authorized for the storage of property and/or evidence received by the department.

Booking Officer - The sworn officer or civilian employee, who receives property on behalf of the department and is responsible for properly processing, storing, and/or categorizing such property as evidence, found property and/or safe keeping.

Contraband - Any property which is unlawful for a person to use or have in their possession.

Disposal of property - The permanent release and/or lawful destruction of any property received and/or maintained by the department.

Evidence - Any property which may be of value towards resolving any criminal, civil, or administrative investigation or inquiry conducted by the department (or one in which the department is providing assistance), to include any item which may implicate or exonerate any person from an allegation of having committed an unlawful act.

Evidence Property Manager (EPM) - The duly appointed department employee responsible for the overall management and security of any property received, stored, or disposed of by the department, as well as the overall management of the facilities used by the department to receive, process, and store property and/or evidence.

Found property - Any property believed to be lost or abandoned by its lawful owner and has no real or possible evidentiary value, and is not relative to a criminal investigation.

Property - Any item received or otherwise obtained by a sworn or civilian employee of the department for evidentiary purposes, safekeeping, or pending the resolution of any criminal, civil, or administrative proceeding.

Safekeeping of property - The maintaining of property which has no evidentiary value and is lawfully obtained and stored by the department on a temporary basis for safekeeping purposes only.

Temporary Storage Location - Includes any duly designated locker, drawer, or other location authorized by the Administrative Services Division commander for the temporary storage of property and/or evidence received by the department.

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801.2 PROPERTY SECURITY

The EPM shall maintain secure storage and control of all property submitted to the Property Unit. The EPM reports to the Administrative Sergeant and is responsible for the security of all of the property storage areas. Property keys are maintained only by the EPM, the evidence/ property assistant, and the designated evidence/property assistant alternate. Those entrusted with the keys to the property storage areas shall not loan property keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Property Room other than the Property Manager must be accompanied by the EPM, the evidence/property assistant, or the designated evidence/property assistant alternate, and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case number, if applicable.

801.3 GENERAL RULES

(a) Any employee who comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated locker or storage room, along with the property label, or released and properly receipted to the lawful owner. Care shall be taken to maintain the chain of custody for all evidence.

(b) All property received or obtained by department personnel shall be categorized in one of the following manners:

1. Evidence
2. Found property
3. Property Maintained for Safekeeping

(c) All property received by department personnel, regardless of how it is categorized, shall be processed, packaged, and stored in accordance with the department's Property and Evidence Processing Manual, and all other department policies, procedures, or directives relative to the processing, packaging, and storage of property.

(d) All property received by department personnel, regardless of how it is categorized, shall be properly recorded in the department's evidence records management system (ERMS), and described in detail. Additional information relative to the condition of the property, how and/or why it was received by the department, ownership or the property, the release of any property, etc., shall be properly documented and recorded on the appropriate department forms and within any corresponding case report(s).

(e) Whenever possible, the appropriate inquiry will be made on all property received by department personnel to determine if it is lost, stolen, etc. The sworn officer or civilian employee receiving the property shall be responsible for making the inquiry and documenting the results within any corresponding case report(s) or on any other applicable department reporting form.

(f) Where ownership can be established as to found property that has no apparent evidentiary value, excluding contraband, such property may be released to the owner

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without the need for booking. The proper documentation must be completed to document the release of property not booked. The owner shall sign the appropriate form acknowledging receipt of the item.

(g) Department personnel are not permitted to retain or convert for their personal use any property, regardless of how it is categorized, that they receive through the performance of their duties.

(h) All property received by the department, to include any found property, shall be purged from the department's storage facilities and/or destroyed in accordance with this policy or other department policies, procedures, or directives relative to the purging and/or destruction of property.

(i) All department employees and their immediate family members, or any person acting on behalf of a department employee or their immediate family members, are prohibited from having any property received by the department (to include any found property) given or returned to them for their personal use without consent of the Chief of Police.

1. This does not preclude department personnel, their family members, or other acquaintances from obtaining property which has been purged from the department's storage facilities and made available to the general public by way of sale or auction.

801.3.1 PROPERTY STORAGE

All property received by department personnel, including any property placed in a temporary storage location, shall be properly recorded, processed, and stored in the appropriate authorized department storage facility no later than the end of the booking officer's work shift or tour of duty, unless otherwise authorized by a command officer. Employees booking property shall adhere to the following requirements:

(a) Under no circumstances will property received by department personnel be maintained or stored in a location other than a duly authorized department storage facility, or in an authorized temporary storage location.

(b) The department's evidence room, located at the main station, shall be the primary location for storing property received by department personnel. Employees will utilize the designated property lockers adjacent to the evidence room to store property until Property Unit personnel takes custody of any such property.

(c) The property storage lockers and/or other designated area located at the motor vehicle impound building shall be utilized to store any property which is too large to be adequately stored in the the department's evidence room.

1. Motor vehicles, boats, ATV's, trailers, etc., categorized as evidence which requires indoor storage due to evidence processing, shall be stored within the building.

2. Motor vehicles, boats, ATV's, trailers, etc., categorized as evidence, but do not require evidence processing, shall be stored in the motor vehicle impound lot.

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(d) When an employee places an item in a temporary evidence/property locker they must fill out a placard which identifies the employees name, date, and case number (if available). In the event an item is going to remain in the temporary storage locker beyond the end of an employee's shift or tour of duty, the placard must also state the command officer who authorized the extended temporary storage. The placard should be locked inside the locker with the property, with the information facing so it is visible from the outside. When the property is removed from the locker the employee should erase the placard and place it back inside the unlocked locker.

1. Biological specimens or other unique items which require special processing and storage as outlined in the department's Property and Evidence Processing manual shall not be stored in the temporary lockers.

(e) Bicycles classified as found property shall be stored at the storage facility specifically designated for this purpose, which is the 8th Ave. N. storage facility.

(f) Motor vehicles pending any administrative forfeiture process, or any other item may be stored at 8th Ave. N. storage facility upon the approval of the department's EPM or a command officer.

1. The command officer approving the storage of any property (except bicycles) at this facility shall ensure the EPM receives notice of the storage of such property.

(g) Whenever property is placed in any of the department's authorized storage facilities other than the department's Evidence Room, regardless of how it is categorized, the booking officer shall provide Property Unit personnel with email notification that such property has been received and where it is being stored.

(h) Access to any of the department's duly authorized storage facilities shall be limited to department personnel only. Any other person requiring access to any of the department's storage facilities may be granted access, but only after receiving authorization from the EPM or a command officer.

1. This does not preclude other law enforcement officials from entering the department's property storage facilities when accompanied by department personnel.

801.3.2 EVIDENCE

All property categorized as evidence shall be received, processed, packaged, labeled, and stored as described in the department's Property and Evidence Processing Manual.

(a) Department personnel needing to remove any property stored by the department and categorized as evidence from any of the department's authorized storage facilities shall notify the Property Unit personnel.

1. Property Unit personnel shall be responsible for documenting the release of any evidence, to include which department employee the evidence was released to and for what purpose.

(b) If evidence is released to a department employee under subpoena or court order, Property Unit personnel shall obtain a copy of the subpoena or court order prior to releasing the evidence.

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(c) All evidence which is released to department personnel under a subpoena or court order shall be accounted for by Property Unit personnel.

1. Property Unit personnel shall issue a receipt and have it signed by the sworn officer or civilian employee taking custody of the evidence prior to the evidence being released.

2. Evidence released to department personnel under these circumstances shall be returned to the Property Unit as soon as practical and without undue delay.

(d) If for any reason, the custody of any property stored by the department and categorized as evidence is transferred to another person after being released to a sworn officer or civilian employee by the Property Unit, the sworn officer or civilian employee transferring custody of the evidence shall confirm the person's identity and obtain the person's signature on the receipt.

1. The sworn officer or civilian employee transferring custody of the evidence to another person shall legibly record that person's name, and the date and time of the evidence transfer on the receipt and return it to the Property Unit as soon as practical.

801.3.3 FOUND PROPERTY

Property, with the exception of found firearms and bicycles, received or obtained by department personnel and categorized as found property shall be properly recorded and described in detail on the Found Property Report/Receipt form.

(a) When an employee takes possession of a found firearm the employee will be required to complete a case report for "Found Property Guns", and the employee will complete and submit the Fargo Police Firearms Information form. See attachment: Fargo Police Firearms Information Form Fillable.pdf

(b) When an employee takes possession of a found bicycle the employee will only need to complete the Community Service Officer (CSO) intake form.

(c) Department personnel receiving any property categorized as found property shall examine the property in an attempt to identify an owner and to ensure the property does not pose a hazard. If the property can lawfully be returned to the owner, the sworn officer or civilian employee receiving the found property shall make a reasonable attempt to contact the owner and immediately return the property, and have the owner sign the property report/receipt form. If the property cannot be immediately returned to the owner, the found property shall be processed, packaged, and stored in accordance with the department's Property/Evidence Manual.

(d) If applicable, a copy of the department's Found Property/Receipt form shall be provided to a person who delivers or presents to the department any property categorized as found property.

1. The person delivering the property to the department shall be informed that they may make a request to have the property returned to them if the department is unable to identify and/or located an owner within 60 days of the property being received by the department.

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2. Property which will not be returned to a person making any such request includes, but is not limited to;
   (a) bicycles/tricycles,
   (b) any gambling apparatus,
   (c) explosives,
   (d) alcoholic beverages,
   (e) unsanitary or potentially contaminated clothing or other contaminated items,
   (f) firearms,
   (g) knives,
   (h) wallets,
   (i) cellular phones,
   (j) computers,
   (k) any item which poses a potential threat to the health or safety of the public, or
   (l) any item which may contain any personal identification information of another person.

801.3.4 PROPERTY MAINTAINED FOR SAFEKEEPING

Any property received or otherwise obtained by department personnel and categorized as maintained for safekeeping purposes, shall be properly recorded within a corresponding case report.

The department's Property for Safekeeping Receipt shall be issued to the owner of the property at the time the property is received.

Any property maintained by the department for safekeeping purposes shall be released to the owner upon request unless it's unlawful for the owner to posses or reclaim the property. All firearms require a background check by a detective/admin officer prior to releasing the firearm back to the owner. The department's Property Unit personnel shall be responsible for the release of property maintained by the department for safekeeping.

801.3.5 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be processed in accordance with the department's Property and Evidence Processing Manual.

801.3.6 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify an immediate supervisor or the Shift Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

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Explosives (including fireworks), flammables, or other hazardous materials will not be retained in the police facility. Flammables or other hazardous materials shall be stored in accordance with the departments Property and Evidence Processing Manual and stored in the Hazardous Materials Storage facility. Commercial grade fireworks and explosives will not be stored in the Hazardous Materials Storage facility. They need to be handled and stored by the bomb squad at their storage facility, if not immediately destroyed.

801.3.8 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

(a) **Sexual Assault Evidence Collection Kits refer to Policy 606 Sexual Assault Investigations and/or the FPD Evidence Processing Manual for guidance.**

(b) Any evidence collected which may contain DNA, requires a ND Crime Lab DNA Information sheet which is completed by Criminal Investigations Division (CID) personnel. Additionally, DNA analysis is limited to three items per case unless prior approval is obtained from the ND Crime Lab..

(c) Property stained with bodily fluids such as blood or semen shall be air-dried, preferably in the air drying unit, prior to booking.

(d) All cash shall be manually counted or utilizing a currency counter, in the presence of another officer and independently verified by the second officer. The currency will be packaged in a currency envelop and the envelope will be signed and initialed by the booking officer. This includes currency from inside wallets, purses, and backpacks.

(e) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should refer to the Property and Evidence Manual for guidance, and notify the Property Unit via email of any special requests for evidence processing by the ND Crime Lab.

(f) Items which are potential biohazards shall be appropriately packaged and marked as such to reduce the risk of exposure or contamination.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

801.3.8 EVIDENCE SUBMISSION TO STATE CRIME LAB

General evidence submissions such as controlled substances and drug paraphernalia will continue to be submitted to the crime lab by the Evidence/Property Unit upon receipt of written request by the City Attorney/Prosecutor's office, the State Attorney's office, or the investigating officer. DUI blood samples will continue to be submitted to the crime lab by having the arresting officer mail the samples directly to the crime lab.

801.3.9 REQUIRED LAB FORMS

Submissions for analysis, with the exception of controlled substances and drug paraphernalia as mention in section 801.3.8, require the proper forms to be filled out, which are located on the N.D.

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Attorney General's website (ND Crime Lab General Forms). Do not use old forms. To ensure the most recent forms are used, retrieve them from the website. All forms must be completely filled out with every question answered. If the question does not pertain to the case, put Not Applicable or N/A. If there is not enough space in the box to answer the question, attach an additional page. If information cannot be obtained, list "Unknown" in the box. Narrative sections need to be detailed. Incomplete forms will not be accepted.

Parties requesting any new exhibit submissions from a case where other items have already been analyzed, re-submissions of previously submitted exhibits for re-analysis, or additional analysis must include the ND Crime Lab's unique case number which was assigned upon the original submission. The ND Crime Lab case number can be found on the receipt from the original submission which will have been scanned to the case in Laserfiche. This original ND Crime Lab case number must be included regardless of which evidence submission form is used.

FPD Evidence Submission for Laboratory Analysis form

Evidence requiring specific analysis, with the exception of DNA and latent fingerprint analysis, will be submitted to the crime lab only at the direction of the assigned detective using the FPD Evidence Submission for Laboratory Analysis form. The detective will submit the completed documentation to their respective supervisor, who will review the documents, and forward to the EPM. The Evidence/Property Unit will be responsible for submitting the specified evidence to the crime lab only upon receipt of these forms from a CID supervisor. This form is not a crime lab form, but rather is a department form. This form needs to be completed for all submissions to the crime lab, though submission for DNA for latent print analysis requires additional forms as indicated within this subsection.

The FPD Evidence Submission Laboratory Analysis form for non-DNA evidence already includes the Records Unit email address, but the submitting detective will be required to provide their work email address in the "Copies to Case Detective" field on the form.

See attachment: LAB EVIDENCE SUBMISSION FORM.pdf

ND Crime Lab DNA Evidence Information sheet (SFN59915)

This state form is required for DNA evidence submissions for analysis by the State lab. The FPD Evidence Submission for Laboratory Analysis form is not required to be submitted for DNA evidence analysis. The investigating detective will be required to insert "Fargo Police Department (records@fargond.gov)" in the submitting agency field as well as their own name and work email in the "Investigating Officer/Contact" field on this form.

The detective will submit the completed documentation to their respective supervisor, who will review the documents, and forward to the EPM. The Evidence/Property Unit will be responsible for submitting the specified evidence to the crime lab only upon receipt of these forms from a CID supervisor.

The submitting detective must specify on the submitted forms what specific analysis is being requested relative to each submitted exhibit. The exhibit and the requested analysis will be

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adequately described in the designated locations on the form. A supplemental report will be completed summarizing what evidence has been submitted and the requested analysis.

ND Request for latent Print Examination (SFN60404)

This state form is required for latent fingerprint submissions for analysis by the State lab. The FPD Evidence Submission for Laboratory Analysis form is not required to be submitted for latent fingerprint analysis. To assist the lab technicians, provide information on total monetary loss and/or potential threat to public safety on the form. Information on the orientation of the prints are requested for every lift. A sketch to help with orientation can be made on the back of the form.

ND Request for Case Prioritization (SFN60165)

This form is required in addition to the FPD Evidence Submission for laboratory Analysis form and will be completed only if there is urgency in the investigation. These requests must be done in writing on this form rather than emails, phone calls, or other correspondence. It should be completed by the detective in charge of the case and must be signed by a CID supervisor.

If prosecutors need a rush on a request, the lab would like the form to be completed by the prosecuting staff and signed off by their supervisor. Prosecutors may need to be directed to the location of the forms on the Attorney General's website.

801.4 RIGHT OF REFUSAL

Property Unit personnel have the right to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should Property Unit personnel refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker, or other safe location and inform the submitting officer and his/her supervisor.

The submitting officer shall make the necessary corrections on their first work shift after the correction notice was sent by a member of the Evidence/Property Unit.

801.5 PACKAGING OF PROPERTY

Packaging will conform to certain procedures as described in the FPD Property and Evidence Processing Manual.

801.6 RECORDING OF PROPERTY

All property received in custody of the Property Unit, regardless of the category, will be recorded through data entry in the department's ERMS. All items must have a bar code label bearing a unique, identifiable tracking number, a detailed description, the location and date it was received, and the submitting officer's name and computer number.

All changes in the location of property held by the department shall be recorded within the chain of custody section of the ERMS or within the narrative of the handling officer's report.

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801.7 PROPERTY CONTROL

Each time Property Unit personnel receives property or releases property to another person, he/she shall enter this information in the ERMS under the applicable case number. Officers desiring property for court shall contact Property Unit personnel at least two business days prior to the court day.

801.7.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Transfer of evidence items to a laboratory for analysis will be accurately documented within the chain of custody section of the ERMS. Documentation required by the lab must be properly completed and submitted to the Property Unit for transfer with the evidence. Evidence may be transferred to the lab via certified mail through the USPS with return receipt or via hand to hand delivery by an on-duty department member utilizing a department vehicle.

With the exception of the transfer of toxicology samples related to DUI cases, all transfers of evidence to a laboratory for analysis shall be arranged and facilitated only by the Property Unit staff following established procedures within the Property Unit.

801.7.2 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the ERMS, stating the date, time and to whom it was released.

The Property Manager shall obtain the signature of the person to whom property was released and the reason for release. Any employee receiving property shall be responsible for such property until it is returned to the Property Room or released to another authorized person or entity, and obtaining a signed receipt of that transfer.

The return of the property should be recorded within the ERMS, indicating date, time and the person who returned it.

801.7.3 AUTHORITY TO RELEASE PROPERTY

Property Unit personnel shall not release any property being retained for evidentieary purposes or pending the resolution or any criminal, civil, or administrative proceeding without a signed authorization from an appropriate authorized member of the Department. The respective assigned case officers/detectives shall authorize the disposition or release of all evidence and property relative to their assigned cases coming into the care and custody of the Department.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, Property Unit personnel shall, upon the request of the owner and with the written approval from the case detective/officer:

(a) Provide a list describing the property, unless such release would impede an investigation.

(b) Return the property expeditiously, unless the property is contraband or required as evidence.

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Officers or detectives, who have taken custody of property/evidence of crime, may photograph and release the property to the owner. When in doubt if the property should be released to the owner, the officer/detective should consult with their supervisor or prosecuting attorney.

Personnel assigned to the Evidence Room may return or dispose of any found property or safekeeping property, with the exception of firearms, in accordance with this policy without obtaining written authorization.

801.7.4 RELEASE OF PROPERTY

A reasonable attempt shall be made to identify the rightful owner of found, stolen property, or evidence not needed for an investigation, and immediately return such property to the owner. Any evidence taken by an officer which will not be submitted to the Property Unit, but rather returned to the rightful owner, the officer shall issue a Property Inventory Report/Receipt to the owner.

Property belonging to a crime victim shall be promptly released to the victim unless needed for evidence within 10 days of being taken or recovered, or as expeditiously as possible, unless the property is contraband or otherwise excluded (N.D.C.C. § 12.1-34-02(9)).

Release of property within the Property Unit shall be made upon receipt of an authorized transfer receipt, listing the name and address of the person to whom the property is to be released. The release authorization shall either be submitted to the Property Unit via email or signed disposition form by the authorizing supervisor or detective/officer, and must conform to the items listed on the property label, or must specify the item to be released. Release of all property shall be properly documented within the department's ERMS.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 60 days. During such period, property personnel shall attempt to contact the rightful owner by mail when sufficient identifying information is available.

Property Unit personnel shall release the property to the owner or finder, upon valid identification and proper documentation presented by the owner or finder, for which an authorized release has been received. The owner or finder may be required to pay any costs incurred by the agency, such as costs for advertising or storage. Upon release or other form of disposal, the proper entry shall be recorded in the ERMS. A signature of the person receiving the property shall be recorded.

801.7.5 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property that is in the custody of this department shall be restored to the legal owner upon receipt of a court order (N.D.C.C. § 29-01-21). However, goods used for personal, family or household purposes or property that is covered by a certificate of title may be released to the legal owner without necessity of a court order (N.D.C.C. § 29-01-20).

The Department shall deliver stolen or embezzled property that has not been claimed by the owner within six months following the conclusion of criminal court proceedings to the county treasurer. Property that is not money shall be sold and the proceeds paid to the City of Fargo Finance Office.

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801.7.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or establishes proof of the undisputed right to the property (N.D.C.C. § 12.1-34-02(9)).

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

801.7.8 RELEASE AND DISPOSAL OF FIREARMS AND AMMUNITION

Under no circumstances should any firearm be returned to any individual unless and until such person presents valid identification and proof that the individual may legally possess such items.

Pursuant to a court order, a forfeited dangerous weapon may be sold at public auction, sold or traded to other law enforcement agencies or dealers, retained for use or destroyed (N.D.C.C. § 62.1-01-02).

The investigating officer/detective shall determine if a firearm has been lost by, stolen from or otherwise unlawfully obtained from an innocent owner and notify the owner, if located, before disposal. Evidence Room personnel will notify the Criminal Investigations Division supervisors and Intel Unit when a firearm is taken in. This will allow for case assignment to complete an E-trace and gun background information. Dispositions of firearms shall follow the steps and reporting set forth in N.D.C.C. § 62.1-01-02. Also refer to FPD Investigations memorandum 2007-002.

See attachment: 2007-002 Seizing Firearms.pdf

801.8 DISPOSITION OF PROPERTY

Property Unit personnel shall request a disposition or status on all property that has been held in excess of 120 days and for which no disposition has been received from a supervisor or detective, or as required by local ordinance (N.D.C.C. § 40-05-02(20)).

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be sold at a public auction in compliance with existing laws, upon receipt of proper authorization for disposal.

Property not held for any other purpose and not claimed after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed.

Upon any release or sale of any property, the proper notation shall be made in the ERMS under the appropriate case number. Proceeds from the sale of unclaimed property shall be deposited into the City of Fargo General Fund.

801.8.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction:

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- Weapons declared by law to be nuisances
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Obscene matter ordered to be destroyed by the court
- Altered vehicles or component parts
- Narcotics
- Unclaimed, stolen or embezzled property
- Destructive devices
- Abandoned vehicles (N.D.C.C. § 23.1-15-07)
- Evidence related to a criminal offense before adjudication of the offense or expiration of the statute of limitations (N.D.C.C. § 12.1-34-02)

801.8.2 UNCLAIMED MONEY

If money is no longer required as evidence and remains unclaimed after 60 days per Home Rule charter, the money is presumed abandoned property and shall be turned over to the Unclaimed Property Division of the North Dakota Department of Trust Lands (N.D.C.C. § 47-30.1-13).

Lost money turned over to this department shall be handed over to the finder if it is not claimed by the true owner after 60 days per Home Rule Charter.

801.8.3 RETENTION OF BIOLOGICAL EVIDENCE

The Investigation Division supervisor shall ensure that no biological evidence is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant's attorney

(c) The appropriate prosecutor

(d) Any sexual assault victim

(e) The Investigation Division supervisor

Biological evidence shall be retained for a minimum period established by this policy in the absence of guidance from statute . Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of

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the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division supervisor.

Crime Categories (NIBRS*)	Open[1]	Charges Filed	Adjudicated	Unfounded/ Refused/ Denied/ No further Investigation
Homicide Offenses	Retain indefinitely	Retain indefinitely	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
Sexual Offenses	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
Assault Offenses, Kidnapping/ Abduction, Robbery	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	At a minimum, retain for the length of incarceration	Dispose of upon receipt of authorization
All Other Group A & B Offenses	At a minimum, retain for the length of the statute of limitations	Retain pending adjudication	Dispose of upon receipt of authorization	Dispose of upon receipt of authorization

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*The FBI's National Incident-Based Reporting System (NIBRS) classifies 22 types of offenses as Group A crimes and 11 types of lesser offenses as Group B crimes. This table uses the NiBRS crime categories.

[1]Cases where someone was found not guilty after criminal proceedings and additional suspects have not yet been identified or charged should follow the same guidance as open cases.

801.8.4 DISPOSAL OF PROPERTY

The department's Property Unit personnel shall be responsible for the purging and disposing of all property, regardless of how its categorized, from the department's authorized storage facilities, including documenting the disposal of any such property.

(a) Property Unit personnel shall ensure the disposal of any property received and/or stored in a department storage facility, regardless of how it is categorized, is accomplished in full compliance with established law, and within the parameters of any City of Fargo and/or Fargo Police Department policy, procedure, or directive which regulates the disposal of any such property.

(b) Except as otherwise described within this policy and/or the department's Property and Evidence Processing Manual, department personnel are prohibited from destroying or disposing of any property, regardless of how it is categorized.

(c) The booking officer, or officer/investigator assigned to a case where he/she is conducting the investigation in which property categorized as evidence shall be responsible for authorizing the release and/or disposal of any such property in cases where the investigation or prosecution is pending.

    1. Property Unit personnel will release and/or dispose of property categorized as evidence only after receiving notification to do so from the booking officer or case officer/investigator or the appropriate prosecutor's office.

(d) In the course of purging property from the department's authorized storage facilities, Property Unit personnel will, in some instances, notify the booking officer or the officer/investigator responsible for conducting an investigation in which property is relevant to of the need or review the pending disposition of such property. Department personnel receiving any such notice from the Property Unit shall respond by completing the Property Disposition/Review Form and return it to the EPM with 14 days of receiving the notice.

801.8.5 CONVERSION OF PROPERTY FOR DEPARTMENT USE

Property received and/or stored by the department which is scheduled for disposal, regardless of how it is categorized, may be converted to department use.

(a) Department personnel wanting to convert any such property to department use shall submit a written request to their respective division commander, who may authorize the conversion of any such property to department use. Prior to authorizing the conversion of any such property to department use, the division commander shall ensure the property is retained and used by the department in a lawful manner. Under no circumstances shall property be used by department personnel prior to it being authorized for department use by a division commander.

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(b) Any property authorized for conversion for department use shall be recorded as such by Property Unit personnel and included in the department quartermaster's standard property/equipment inventory until such time as the property is no longer needed or usable. The quartermaster shall record the disposal of any such property in the same manner as all other department owned property/equipment.

(c) Property such as general office supplies or other equipment of minimal value which is converted to department use and does not bear a distinct model or serial number, may simply be recorded as such by the department's Property Unit personnel.

(d) Department personnel taking custody of any property defined by this policy as contraband and converting it to department use shall be responsible for the safe and secure maintenance of such property. When not in the immediate possession of the sworn officer or civilian employee responsible for the property, the property shall be stored in a specific and secure location within a Fargo Police Department facility, unless otherwise authorized by a command officer.

801.9 REPORT OF ABANDONED PROPERTY

The City of Fargo Finance Office is responsible for completing and submitting the North Dakota Unclaimed Property Report Summary to the Unclaimed Property Division of the Department of Trust Lands annually (N.D.C.C. § 47-30.1-17).

Property Unit personnel shall provide the City of Fargo Finance Office with the apparent owner's information in order for the Finance Office to send a written notice to the apparent owner of the abandoned money at the owner's last known address. This notice shall be sent if all of the following are met:

(a) The department has an address for the apparent owner, which reasonably appears to be inaccurate.

(b) The claim of the apparent owner is not barred by the statute of limitations.

(c) In excess of $30.

801.10 INSPECTIONS OF THE PROPERTY

On a quarterly basis, the Administrative sergeant in charge of the Property Unit shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(a) Unannounced inspections of evidence storage areas shall be conducted annually, as directed by the Chief of Police or Administrative Division Commander.

(b) An annual audit of evidence held by the Department shall be conducted by the Office of Professional Standards, who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.

(c) Whenever a change is made in personnel who have access to the Property Unit, an inventory of all evidence/property shall be done to ensure that records are correct and all evidence/property is accounted for.

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Records Division

802.1 PURPOSE AND SCOPE

The Records Manager shall keep the department Records Division procedures on a current basis to reflect the process being followed within the Records Division. Policies and procedures that apply to all employees of this department are contained in this chapter.

802.1.1 NUMERICAL FILING SYSTEM

Case reports and crash reports are filed numerically by Records Division personnel. Reports are numbered commencing with the last four digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number 2017-00000001 would be the first new case beginning January 1, 2017. Crash reports are numbered commencing with he last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year (ex:17-000001).

802.2 FILE ACCESS

Most reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports related to a case shall be maintained electronically within the department's Records Management System (to include Laserfiche Client) accessible only to authorized police personnel.

Fargo Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

802.2.1 REQUESTING ORIGINAL REPORTS

Since all case reports and supporting case documentation are maintained electronically within the Records Management System, police personnel can generally access and print case reports for authorized police purposes. These purposes include, but are not limited to, court trials, ND DOT Administrative DUI Hearings, and depositions. All police personnel are responsible to ensure any report printed and removed from of any police facility remain in their care. Original reports and hard copies of citations, shall not be removed from Records, but copies can be made for official police purposes.

802.3 RECORDS MANAGER TRAINING

The Records Manager shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under state and federal law.

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802.4 REQUISITION OF SUPPLIES

Office supplies will be made available to all department employees through the Records Unit. Unique office supplies may need to be ordered through the Records Sergeant, and special order supplies may need senior command level pre-approval before purshasing.

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Records Maintenance and Release

804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

804.1.1 DEFINITIONS

Definitions related to this policy include (N.D.C.C. § 44-04-17.1):

Closed record - All or part of an exempt record that the Department has determined should not be open to the public.

Confidential record - A record that is declared confidential or is prohibited by law from being open to the public.

Exempt record – A record that is not confidential, nor is required by law to be open to the public. These records may be open to the public at the discretion of the Department .

Open record - A record which must be released per NDCC (39-08-10.1, 44-04-18.7(5), and 44-04-18.7.

Record - Recorded information of any kind, regardless of the physical form or characteristic by which the information is stored, recorded or reproduced. These records are in the possession of a public entity and either contain information relating to public business or are intended to be used in connection with public business. This does not include unrecorded thought processes or mental impressions, but does include preliminary drafts and working papers. It also does not include records possessed by a court of this state.

804.2 POLICY

The Fargo Police Department is committed to providing public access to records in a manner which is consistent with the North Dakota Open Records Law (N.D.C.C. § 44-04-18 et seq.).

804.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records, which will generally be the Records Office Manager. The responsibilities of the Custodian of Records include, but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release and destruction of department public records.

1. Periodic consultation with appropriate government agencies regarding retention and disposition of records, and determining whether records are of legal, administrative or historical value.

(b) Maintaining and updating the department records retention schedule including:

1. Identifying the minimum length of time the Department must keep records (see Appendix 1).
2. The Records Office is responsible for the original record.

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(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.

1. Making these rules available to the public.

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

1. Ensuring security and safeguards are in place to protect these records from unauthorized disclosure.

(e) Establishing rules regarding the processing of subpoenas for the production of records, the Records Office Manager will consult with the City Attorney for guidance.

(f) Ensuring a current schedule of fees for public records as allowed by law is available.

(a) The requesting party will be required to pay in advance the actual cost of postage and any established fee up to 25 cents per impression of a paper copy for each record sought. A reasonable fee will be set by the Department for making the copy of a record that is not a paper copy (N.D.C.C. § 44-04-18(2)).

(b) The Department will impose a fee not exceeding $25 per hour per request, excluding the initial hour, for locating records, including electronic records, if locating the records requires more than one hour. The Department will also impose a fee not exceeding $25 per hour, per request, excluding the initial hour, for excising confidential or closed material from the records, including electronic records (N.D.C.C. § 44-04-18(2)).

(c) An electronic copy of a record must be provided upon request at no cost, other than costs for retrieval, except if the nature or volume of the public records requested to be accessed or provided requires extensive use of information technology resources, the Department may charge no more than the actual cost incurred for the extensive use of information technology resources incurred (N.D.C.C. § 44-04-18(3)).

(d) The department will charge a $2 fee for accident reports not containing any identifying information or officer opinion. The department will charge a $5 fee for accident reports containing the officer opinion or identifying information. The department will charge a $7 fee for the entire accident report. The only individual's to which the department will release this information to is as follows:

1. a party to the accident
2. a party's legal representative
3. the insurance provider and/or insurance agent of any party to the accident
4. the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim, or accident involving a party to the accident.

See attachment: FPD Policy 804 - Appendix 1.pdf

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804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

804.4.1 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following:

(a) The Department is not required to create records that do not exist (N.D.C.C. § 44-04-18(4)).

(b) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (N.D.C.C. § 44-04-18.10).

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

2. An employee may disclose or comment on the substance of an open record as allowed by policy. Any agreement prohibiting the disclosure or comment is void and against public policy.

(c) Except as otherwise provided by law, all public records will be accessible for inspection during reasonable office hours (N.D.C.C. § 44-04-18(1)).

(d) Upon request made in person or in writing for a copy of a public record subject to release, the Department shall furnish the requesting party in person or by mail one copy of the public records requested (N.D.C.C. § 44-04-18(2)).

1. Reasonable public access to electronic public records shall be maintained and provided by the Department while ensuring that exempt or confidential records are not disclosed except as otherwise permitted by law (N.D.C.C. § 44-04-18(3)).

2. The Department is not required to provide an electronically stored record in a different structure, format or organization provided the information can reasonably be accessed (N.D.C.C. § 44-04-18(4)).

3. Access to an electronically stored record or copies of records must be provided at the requesting party's option in either a printed document or through any other available medium. A computer file is not an available medium if redaction of any closed or confidential information contained in that file is not possible (N.D.C.C. § 44-04-18(4)).

4. The Department is not required to provide a copy of a record that is available on the Department's website or on the internet. The Custodian of Records shall notify the requesting party the record is available online and direct him/her to the applicable website. If the requesting party does not have reasonable access to the internet, paper copies shall be provided upon payment of the applicable fees (N.D.C.C. § 44-04-18(4)).

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5. The Department may allow a requesting party to use a personal device to duplicate records, an if so, shall establish reasonable procedures to protect the integrity of the records (N.D.C.C. § 44-04-18(12)).

(e) Records of the Department that are exempt or confidential may be disclosed to any public entity or federal agency for the purpose of law enforcement or collection of debts owed to a public entity, unless otherwise prohibited by law, provided that the records are not used for other purposes and the closed or confidential nature of the records is otherwise maintained. Such disclosure of confidential records to another public entity continue to be confidential in the possession of the receiving entity, except as otherwise provided by law (N.D.C.C. § 44-04-18.10).

(f) Any request by a party to a criminal or civil action, adjudicative proceeding, or arbitration in which the Department is a party, or by an agent of the party, will be honored subject to applicable§ discovery rules. The Department may deny a request if the request seeks records that are privileged under applicable discovery rules (N.D.C.C. § 44-04-18(6)).

(g) At the request of a victim, one copy of each report or record relevant to his/her case should be provided unless it is confidential or a court determines that disclosure would substantially interfere with an investigation (N.D. Const. art. I, § 25).

(h) The Department may require written clarification of a request to determine what records are being requested, but may not ask the motive or reason for requesting the records or for the identity of the requesting party (N.D.C.C. § 44-04-18(2)).

804.4.2 DENIALS

The denial of a request for records is subject to the following:

If access to any public record is denied, the requesting party may request a written statement of the grounds for the denial. The Custodian of Records shall respond in writing, citing the law, regulation or authority under which access is denied or a statement that the record does not exist (N.D.C.C. § 44-04-18(7)).

If repeated requests for records become disruptive to the essential function of the Department, inspection and/or copies of records may be refused. In such event, the Custodian of Records shall provide the requesting party with written reasons supporting the refusal (N.D.C.C. § 44-04-18(13)).

804.5 RELEASE RESTRICTIONS

Depending on the records requested and relevant open record rules the following are examples of release restrictions:

(a) Personal identifying information, including an individual's photograph, Social Security and driver identification numbers; name, address and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record or any department record, including traffic accident reports, are restricted except as authorized by the Department, and only when such use or disclosure is

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permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Confidential information such as any telephone number and the home address of any employee; records or other information that would reveal the identity or endanger the life or physical well-being of an undercover officer; or any record containing the work schedule of employees (N.D.C.C. § 44-04-18.3).

(c) Personnel records, medical records and similar records which would involve personal privacy (N.D.C.C. § 44-04-18.1).

  (a) This includes information regarding the type of leave taken by an employee and leave which has been applied for, but not yet taken (N.D.C.C. 44-04-18.1)

  (b) Information related to the fitness, character, behavior, or other qualifications of an applicant for a position as a law enforcement officer, including the identities of any individulas interviewed regarding such information.

(d) Certain 9-1-1 records (N.D.C.C. § 44-04-18.21; N.D.C.C. § 57-40.6-07).

(e) Any record containing an address, telephone number or any identifying information that, if released, could reasonably be used to locate or identify a victim or alleged victim of domestic violence, sex offenses under Chapters 12.1-20 or 12.1-27.2, or human trafficking under Chapter 12.1-41 of North Dakota's Criminal Code (N.D.C.C. § 44-04-18.20).

(f) Any record regarding a delinquent child or that is a compilation of a minor's name, address, telephone number or any combination thereof (N.D.C.C. § 27-20-52; N.D.C.C. § 44-04-18.13).

(g) Any name and any other information that would identify any victim or witness to a crime as allowed by law (N.D.C.C. § 12.1-34-03; N.D.C.C. § 12.1-34-02).

  1. In the event a request is made for any confidential or privileged information about the victim or any information that could be used to locate or harass a victim or the victim's family, the Custodian of Records shall promptly notify the crime victim liaison (N.D. Const. art. I, § 25).

(h) The identity, pictures and images of any victim of human trafficking or of the victim's family members unless the information is required to be released by a court order; the information is necessary for investigation or prosecution of the offense; or the information is necessary to ensure provision of services or benefits for the victim or victim's family (N.D.C.C. § 12.1-41-10).

(i) Crime scene images of a victim of a homicide or sex crime or any image of a minor victim of any crime is an exempt record (N.D.C.C. § 44-04-18.7(8)).

(j) Interviews and statements of child victims or child witnesses obtained during an investigation of a violent or sexual crime (N.D.C.C. § 12.1-35-03)

(k) Any image taken in a private place by a member's body camera or similar device (N.D.C.C. § 44-04-18.7).

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(l) Information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known (N.D.C.C. § 44-04-18.3).

(m) Active criminal intelligence information and active criminal investigative information, and personal information of any person contained in an active or inactive file (N.D.C.C. § 44-04-18.7).

  (a) Active investigatory work product (N.D.C.C. § 44-04-19.1(3)).

  (b) A computerized index of names included in criminal files, whether active or inactive (N.D.C.C. § 44-04-18.7(7)).

  (c) The Department shall maintain a list of all files containing active criminal intelligence and investigative information that have been in existence for more than one year. The list is subject to proper disclosure (N.D.C.C. § 44-04-18.7(1)).

(n) Intelligence information, law enforcement techniques or security procedures (N.D.C.C. § 44-04-24; N.D.C.C. § 44-04-25).

(o) Computer software programs and passwords (N.D.C.C. § 44-04-18.5; N.D.C.C. § 44-04-27).

(p) Attorney work product that was created exclusively for civil or criminal litigation or in anticipation of potential litigation involving this department (N.D.C.C. § 44-04-19.1).

(q) Records related to an active internal investigation of a complaint against the Department of a member for misconduct.Restriction is limited until the investigation is complete or 75 days have passed from the date of the complaint, whichever occurs first (N.D.C.C. § 44-04-18.1 (6)).

(r) Other records where:

  1. Such inspection would be contrary to any state statute.

  2. Such inspection would be contrary to any federal statute or regulation.

  3. Such inspection is prohibited by rules or procedures promulgated by the North Dakota Supreme Court or by the order of any court.

804.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information (N.D.C.C. § 44-04-18.11).

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Cass County State's Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

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804.7 RELEASED RECORDS TO BE MARKED

Each page of any hard copy record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released. This does not apply to electronic records which are released.

804.8 EXPUNGEMENT

Expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records will notify the Evidence and Property Manager of the order so disposition of any evidence items related to the file can be dealt with before the case records are expunged. The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once the record is expunged, members shall respond to any inquiry as though the record did not exist.

804.9 SECURITY BREACHES

Members who become aware that any Fargo Police Department system containing personal information may have been breached should notify the Records Manager as soon as practicable.

The Records Manager shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person. If the breach involves more than 250 individuals, notice shall also be given by mail or email to the Attorney General (N.D.C.C. § 51-30-02).

Notice shall be given in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of the Fargo Police Department or any measures necessary to determine the scope of the breach and to restore the integrity of the data system. Notice may be delayed if notification will impede a criminal investigation (N.D.C.C. § 51-30-02).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (N.D.C.C. § 51-30-01):

(a) Social Security number

(b) Driver's license number or North Dakota identification card number

(c) Full account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account

(d) Date of birth

(e) Maiden name of individual's mother

(f) Medical information or health insurance information

(g) Employee identification number in combination with any required security code, access code or password

(h) Digitized or other electronic signature

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If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Records Manager should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

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Protected Information

805.1 PURPOSE AND SCOPE

The purpose of this policy is to provide requirements for the access, transmission, release and security of protected information by members of the Fargo Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Release and Security Policy.

805.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal history record information - includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrest, detentions, indictments, information, or other criminal charges, any dispositions arising therefrom, sentencing, correctional supervision, and release.

Protected information - Any information or data that is collected, stored or accessed by members of the Fargo Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

805.2 POLICY

Members of the Fargo Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

805.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, the National Law Enforcement Telecommunications System (NLETS), North Dakota Department of Transportation records and the North Dakota Criminal Justice Information Sharing (CJIS) system.

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

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(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

805.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Fargo Police Department policy or training (N.D.C.C. § 12-60-16.10). Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution (N.D.A.C. § 110-01-02-02; N.D.C.C. § 12-60-16.10).

805.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know (N.D.A.C. § 10-13-04-01).

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation (N.D.C.C. § 12-60-16.5).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

805.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

Requests for CHRI from non-criminal justice sources shall be referred to BCI by providing the requestor with the appropriate request form, which should be supplied by BCI (N.D.A.C. § 10-13-05-01).

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805.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information (N.D.A.C. § 10-13-06-01).

The responsibilities of this position include, but are not limited to (N.D.A.C. § 10-13-06-03):

(a) Developing and maintaining security practices, procedures and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

805.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

805.6.2 PROTOCOL FOR SECURITY BREACH

If an information security breach has occurred, notification to the Records Manager and City of Fargo IS Department should be done immediately. An investigation into the incident will be initiated to determine the cause and extent of the information breach. The investigator will be assigned by the Fargo Police Administrative Services commander. The investigator will work with the City of Fargo IS Department to gather information and evidence of the breach.

If the breach involves a ND CJIS or FBI systems breach, ND State Radio will be notified by the Records Manager. The Records Manager will fill out the Security Incident Response form and submit it to ND State Radio. The appropriate actions will be taken to neutralize the breach. The investigation will determine the extend of the breach, and if any new information security safety measures need to be implemented. The investigation may also determine if any criminal charges or internal personnel complaints are warranted. ND State Radio will be notified of the outcome of the investigation.

See attachment: Security Incident Response Form.pdf

805.6.3 DESTRUCTION OF RECORDS

When any document received through CJIS, including CHRI, has served the purpose for which it was obtained and is eligible for destruction, it shall be disposed of via a permanent destruction method, in compliance with the organization's records retention schedule. At no time shall documents merely be placed in a trash receptacle.

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Each employee shall be responsible for properly destroying CHRI documents he/she receives.

805.6.4 PURGING
Purging allows for the retention of records, or portions of records, that are not the direct objective of a purge order. An entire record may be destroyed, including fingerprints, photos, and arrest and disposition data, or only specific portions of a record may be destroyed (N.D.A.C. § 10-13-11-02).

805.6.5 SEALED RECORDS
Records may be sealed by attaching a special marking to sealed files, or by removal from the general record file and storage in a separate, secured file. In automated systems, sealing will be accomplished by limiting access to the sealed records, or portions of the records, to specific terminals or specifically authorized persons, or both (N.D.A.C. § 10-13-11-04). The Department may access sealed records for the following purposes (N.D.A.C. § 10-13-11-03):

(a) Records management

(b) Review by the record subject

(c) Authorized research and statistical purposes

(d) Upon court order

805.7 REVIEW OF AND CHALLENGE TO RECORDS

805.7.1 REVIEW OF RECORDS
Upon written request and with proper proof of identification, an individual or an authorized representative may review, in person, his/her own CHRI on file with the Department. However, an individual is not entitled to data contained in intelligence, investigatory or other related files. If an individual seeks to review records not held by the Department, the individual should be directed to the applicable agency (N.D.A.C. § 10-13-07-01). The individual can get a form from the Records Unit to fill out and send to the FBI or BCI. Once the individual has received the request form from the Records Unit, the Fargo Police Department has no further involvement with the dissemination of the CHRI.

The written request will be forwarded to BCI within five working days. Upon return of the information from BCI, the department member will notify the requesting party when the information is available for review during normal working hours (N.D.A.C. § 10-13-07-04; N.D.A.C. § 10-13-07-06).

The requesting party may make notes of the information but will not be provided a copy except when the information is challenged, and then only those portions being challenged will be copied (N.D.A.C. § 10-13-07-08).

805.7.2 NEGATIVE RESPONSE
The Department may deny inspection of a record if the subject of the record is not satisfactorily identified. The Department also can deny inspection if no record for the individual is found. In either situation, the individual will be informed, in writing, of the reason for the negative response and will be advised of his/her right to challenge the denial (N.D.A.C. § 10-13-07-07).

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805.7.3 DENIED ACCESS

If an individual is denied the right to inspect his/her criminal history record, he/she may challenge this denial by submitting a challenge form and a complete set of fingerprints within 10 days of the denial.

The Department must, within 30 days, either allow inspection of the record requested, or respond to the individual, in writing, as to why the denial is upheld (N.D.A.C. § 10-13-07-09).

805.7.4 CHALLENGE TO RECORDS

The subject of any record may challenge, in writing, the completeness or accuracy of his/her criminal history record entries and request that incomplete or inaccurate entries be corrected. The subject of the record must specify which entries are incomplete or inaccurate.

Upon challenge, the Department shall conduct an administrative review of the alleged incomplete or incorrect entries, and shall notify the individual, in writing, of the result of the review. This shall be done within 20 working days of receiving the challenge (N.D.A.C. § 10-13-07-10).

The Records Manager or the authorized designee shall:

(a) Review the request for correction and make a determination of whether to grant or refuse the request, in whole or in part.

(b) If a correction is warranted, notify the requestor, ensure the change is made in the records of the Fargo Police Department and forward corrected copies to other applicable agencies, including:

1. Two copies to the BCI.

2. All criminal justice and non-criminal justice agencies that have received the erroneous information within the year preceding the correction (N.D.A.C. § 10-13-07-12).

(c) If the requested correction is refused, promptly provide the requestor with a written statement of the grounds for the refusal.

(d) Upon request, the names of all non-criminal justice agencies to which the data has been disseminated should be given to the requestor.

If the Department is not also the originating agency, the original challenge form and any related documents must be forwarded to the originating agency, or, in the case of challenges claiming incompleteness, to the agency that can verify the notations that the subject of the record believes should be included. The Department shall retain a copy of the original challenge form (N.D.A.C. § 10-13-07-11).

805.8 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies

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authorized access and use of protected information, as well as its proper handling and dissemination.

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Fargo Police Department and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Fargo Police Department provides equal opportunities for applicants and employees, regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Administration Division Commander should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.

(b) Use of marketing strategies to target diverse applicant pools.

(c) Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.

(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.

The Administration Division Commander shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

The Department will recruit lateral entry police officer applicants and accept applications on an ongoing basis. Lateral entry officer must meet the following criteria:

(a) Minimum three (3) years of full-time law enforcement experience.

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(b) Possess a current Peace Officer Standards and Training (POST) certification in North Dakota or in another state.

1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

  (a) The written application must include a question regarding whether the candidate has ever pled or been found guilty of a felony, including a felony charge that was later dismissed under a deferred imposition of sentence (N.D.C.C. § 44-08-20.1).

(b) Driving record

(c) Reference checks

(d) Employment eligibility verification, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents.

(e) Information obtained from public internet sites

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state and federal criminal history record checks

(h) Chief of Police selection committee assessment

(i) Polygraph examination (only given after a conditional offer of employment)

(j) Medical examination (only given after a conditional offer of employment)

(k) Psychological assessment (only given after a conditional offer of employment)

1000.4.1 VETERAN'S PREFERENCE

United States Armed Forces veterans and spouses of veterans may qualify for preference in the recruitment and selection processes by the Department pursuant to N.D.C.C. § 37-19.1-02. The applicant must be a United States citizen at the time of application for employment and may not be disqualified because of a physical or mental disability unless the disability renders the applicant unable to properly perform the duties of the position applied for. If awarded by the City of Fargo Human Resources Department, the veteran's preference points will be applied to the candidates police officer entrance exam test score.

1000.4.2 CRIMINAL HISTORY

The Administration Division Commander shall establish procedures to ensure that inquiries or consideration of a criminal record or criminal history of an applicant are permissible under North Dakota law (N.D.C.C. § 12.1-33).

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1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Fargo Police Department (N.D.A.C. § 109-02-01-03).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

1000.5.2 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Administration Division Commander should not require candidates to provide passwords, or access to password-protected social media accounts.

The Administration Division Commander should ensure the background investigator, who conducts open source, internet-based searches and/or review information from social media sites on a candidate is cognizant of the following:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Department fully complies with applicable privacy protections and local, state, and federal law.

The Administration Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.3 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report, which includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.5.4 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established Human Resources Department records retention schedule.

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators, candidate information, and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time

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- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

Candidates shall meet the minimum standards established by North Dakota law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the following minimum standards established by the North Dakota Peace Officer Standards and Training (POST) Board (N.D.C.C. § 12-63-06; N.D.A.C. § 109-02-01-03):

(a) Citizen of the United States or in resident alien status

(b) High school graduate or possess a GED certificate

(c) Free of any felony convictions

(d) Free of any convictions for which the North Dakota POST determines has a bearing on the candidate's ability to serve as a peace officer. This may include, but is not limited to, a conviction or plea to any of the following offenses:

1. A crime of moral turpitude
2. Domestic violence
3. A violation of a domestic violence restraining order
4. Child abuse or neglect
5. An offense involving firearms under Title 12.1 or Title 62.1 of the North Dakota Century Code

(e) Not be prohibited from possessing a firearm under state or federal law

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(f) Possess a valid driver's license

(g) Fingerprinted by the North Dakota Bureau of Criminal Investigation and the FBI

(h) Submit to and pass a medical and psychological evaluation

(i) Not have been dishonorably or administratively discharged from military service

(j) Not be prohibited from accessing the National Crime Information Center (NCIC) Criminal Justice Information Services (CJIS) databases

1000.7.2 STANDARDS FOR CIVILIANS

The Department has many different civilian positions, each with their own unique job standards for employment. Civilian candidates shall meet the following minimum standards:

(a) High School graduate or possesses a GED certificate

(b) Free of any felony convictions

(c) Possess a valid driver's license as required by position description

(d) Fingerprinted by North Dakota Bureau of Criminal Investigation and the FBI

(e) Not have been dishonorably discharged from military service

(f) Submit to and pass polygraph examination

(g) Not be prohibited from accessing the National Crime Information Center (NCIC) or Criminal Justice Information Services (CJIS) databases are required by position description.

1000.8 PROBATIONARY PERIODS

The Administration Division Commander should coordinate with the City of Fargo Director of Human Resources to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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Special Assignments and Promotions

1002.1 POLICY

The Fargo Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

1002.2 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Fargo Police Department.

1002.2.1 GENERAL REQUIREMENTS

The following conditions will be used in evaluating employees for promotion and transfer:

(a) Present a professional, neat appearance.

(b) Maintains a physical condition, which aids in his/her performance.

(c) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership
6. Initiative
7. Possess a strong knowledge of job related laws, policies, procedures, and documentation requirements
8. Ability to confront and/or deal with issues both positive and negative
9. Ability to conform to organizational goals and objectives

1002.3 LICENSED NON-SUPERVISORY SELECTION PROCESS

The following positions are considered transfers and are not considered promotions:

Crime Prevention officer

Detective

Traffic Safety officer

Cultural Liaison officer

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Police Training officer (PTO)

Community Trust officer

Training officer

Airport officer

School Resource officer

K-9 officer

Downtown Resource officer

Truck Regulatory officer

1002.3.1 DESIRABLE QUALIFICATIONS
The following qualifications apply to consideration for transfer:

(a) Two years experience

(b) Regular employee status

(c) Has shown an express interest in the position.

(d) Education, training and demonstrated abilities in related areas, such as enforcement activities, investigative techniques, report writing and public relations

(e) Completed any training required by the Peace Officers Standards and Training Commission (POST), federal or state law.

1002.4 SELECTION PROCESS
Each Division commander may establish their own criteria for position selection. However, the following criteria may be considered for position transfers:

(a) Administrative evaluation as determined by the respective Division commander or unit commander. This shall include a review of supervisor recommendations. Each supervisor who has overseen or has otherwise been accountable for the candidate's performance will submit these recommendations.

(b) The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work. The Division Commander will determine the selection process and if appropriate, schedule interviews with candidates.

(c) Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendation to the Chief of Police.

(d) Appointment by the Chief of Police.

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The policy and procedures for all positions may be waived for temporary assignments, emergency situations or for training.

1002.5 PROMOTIONAL SPECIFICATIONS

Promotional positions are filled by a competitive promotional process determined by the Fargo Police Administration. Upon qualifying for placement upon a promotion eligibility list, individuals shall be eligible for appointment to the position for which they applied for providing the employee meets all of the requirements of the current job description approved by the Fargo Board of City Commissioners.

The following are the minimum qualifications/requirements for each promotional position:

Sergeant

(a) Two year degree in law enforcement, criminal justice, police science, or a related field, and three or more years of progressive responsible police experience, or an equivalent combination of education and experience sufficient to successfully perform the essential duties of a Sergeant

(b) Three years of working as a police officer with the Fargo Police Department

(c) Valid ND P.O.S.T. license

(d) Valid driver's license

Lieutenant

(a) Bachelor's degree in law enforcement, criminal justice, police science or a related field, and seven years of progressive experience in law enforcement work, or equivalent combination of education and experience sufficient to successfully perform the essential duties of a Lieutenant

(b) Three years of working as a police sergeant with the Fargo Police Department

(c) Valid ND P.O.S.T. license

(d) Valid driver's license

Deputy Chief of Police

(a) Bachelor's degree in law enforcement, criminal justice, police science, or related field, and 10 or more years of progressively responsible police experience including management experience, or an equivalent combination of education and experience sufficient to successfully perform the essential duties of a Deputy Chief

(b) Two years of working as a police lieutenant with the Fargo Police Department

(c) Valid ND P.O.S.T. license

(d) Valid driver's license

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1002.6 SUPERVISOR TRAINING

Within one year of the effective date of assignment, all first-line supervisors should complete a department approved supervisor training course. Sergeants and above should continually seek educational opportunities to develop and enhance their leadership abilities.

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Anti-Retaliation

1003.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance, or employment agreement.

1003.2 POLICY

The Fargo Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1003.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1003.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Director of Human Resources.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1003.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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1003.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

(a) Communicating to all members the prohibition against retaliation.

(b) The timely review of complaint investigations.

(c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

(d) The timely communication of the outcome to the complainant.

1003.7 WHISTLE-BLOWING

North Dakota law protects employees who report job-related violations of law, rules, regulations, ordinances, or misuse of public resources in writing to the Chief of Police, State's Attorney, Attorney General, or to an employee organization (N.D.C.C. § 34-11.1-04).

Members who believe they have been the subject of reprisal for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Office of Professional Standards for investigation pursuant to the Personnel Complaints Policy.

1003.8 RECORDS RETENTION AND RELEASE

The Records Manager and/or OPS sergeant shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1003.9 TRAINING

The policy should be reviewed with each new member.

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Reporting of Employee Convictions

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the Fargo Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

1004.2 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and North Dakota law prohibits individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; N.D.C.C. § 62.1-02-01; N.D.A.C. § 109-02-01-03).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1004.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Any person who has pled guilty, nolo contendere, or is convicted of any felony, or is prohibited from using or possessing any firearm under state or federal law is prohibited from being a peace officer (N.D.C.C. § 62.1-02-01; N.D.A.C. § 109-02-01-03).

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

1004.4 REPORTING

All members and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Shift Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge, or conviction in any state or foreign country, regardless of whether the matter was dropped or rejected, is currently pending, or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Shift Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable POST-issued license.

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Reporting of Employee Convictions

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing his/her duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on his/her own time and at his/her own expense.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

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Drug- and Alcohol-Free Workplace

1005.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform directives regarding drugs and alcohol in the workplace. The City of Fargo and Fargo Police Department will not accept any risk to safety, quality, or productivity which may be caused by an employee who uses drugs and/or misuses alcohol. Even a small amount of such substances may be capable of impairing the user to some degree. It is the Fargo Police Department's goal, through this policy and City of Fargo policy, to achieve a workplace which is free of drugs and alcohol.

1005.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1005.3 GENERAL PROVISIONS

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

(a) The possession or use of alcohol, or the sale, purchase, manufacture, possession or transfer of an illegal drug for other than official police business, or being under the influence of alcohol or of an illegal drug, during work time or at any time while on police business, on city property (including the City's employee parking lots), or while operating the City's vehicles, is prohibited. Work time includes meal breaks and other breaks, regardless of where these breaks occur, including while being on City property, on City business, or in a City owned/leased vehicle located on or off City premises.

(b) The use of alcohol by employees while conducting business, attending a City-sponsored business or social function, or otherwise representing the Fargo Police Department and City of Fargo offsite is permitted only to the extent that it does not lead to impairment, inappropriate behavior, endanger the safety of an individual, or violate applicable law.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

1005.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.Any member who is taking medications which may cause drowsiness or

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otherwise adversely affect his/her job performance, coordination, judgment, or fitness for duty is required to notify his/her immediate supervisor of such use as soon as possible, and prior to performing any police functions.The supervisor will then take steps to investigate whether the member's job assignment should be temporarily changed during the treatment, or whether other accommodations may be appropriate.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.If, after conferring with his/her physician, an employee has reason to believe that his/her ability to perform his/her job competently and safely may be adversely affected, the employee should consult with his/her immediate supervisor regarding possible accommodations, including taking sick leave and/or a leave of absence, or temporary reassignment of job duties if possible/appropriate.

The City and the department reserves the right to obtain an independent medical opinion regarding the effects of a prescription or over-the-counter drug on an employee's ability to perform law enforcement functions or other aspects of his/her job, and to place the employee on medical leave pending a decision as to whether the employee may continue to perform his/her regular duties while taking medication.

Possession or consumption of medical marijuana or being under the influence of marijuana on-duty is prohibited and may lead to disciplinary action (N.D.C.C. § 19-24.1-34).

1005.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

In the event an employee is called to duty outside of his/her normal work schedule, and that employee has recently used alcohol; the employee will be expected to acknowledge such use at the time he/she is called to report for duty.No discipline will be taken against any employee who acknowledges his/her recent use of alcohol prior to a call-in, unless such conduct has the effect of making that employee repeatedly unavailable for on-call/call-in service.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction (41 USC § 8103).

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1005.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems. For additional EAP information, employees should consult City of Fargo Policy 400-007.

1005.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication which could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If a supervisor reasonably believes, based upon objective facts, that a member's ability to perform his/her duties safely and efficiently may be impaired by the consumption of alcohol or other drugs, the supervisor may ask the member whether he/she has consumed any alcohol or other drugs and, if so, the amount and type of alcohol or other drugs consumed and the time of consumption, and the name of the person who prescribed the controlled substance.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1005.7 REQUESTING SCREENING TESTS

The Shift Commander may request an employee to submit to a screening test if he/she:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his/her ability to perform duties safely and efficiently.

(b) The employee discharges a firearm in the performance of his/her duties (excluding training or authorized euthanizing of an animal).

(c) The employee discharges a firearm issued by the department while off-duty, resulting in injury, death, or substantial damage.

(d) The employee drives a motor vehicle in the performance of his/her duties and becomes involved in an accident which results in bodily injury, death, or substantial damage to property.

(e) Informs the employee of the specific facts supporting this belief and prepares a written record of those facts, and:

1. Informs the employee in writing whether the test will be for alcohol or drugs, or both.

2. Informs the employee that the result of the test is not admissible in any criminal proceeding against him/her.

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3. Informs the employee that he/she may refuse the test, but that his/her refusal may result in termination or other disciplinary action.

1005.7.1 ADDITIONAL SCREENING TESTS

The Shift Commander may request an employee to submit to a screening test if the employee:

(a) Discharges a firearm, other than in training, in the performance of his/her duties.

(b) During the performance of his/her duties, drives a motor vehicle and becomes involved in a vehicle crash that results in bodily injury to him/herself or another person or substantial damage to property.

(c) Knowingly or unknowingly, sustained or has caused another employee to sustain a personal injury in the course of employment; or

(d) Knowingly or unknowingly, caused or contributed to a work-related accident or was helping to operate machinery, equipment, or vehicles involved in a work-related accident.

When a supervisor suspects an employee has used drugs or alcohol while on duty, or is under the influence of drugs or alcohol, the supervisor will arrange for the employee to be transported to the collection site for the collection, and back to the employee's home after the collection is completed.The employee will not be permitted to operate a motorized vehicle.

1005.7.2 SCREENING TEST REFUSAL

An employee is subject to disciplinary action if he/she:

(a) Fails or refuses to submit to a screening test as requested in accordance with this policy or city policy will be considered to have voluntarily resigned (per City Policy 400-008C).

(b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she had taken the substance as directed pursuant to a current and lawful prescription issued in his/her name.

1005.8 EMPLOYMENT STATUS

In accordance with City of Fargo policy 400-008C, Section X, Subsections A-D, an employee who has admitted to being under the influence of alcohol and/or drugs, or whose drug or alcohol test result is positive, will be immediately withdrawn from service by the City, pending further disciplinary action.

The City and the department **may** place an employee on unpaid leave during the testing process if the City or the department believes it is reasonably necessary to protect the health or safety of the employee, co-workers, or the public. If the result of the confirmatory test or any retest is negative, the employee will be compensated in full for the hours he/she was scheduled to work, but which were missed while he/she was on leave awaiting the results of the test, including

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the additional time required for the retest, if a retest was requested. If a confirmatory test is positive and a retest is also positive or is not requested, the employee will not be compensated for any time during the leave.

An employee who is placed on paid or unpaid leave for safety reasons during the testing process is required to remain available to report for work and must do so within 2 hours of being contacted by the City. If extenuating circumstances prohibit the employee from being contacted directly by phone, the employee must notify the Director of Human Resources, and must be able to return the City's phone call within 2 hours and return to work with 2 hours of returning the call. Failure to return the City's phone call or report to work within the required time will be considered a failure to report for duty and/or other disciplinary action.

1005.9 CONSEQUENCES OF POSITIVE RESULT

Refer to City of Fargo Policy 400-008C, section VII, subsection Consequences of Positive Test Result for guidance on a positive test finding.

1005.10 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1005.11 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files (N.D.C.C. § 44-04-18.1).

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Sick Leave

1006.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City of Fargo Policy manual.

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available is detailed in the City of Fargo Employment Policy manual (500-003 Sick Leave). Employees may also be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC & 2601 et seq.).

1006.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness; injury; temporary disability, including pregnancy and maternity; consequences of domestic violence, sex offense, stalking or terrorizing; or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not reasonably possible to schedule such appointments during non-working hours (N.D.A.C. § 4-07-13-07; N.D.C.C. § 54-06-14; N.D.C.C. § 54-06-14.5; N.D.C.C. § 54-52.4-03).

Sick leave is not considered vacation. Abuse of sick leave may result in discipline and/or denial of sick leave benefits. Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational or other activity that may impede recovery from the injury or illness.

Employees shall complete and submit a leave request through the department's scheduling and payroll system, describing the type of leave used and the specific amount of time taken.

1006.2.1 NOTIFICATION

Employees are encouraged to notify an immediate supervisor, the Shift Commander, or other appropriate supervisor as soon as they are aware that they will not be able to report to work. At a minimum, employees should make such notification no less than two hours before the start of their scheduled shift. If an employee is unable to contact the supervisor in the case of an emergency, every reasonable effort should be made to have a representative contact the supervisor.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever reasonably possible, provide notice to the Department as soon as reasonably possible and with no less than 30 days' notice of the intent to take leave.

Sick leave hours will only be approved if accrued by the beginning date of the requested leave. If sick time is exhausted, employees must use annual leave for the remainder of the absence. Once both sick and annual leave are exhausted, employee's absences for reasons covered under the City of Fargo Employment sick leave policy will be recorded as unpaid leave.

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1006.3 EXTENDED ILLNESS

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Any employee who has a sick leave absence in excess of three (3) consecutive days must present medial documentation for the absence before they return to work. In addition, the City reserves the right to require documentation from a treating physician indicating the employee is fit for duty and authorizing the employee to return to duty at any time at the discretion of the Chief of Police. Absences of greater than three full consecutive days of sick leave utilization will be reviewed to determine if Family and Medical Leave (FMLA) is applicable.

1006.4 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address the use of sick leave in the employee's performance evaluation when it has **negatively** affected the employee's performance, or ability to complete assigned duties and when unusual amounts of sick leave by the employee have a negative effect on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

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Communicable Diseases & Exposure Control Plan

1007.1 PURPOSE AND SCOPE

This policy provides general directives to assist in minimizing the risk of department members contracting and/or spreading communicable diseases and to further establish a procedure for responding to any such exposure.

In accordance with Occupational Safety and Health Administration (OSHA) standards regarding a person's exposure to human blood or other potentially infectious materials, department employees who come into contact with human blood, blood products, body fluids, or other potentially infectious materials shall treat the materials as infectious at all times and shall take the necessary precautions when coming into contact with these materials. Department employees shall comply with the procedures described within this policy relative to responding to a potentially infectious exposure, which includes reporting, evaluating, and providing treatment to employees following such an exposure.

1007.1.1 DEFINITIONS

Definitions related to this policy include:

Bloodborne Pathogen - Any microorganism present in human blood, other bodily fluid, or tissue which can cause a disease in humans, and for which testing is recommended by the Unites States Public Health Service and OSHA's Bloodborne Pathogens Standard.

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane, abraded skin, or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member’s position at the Fargo Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

Infectious Materials - Includes human blood, blood products, or other body fluids considered to be potentially infectious such as saliva, semen, vaginal secretions, amniotic fluid, synovial fluid, pleural fluid, pericardia fluid, and peritoneal fluid. An infectious material may also include any unfixed tissue or organs other than intact skin from a living or dead human being.

Personal Protective Equipment (PPE) - Includes, but is not limited to, gloves, facial protection, eyewear, shoe covers, protective cap and/or gown, or any equipment worn by an employee and intended to be a barrier between an employee and infectious material.

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Health Care Provider - Any person licensed, certified, or otherwise authorized by law in the State of North Dakota to provide health care, including personnel at the state crime laboratory or any commercial or research laboratory authorized to handle blood, body fluids, or body tissue.

1007.2 POLICY

The Fargo Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1007.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO), who will coordinate with the City's Safety Manager and Employee Health representative to develop an exposure control plan that includes:

(a) Exposure-prevention and decontamination procedures.

(b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.

(c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for employees who have a risk of exposure.

(d) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Ensuring completion of the mandatory notification to the North Dakota Department of health of any known reportable diseases (N.D.C.C. § 23-07-02; N.D.C.C. § 23-07-02.3).

2. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

The ECO should periodically review and update the exposure control plan and review implementation of the plan. At this time, the Deputy Chief of Administrative Services or his/her designee will serve as the department's ECO.

1007.4 EXPOSURE PREVENTION AND MITIGATION

1007.4.1 GENERAL PRECAUTIONS/WORK PRACTICE CONTROLS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable diseases. The department shall make personal protective equipment (PPE) available to all department employees whenever an employee must handle an infectious material or any item, which contains, or is likely to contain, any infectious material. Whenever possible, employees shall utilize the necessary and/or appropriate PPE prior to handling any infectious materials or items, which may contain an infectious material. This includes, but is not limited to:

(a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks, N95 mask, or other specialized equipment in the work area or department vehicles, as applicable.

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(b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.

(c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.

(d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

(e) Using an appropriate barrier device when providing CPR.

(f) Using a facemask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.

(g) Decontaminating non-disposable equipment (e.g., flashlight, work surfaces, evidence processing equipment, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/ decontaminated appropriately.

(h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.

1. A small sharps container is located in each police vehicle.

(i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

(j) Disposing of biohazard waste appropriately or labeling biohazard material properly when it is stored.

1007.4.2 IMMUNIZATIONS

Members who could be exposed to HBV (Hepatitis B) due to their positions may receive the HBV vaccine and any routine booster at no cost. Any employee who chooses to decline the vaccination shall sign a waiver indicating the risks of HBV have been explained to them and of their decision to decline the vaccination. Department employees may elect to have the HBV vaccination administered to them at a later date at the department's expense.

All medical records associated with a department employee's exposure to an infectious material shall be kept in the employee's medical file, maintained by Fargo Employee Health, for the duration of the employee's employment with the Fargo Police Department, plus 30 years.

1007.5 DISPOSAL/CLEANING OF CONTAMINATED PERSONAL EQUIPMENT OR OTHER EQUIPMENT

All disposable PPE, or other equipment requiring disposal due to bio-hazardous contamination, shall be placed in a properly labeled "bio-hazard" bag immediately after its use. The "bio-hazard" bag and its contents shall be placed in an appropriately designated disposal container and disposed of accordingly.

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All non-disposable equipment which contains, or is likely to contain, an infectious material shall be cleaned as soon as possible by using soap and water and/or a disinfectant and allowed to air dry. When necessary and practical to do so, police uniforms, footwear, or other employee clothing containing, or likely to contain, an infectious material shall be placed in a properly labeled "bio-hazard" bag and placed in an appropriately designated container so it can be professionally cleaned.

- When you cannot remove footwear which has been contaminated with blood or other bodily fluids, the footwear should be disinfected as follows:
  - Put on nitrile gloves and remove as much of the contaminant as possible by wiping footwear with a disposable cloth, paper towel, etc.
  - Spray the entire exposed surface of the footwear liberally with Clorox Hydrogen Peroxide and let the spray dry on the surface for 60 seconds (the time needed to kill all pathogens)
  - After 60 seconds, you may wipe the surface dry or you may allow it to air dry.

If a large area has been contaminated, or is likely to have been contaminated with an infectious material; i.e. restrooms, hallway, interior of a police vehicle, etc., the department employee who discovers or is otherwise made aware of the contaminated area shall immediately notify an on-duty supervisor as soon as possible. The supervisor or on-duty Field Services sergeant made aware of the contamination shall make the necessary arrangements to have the area professionally cleaned. Small areas of contamination may be cleaned by a department employee by using a disinfectant, but only when the employee is utilizing PPE.

1007.6 POST EXPOSURE

1007.6.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water and/or saline may be used to wash the area). The employee shall also remove and properly dispose of or store any clothing, which may have been contaminated as described in section 1008.5 of this policy.

(b) If an employee has been or has reason to believe they may have been exposed to any infectious material, the employee may seek medical from a health care provider. Upon the employee's request, the on-duty Field Services supervisor or employee's immediate supervisor shall promptly make the necessary arrangements for the employee to seek medical attention and shall further ensure the employee completes the applicable Worker's Compensation documentation. The supervisor or on-duty Field Services supervisor may require an employee to seek medical attention following an exposure if, in the opinion of the supervisor, such medical attention is necessary.

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1. Treatment for HIV exposure is most effective when started within two hours of the exposure and must be started within 72 hours of the exposure to be effective. Treatment for Hepatitis B is most effective when started as soon as possible after the exposure.

(c) An employee who has been exposed to any infectious materials or has reason to believe they may have been exposed to any such material, shall notify a supervisor as soon as practicable after such exposure.

1007.6.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented:

(a) Name of the member exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The employee's supervisor or Field Services sergeant notified of the exposure shall be responsible for the timely notification of the City of Fargo's Human Resource Office and the physician retained by the Human Resource Office.

See attachment: Policy 1008 Communicable Diseases Supervisor Checklist.pdf

1007.6.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the member has been informed of the results of the evaluation.

(b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials, which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

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1007.6.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure.

1007.6.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate.

Source testing may be achieved by:

(a) Obtaining consent from the individual.

(b) Acquiring mandatory/court-ordered testing under N.D.C.C. § 23-07.5-02.

(c) The North Dakota Department of Health disclosing test results for an exposed person (N.D.C.C. § 23-07.5-06).

Consensual Source Testing

A department employee exposed to an infectious material, the employee's health care provider, or the Chief of Police, may request the source of the exposure be tested for bloodborne pathogens. If the source to be tested is a person, and that person consents to such a test, he or she shall be transported to a medical facility for the purpose of being tested. The employee's immediate supervisor or an on-duty Field Services sergeant will inform the health care provider conducting the test of the circumstances surrounding the exposure, the request for the testing of the source person's blood, and the consensual nature of the testing.

Non-Consensual Source Testing

In addition to the parameters described in Consensual Source Testing, if the source to be tested is a person, and that person refused to consent to testing, a test without the source person's consent may still be performed if all of the following apply:

(a) A sample of the source person's blood is already available, and;

(b) A physician or other health care provider determines and certifies in writing that the source person was responsible for an exposure, and;

(c) The source person is informed prior to the testing of the already available sample that his or her blood will be tested for bloodborne pathogens and the test results will not be disclosed to anyone other than the department employee(s) who were the subject of the exposure, the employee's health care provider, or any other person as authorized by law, and;

(d) The source person is informed that if their identity is known to the exposed employee(s), the exposed employee(s) cannot disclose the source person's identity to any other person except for purposes of having the test performed, and:

(e) The source person is informed that the record of the test results may be placed in the exposed employee(s) medical file, but only if the record does not contain the source person's identity.

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If the source to be tested is a person who refuses to consent to testing and a sample of that person's blood ***is not*** already available, a test of the source person's blood may still be performed, but only after the department and/or the department employee has obtained a judicial order requiring such testing. A command officer or a sergeant, with the assistance of the States Attorney or City Attorney's Office if necessary, will facilitate obtaining a judicial order when the circumstances necessitate obtaining one.

If the source to be tested is a person who is unconscious or otherwise incapable of giving their consent to be tested, any person who is authorized by law to make decisions relative to the source person's health care may provide consent. If the source person is deceased, medical personnel are required to conduct a bloodborne pathogen test and will provide the results to the exposed department employee or the employee's health care provider.

This section of policy presumes the source person to be tested is an adult, 18 years of age or older. If the source person to be tested is a juvenile, the parent or legal guardian of the juvenile shall be contacted prior to any consensual or non-consensual testing.

See attachment: Bloodborne Pathogen Testing Flow Chart.pdf

1007.7 CONFIDENTIALITY OF REPORTS

The results of any bloodborne pathogen testing are subject to strict non-disclosure rules and regulations {N.D.C.C. 23-07.5-02}. Department employees shall adhere to all laws of the State of North Dakota regarding the disclosure of any bloodborne pathogen testing conducted on behalf of the Fargo Police Department, or as a result of an employee's exposure to infectious material in the performance of their job duties.

Department employees may disclose the results of any bloodborne pathogen testing conducted on their behalf to another department employee, but only when the disclosure of the test results are necessary to protect the health and safety of another employee who has had an exposure, as defined within this policy, with the person who was the source of the test results.

A source person's identity ***MAY NOT BE DISCLOSED*** under any circumstances other than those allowed by law. Under North Dakota law, the unlawful disclosure of a source person's identity is a Class C felony. Any department employee who disclosed the identity of a source person in violation of law or this policy is subject to both criminal prosecution and department imposed discipline.

1007.8 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training:

(a) Should be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training

(b) Should be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

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(c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

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Smoking and Tobacco Use

1008.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Fargo Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1008.2 POLICY

The Fargo Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and any form of tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy.

In accordance with State law and City of Fargo policy 400-002, smoking is defined as inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

1008.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Fargo Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles (N.D.C.C. § 23-12-11).

1008.4 ADDITIONAL PROHIBITIONS

No member shall smoke within 20 feet of entrances, exits, operable windows, air intakes and ventilation systems of any City facility, office, any other public place or place of employment (N.D.C.C. § 23-12-10).

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Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Fargo Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1009.2 POLICY

The Fargo Police Department takes seriously all complaints regarding the service provided by the department and the conduct of its members.

The department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and employment agreements.

It is also the policy of this department to ensure the community can report misconduct without concern for reprisal or retaliation.

1009.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the department.

1009.3.1 COMPLAINT DEFINITIONS

(a) Personnel Complaint: The formal means for the department to review, investigate, or reach a conclusion relative to an allegation of a potential violation of department policy, unlawful conduct, or other misconduct on the part of the department employee.

(b) Complainant: The person or persons who initiate a personnel complaint or who brings an allegation of employee misconduct to the attention of the department.

(c) Inquiry: The informal means for the department to respond to a question concerning an employee's actions or an allegation of employee misconduct which, in some instances, be based on a complainants misunderstanding or disagreement with a law enforcement practice or department procedure. An inquiry may also be defined as the primary investigation into an allegation of employee misconduct which transitions into a personnel complaint if the facts and/or merit of the allegation require such a transition.

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(d) Mediation: The process by which an allegation of employee misconduct may, in some instances, be resolved by having the complainant and the department employee, who is the subject of the allegation, engage in an informal discussion which attempts to resolve the issue in question.

(e) Informal Counseling: The process by which isolated instances of employee misconduct and/or work performance deficiencies, which do not require the initiation of a personnel complaint, may be addressed and/or resolved by an employee's supervisor.

1009.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any department member becoming aware of alleged misconduct shall immediately notify their on-duty supervisor, command officer, or the Office of Professional Standards (OPS).

(c) A command officer or supervisor shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

1. Once initiated, the complaint will be forwarded to the department's OPS as soon as possible, but no later than 72 hours after it is initiated.

(d) The department may be the recipient of tort claims and lawsuits.

(e) Allegations of criminal misconduct, excessive or unnecessary use of force, or civil rights violations shall be received and promptly investigated by the department regardless of how or when the complaint was received.

(f) Unless determined by the Chief of Police or OPS, a department employee who is the subject of a personnel complaint shall be notified in writing as soon as practical. The written notification shall be provided to the employee by OPS and will specify the department or City of Fargo employment policy, rule, procedure, directive, or law the employee is alleged to have violated as well as a brief description of the allegation.

(g) The department will not accept or receive a personnel complaint from any person, to include a department employee, under the following circumstances unless specifically approved by the Chief of Police:

1. An anonymous complaint

2. A complaint wanting to dispute the legality of an arrest or other enforcement action prior to all of the relevant criminal proceedings being resolved other otherwise disposed of.

3. A complaint from a person who's judgement perception, or ability to communicate effectively is, or appears to be, impaired due to alcohol intoxication, or from being under the influence of a drug or other controlled substance. In these instances, the complainant will be encouraged to re-contact

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the department when they are no longer under the influence of alcohol, a drug, or other controlled substance.

4. A complaint alleging an employee's misconduct occurred six (6) months or more prior to the department receiving the complaint.
5. A complaint which is retaliatory in nature between department personnel. In these instances the initial complaint investigation (if applicable) will deal with the entire scope of the grievances between the employees involved.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.4.1 COMPLAINT FORMS

Personnel complaint forms will be accessible at the front desk of the police facility and be accessible through the department website. Forms may also be available at other Fargo Police Department facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 ACCEPTANCE

During regular business hours personnel complaints, both internally and externally generated, will be directed to and received by the department's Office of Professional Standards (OPS). If the personnel assigned to OPS are not available, the complaint will be directed to and received by an on-duty sergeant, or a command officer.

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. A personnel complaint, both internally and externally generated, will only be received directly from the complainant, either in person or in writing, unless there is an extenuating or compelling reason not to do so. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

In some instances, a complainant's questions and/or concerns regarding a department employee's actions or conduct may be immediately resolved through informal discussion with a command officer, a sergeant, or other department supervisor. All command officers, sergeants, and supervisors are expected to utilize their best judgement and discretion when resolving issues in this manner. If a complainant is dissatisfied with the resolution or information provided by a command officer, sergeant, or other supervisor under these circumstances, the complainant will be directed to the Office of Professional Standards (OPS) where the complaint and an appropriate resolution will be considered further.

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1009.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented on a complaint form (attachment #1). The supervisor shall ensure that the nature of the complaint is defined as clearly as possible, to include a brief description of the allegation, date, time, and location of the incident In addition, the name, address, and telephone number(s) of the complainant, witness, or others who may have information directly related to the complaint will also be included.

Any accompanying documentation relative to a personnel complaint, to include any written statements, photographs, other recordings, or any other information provided by the complainant at the the time the complaint is received by the department will be attached and included in the initial complaint file whenever possible or applicable.

All complaints and inquiries should also be documented in a system which records and tracks complaints. The system shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the department should audit the system and send an audit report to the Chief of Police or the authorized designee.

See attachment: Personnel Complaint Form.pdf

See attachment: Personnel Complaint Form II.pdf

1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Office of Professional Standards (OPS). In most cases, OPS will conduct the investigation and provide the Chief of Police with a regular update as to the status of the complaint investigation. However, OPS may assign a personnel complaint (in whole or in part) to a command officer, sergeant, or other department supervisor who will be responsible for conducting the complaint investigation and returning it to OPS.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of command officers, sergeants, or other department supervisors include, but are not limited to:

(a) Ensuring that upon receiving or initiating any complaint, a complaint form is completed.

1. The original complaint form will be directed to the Office of Professional Standards (OPS) who will take appropriate action and/or determine who will have responsibility for the investigation.
2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Office of Professional Standards, who will initiate appropriate action.

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(b) Responding to all complaints in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

1. Follow-up contact with the complainant should be made within 24 hours, or the next business day, of the department receiving the complaint.

2. If the matter is resolved and no further action is required, the supervisor will note the resolution for possible consideration in the employee's yearly evaluation.

(d) Ensuring upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Commander, the Office of Professional Standards, and Chief of Police are notified via the chain of command as soon as practicable.

(e) Promptly contacting the Shift Commander, Office of Professional Standards, or the Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the Office of Professional Standards (OPS), who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Investigating a complaint as follows:

1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.

2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(h) Ensuring that the procedural rights of the accused member are followed.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a command officer, sergeant, or other department supervisor or a member of the Office of Professional Standards, the following applies to employees:

(a) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

(b) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.

(c) Interviews of an accused employee shall be at the Fargo Police Department or other reasonable and appropriate place.

(d) No more than two interviewers should ask questions of an accused employee during a single interview.

(e) Prior to any interview, an employee should be informed of the nature of the investigation.

(f) Personnel who are the subject of a complaint investigation, will respond in full to the complainant's allegation(s). This may include, but is not limited to, obtaining a written response from the department employee whenever it is appropriate to do so.

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(g) Ensuring interviews of the complainant are generally conducted during reasonable hours.

(h) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.

(i) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

(j) The interviewer should record all interviews of employees and witnesses. If the employee has been previously interviewed, a copy of the recorded interview should be provided to the employee prior to any subsequent interview.

(k) All employees subjected to interviews which could result in discipline have the right to have an uninvolved representative or legal counsel present during the interview, unless it is determined by the Office of Professional Standards (OPS), the investigating supervisor, or the Chief of Police the person's presence may jeopardize the continuance and/or outcome of the complaint investigation.

(l) In order to maintain the integrity of each individual’s statement, involved employees shall not consult or meet with a representative, or attorney collectively, or in groups prior to being interviewed.

(m) All employees shall provide complete and truthful responses to questions posed during interviews.

(n) No employee may be compelled to submit to a deception detection device examination .

(o) At the conclusion of the complaint investigation, the person assigned to conduct the personnel complaint investigation shall submit their findings directly to the Office of Professional Standards (OPS). After conducting a review of the complaint investigation to ensure it is complete, OPS will submit the investigation file to the Chief of Police for final review and disposition.

1009.6.3 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses the alleged acts did not occur or did not involve department members. Complaints determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses the alleged act occurred, but the act was justified, lawful, proper, and within the scope of the department policies, rules, procedures, directives, or the City of Fargo's employment policies.

Not sustained - When the investigation discloses there is insufficient evidence to prove or disprove the validity of the complaint allegation.

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Sustained - When the investigation discloses sufficient evidence to establish the act occurred and it constituted misconduct. If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

Policy Failure - The investigation proved the act(s) by an employee were justified; however, department policies, rules, procedures, directives, or the City of Fargo's employment policies governing such an act, were insufficient in providing the employee with the guidance necessary to protect the public's interest or the interests of the department.

Mediation - The complaint was resolved to the satisfaction and the mutual agreement of the complainant and the department employee, who is the subject of the complaint, through informal discussion and/or explanation.

Closed - The nature of the complaint or the circumstances of the investigation could not be classified through any of the other dispositions.

1009.6.4 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within 60 days from the date of discovery by an individual authorized to initiate an investigation,unless an exception or an extension is approved by the Chief of Police.

In the event new or otherwise relevant information regarding a personnel complaint is discovered after the complaint has received a final disposition, the Chief of Police may order the complaint investigation re-opened, after which the context of the complaint and the disposition may be subject to change.

If at any time prior to the conclusion of a personnel complaint investigation the complainant decides to withdraw their complaint, but the investigation has disclosed a possible violation of any department policy, rule, procedure, directive, or the City of Fargo's employment policies, the investigation will continue until a conclusion is reached and an appropriate disposition determination is made by the Chief of Police.

The Office of Professional Standards (OPS) shall provide the complainant, to include any department employee, who initiates a personnel complaint with written notification of the complaint disposition. The written notification shall include a brief summary of the investigations findings, but shall not include any details or reference to any discipline imposed upon the department employee(s) named in the complaint, if applicable.

1009.6.5 NOTICE TO COMPLAINANT OF INVESTIGATION

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

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1009.6.6 COMPLAINT REGARDING THE USE OF A CONFIDENTIAL INFORMANT
The member conducting the investigation regarding the alleged misuse of a confidential informant in violation of N.D.C.C. § 29-29.5-01 et seq. shall comply with the investigation time frame and notification requirements of N.D.C.C. § 29-29.5-07.

1009.7 DISPOSITION OF PERSONNEL COMPLAINTS

Sustained Personnel Complaints:

If a personnel complaint receives a sustained disposition, the Office of Professional Standards will forward the complaint file to the command officer responsible for the supervision of the employee named in the complaint. The command officer shall submit a written disciplinary recommendation to their respective division commander after considering the following:

- The nature and seriousness of the employee's actions.
- The employee's work performance and disciplinary history.
- Any extenuating, mitigating, or aggravating circumstances surrounding the complaint.
- Any previous effort to remediate the employee's misconduct or work performance deficiencies.

The division commander shall review the disciplinary recommendation submitted by the command officer responsible for the supervision of the employee named in the complaint, and attach their concurrence or non-concurrence to the recommendation prior to forwarding the entire complaint file to the Chief of Police. If the division commander does not concur with the disciplinary recommendation received, the division commander will submit a written disciplinary recommendation of their own, and include it in the complaint file prior to forwarding it to the Chief of Police. All disciplinary recommendations shall be submitted to and received by the Chief of Police **within 14 days** of the complaint receiving a sustained disposition, unless an exception or an extension is authorized by the Chief of Police.

If any part of the disciplinary recommendation submitted to the Chief of Police by either the command officer or division commander involves an economic sanction, specifically a suspension from duty without pay, a permanent or temporary demotion, a reduction in rank, or termination of employment with the department, the employee who is the subject of the disciplinary recommendation shall be provided with a pre-determination hearing with the Chief of Police prior to any disciplinary decision. A pre-determination hearing shall also be required prior to any disciplinary decision if, separate from any recommendation submitted to the Chief of Police, the Chief of Police considers an economic sanction to be a viable outcome to the complaint.

The Chief of Police shall be responsible for the final determination relative to employee discipline and will ensure it is imposed accordingly.

Inquiries:

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The department may receive an allegation of employee misconduct which may not constitute a violation of a department policy rule, procedure, directive, or the City of Fargo's employment policies. Rather, the allegation may be based on the complainant's misunderstanding or disagreement with a law enforcement practice or other department procedure. If an inquiry cannot be resolved, the Office of Professional Standards shall conduct a preliminary investigation into the allegation to determine if the initiation of a personnel complaint is necessary and/or appropriate.

If after receiving an allegation of employee misconduct, the Office of Professional Standards (OPS) determines through a preliminary investigation a personnel complaint is not justified, the allegation will be classified as an inquiry. The inquiry will be kept on file with OPS and the matter considered closed. However, if OPS determines through the preliminary investigation a personnel complaint is warranted, a complaint will be initiated and investigated as described within this policy.

Mediation:

In some instances, regardless of the evidence or facts discovered during the departments review, investigation, or conclusion to a personnel complaint or inquiry, it may be appropriate for the complaint, or inquiry to be resolved through mediation. The Office of Professional Standards (OPS) shall be responsible for identifying personnel complaints, or inquiries which may be best resolved through mediation. Mediation may only be considered as a possible means of resolving a personnel complaint, or inquiry if both the complainant and department employee, who is the subject of the complaint, agree to participate.

- Participation in mediation must be voluntary, and neither the complainant nor the department employee, who is the subject of the complaint, shall be coerced or pressured into using mediation as a means of resolving a complaint.

If at any time during or at the conclusion of mediation, either the complainant or the employee, who is the subject of the personnel complaint or inquiry is dissatisfied with the process or outcome, they may request to have the complaint or inquiry investigated and resolved outside of the mediation process. The Office of Professional Standards will ensure the complaint or inquiry is then resolved as otherwise described within this policy.

If a personnel complaint or inquiry is resolved to the satisfaction of both the complainant and the department employee through mediation, the person serving as the mediator will complete a written report detailing the mediation process and the outcome. The mediator's report will be included in the complaint or inquiry file which will be forwarded to the Chief of Police by the Office of Professional Standards for final review and disposition.

Informal Counseling:

At times, a department employee's misconduct and/or work performance deficiency may be best described as isolated and/or relatively minor in nature. In these instances, and only when the misconduct or performance deficiency does not require or otherwise make the initiation of a personnel complaint necessary, the employee's immediate supervisor, a command officer, or

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other department supervisor may utilize informal counseling as the means to appropriately address and/or resolve the misconduct or performance deficiency.

When a department employee's immediate supervisor, a command officer, or other department supervisor determines informal counseling is the appropriate means for addressing an employee's misconduct and/or performance deficiency, the supervisor or command officer may utilize the department's Informal Employee Counseling form. The completed counseling form shall be forwarded to the command officer responsible for the supervision of the employee, who is the subject of the informal counseling. The command officer receiving the counseling form shall ensure the subject of the informal counseling is considered for inclusion within the employee's annual performance appraisal.

See attachment: Department Counseling Form.pdf

1009.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1009.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate allowing the accused to continue to work would adversely affect the mission of the department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1009.10 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

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A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

A member accused of criminal conduct shall be afford their Garrity protections as it applies to relative case law.

The Fargo Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1009.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES FOR A SUSTAINED COMPLAINT

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

See attachment: FPD Discipline Recommendation-Determination Form.pdf

1009.11.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1009.11.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, which should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

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(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1009.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1009.12 PRE-DISCIPLINE EMPLOYEE RESPONSE

As personnel complaints and/or inquiries are received, reviewed, investigated, and/or resolved by the department, the department shall remain committed to ensuring the due-process rights of the department employee are not compromised. Department employees will always be afforded a fair and reasonable opportunity to respond to any allegation which results, or may result, in the initiation of a personnel complaint.

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial, formal hearing, or designed to accommodate the presentation of testimony or witnesses. Employees shall be treated with courtesy and respect at all times, and shall be interviewed in a confidential setting whenever possible.

(b) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(c) In the event the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(d) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

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(e) If the personnel complaint investigation interview is audio and/or video recorded by the Office of Professional Standards or an investigating supervisor, the Chief of Police may authorize the production of a copy of the recording which will be made available to the employee upon written request. Both audio and/or video recordings of personnel complaint investigation interviews, outside of those initiated by the department, are *prohibited* unless otherwise authorized by the Chief of Police.

(f) Employees may bring with them a person of their own choosing to any pre-determination hearing held with the Chief of Police, and may also present any pertinent information to the Chief of Police for consideration prior to any disciplinary determination. Employees wishing to present any additional information to the Chief of Police following such a hearing will have not less than **48 hours** to do so.

1009.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline. The Chief of Police will determine whether or not to accept the resignation or retirement prior to the completion of the complaint process.

1009.14 POST-DISCIPLINE APPEAL RIGHTS

Non probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal in accordance with Fargo Municipal Code #7-0305, and City of Fargo Policy #300-008A. Department employees may appeal any discipline determination which consists of an economic sanction, specifically a suspension from duty without pay, a permanent or temporary demotion, reduction in rank, or termination or employment with the department, to the City of Fargo Civil Service Commission.

1009.15 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

Probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate (see also the Temporary Modified-Duty Assignments Policy).

1009.16 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

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Personnel complaint records, to included those categorized as an inquiry, are subject to review and/or inspection as prescribed by the "Open-Records" laws of the State of North Dakota and/or the policies governing the review and/or inspection of any such records established by the department and/or the City of Fargo. Personnel complaint records will be securely maintained in the Office of Professional Standards and may be accessed only upon written request to OPS unless otherwise authorized by the Chief of Police.

Personnel complaints or those categorized as an inquiry which are still pending investigation and/or review, or those which are otherwise awaiting a final disposition from the Chief of Police, are not considered closed and are therefore not accessible or subject to review and/or inspection by any person unless specifically authorized by the Chief of Police.

Any documentation relative to employee discipline which accompanies a personnel complaint shall be included in the complaint file. In addition, a copy of any final discipline determination made by the Chief of Police, and/or any written form of discipline which accompanies a personnel complaint, shall be forwarded to the City of Fargo's Human Resources Office for inclusion in the employee's personnel file where it will be retained indefinitely.

1009.17 TERMINATION REPORTING

When an officer is terminated, notice of the nature and cause of the termination, the effective date of the termination, and a statement indicating whether or not the Department recommends denial, suspension or revocation of the officer’s peace officer license, shall be forwarded to the North Dakota Peace Officer Standards and Training Board within 30 days of the termination by the Chief of Police or his/her designee (N.D.A.C. § 109-02-02-18).

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Safety Belts

1010.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of safety belts and child restraints. This policy will apply to all members operating or riding in department vehicles.

1010.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213 (N.D.C.C. § 39-21-41.2).

1010.2 POLICY

It is the policy of the Fargo Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

1010.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat (to include the rear seats) equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained (N.D.C.C. § 39-21-41.4).

Exceptions to the requirement to wear safety restraints may be made only in situations where, due to circumstances, wearing a safety belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.

1010.4 TRANSPORTING CHILDREN

Children younger than 8 years of age shall be transported using a child restraint system unless an exemption exists due to the child's height and weight (N.D.C.C. § 39-21-41.2).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of safety belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

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1010.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners, and arrestees **should** be in a seated position and secured in the rear seat of any department vehicle with safety belts provided by the vehicle manufacturer. Suspects, prisoners, and arrestees who are transported in the back seat should be seat belted if the persons is under the age of 18 (N.D.C.C. 39-21-41.2), unless the officer can reasonably articulate a compelling reason not to use the rear seat safety belt.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1010.6 INOPERABLE SAFETY BELTS

Department vehicles shall not be operated when the safety belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the safety belt is inoperable.

Department vehicle safety belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1010.7 VEHICLES MANUFACTURED WITHOUT SAFETY BELTS

Vehicles manufactured and certified for use without safety belts or other restraint systems are subject to the manufacturer’s operator requirements for safe use.

1010.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

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Body Armor

1011.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

1011.2 POLICY

It is the policy of the Fargo Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1011.3 ISSUANCE OF BODY ARMOR

The Administration Division Commander shall ensure that body armor is issued to all officers and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

Officers will be fitted for body armor upon start of employment with the department, or when reasonably practical to do so. In the event a newly hired officer's body armor hasn't arrived, temporary body armor shall be issued before an officer begins the PTO program.

Body armor shall be replaced when the body armor becomes damaged to the point that its effectiveness or functionality has been compromised. Additionally, soft body should be replaced in accordance with the Administrative Services Division's replacement practices, which is based in part from the manufacturer's recommendations and NIJ recommendations. The department will endeavor to replace body armor issued to officers every five (5) years, unless there are unforeseen circumstances which prevents the department from purchasing new body armor.

When an officer is issued new body armor, the officer shall promptly turn-in their old body armor to the department's Quartermaster.

Officers who are issued a rifle rated trauma plate must wear the trauma plate in their soft body armor vest carrier at all times.

1011.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear department-approved body armor.

(b) Officers shall wear body armor while on duty when they are in a situation where they could reasonably be expected to take enforcement action.

(c) Officers are not required to wear body armor when they are functioning primarily in an administrative or support capacity and would not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when an officer is working in uniform (exceptions provided in items (c) and (e) of this seciton), or taking part in department range training.

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(e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1011.3.2 INSPECTIONS OF BODY ARMOR
Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation.

1011.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR
Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the department's approved method or manufacturer’s care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

1011.4 ADMINISTRATIVE RESPONSIBILITIES
The Training Sergeant shall:

(a) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

The Quartermaster shall:

(a) Monitor technological advances in the body armor industry for any appropriate changes to the department-approved body armor.

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Personnel Files

1012.1 PURPOSE AND SCOPE

This policy governs maintenance, retention, and access to personnel files.

1012.1.1 DEFINITIONS

Personal information - Includes an individual's home address, home telephone or cellular telephone number; photograph; medical information; motor vehicle driver's license number; public employee identification number and payroll deduction information. It also includes the name, address, telephone number and date of birth of any dependent or emergency contact; any credit, debit or electronic fund transfer card number and any account number at a bank or other financial institution.

Public employee - Any individual who has applied for employment, is currently employed or was previously employed by a public entity.

1012.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of North Dakota (N.D. Const. art. XI, § 6; N.D.C.C. § 44-04-18.1; N.D.C.C. § 44-04-18.3).

1012.3 DEPARTMENT FILE

The department file, maintained by City of Fargo Human Resources Department, shall be maintained as a record of a person’s employment/appointment with this department. The department file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained (this may be saved electronically).

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently maintained.

(e) Discipline records, including copies of sustained personnel complaints.

(f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.

2. Any member response shall be attached to and retained with the original adverse comment.

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1012.4 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Portions of an employees personnel records are subject to open records rules in accordance with N.D.C.C.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney, or other attorneys or representatives of the City in connection with official business.

1012.4.1 RELEASE OF PERSONNEL INFORMATION

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media, and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement. However, once a Office of Professional Standards investigation is closed the internal affairs file becomes subject to open records.

1012.4.2 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly refer that person to the Human Resources Department, the Administrative Services Division Commander, or the Office of Professional Standards.

Upon receipt of any request for records internal to the Department (this excludes HR), the responsible person should, out of courtesy, notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

1012.5 EMPLOYEE ACCESS TO HIS/HER OWN FILE

Upon request, an employee may review his/her personnel file, except for files containing any of the following information:

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(a) Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation, pending final disposition or notice to the employee of the intent to discipline. Internal Affair investigation files are specific to a yearly numerical sequence rather than individual files.

(b) All confidential information on any person who is not the employee regardless of the file.

(c) Criminal investigations involving the employee.

(d) Any portion of a test document, except the cumulative total test score for either a section of the test document, or for the entire test document.

(e) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(f) Records relevant to any other pending claim between the employer and the employee which may be discovered in a judicial proceeding.

1012.6 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established Human Resources Department retention policy and the Department's records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development.

(b) The Chief of Police has determined no information will be purged from an employees department personnel file.

1012.7 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Office of Professional Standards with the approval of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Office of Professional Standards supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department personnel file maintained by the Human Resources Department, but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Only the final disciplinary action, such as but not limited to, a letter of consultation or letter of reprimand is to be sent to the member's Human Resources personnel file. The supervisor or

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command officer, who issued the final disciplinary action, will be responsible for forwarding a copy the correspondence to HR.

1012.8 MEDICAL FILE

A confidential medical file shall be maintained separately from all other personnel records, and shall contain all documents relating to the member's medical condition and history (N.D.C.C. § 44-04-18.1). No medical information shall be kept outside the medical file. Medical file contents should include, but are not limited to:

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.

(c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips, and attendance records that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1012.9 TRAINING FILE

An individual training file shall be maintained by the Administrative Lieutenant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation, and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Administrative Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Administrative Lieutenant or training officer shall ensure that copies of such training records are placed in the member's training file.

1012.10 PRE-EMPLOYMENT FILE

The department in conjunction with the Human Resources Department will create a pre-employment file on those individuals who have applied for employment with the Fargo Police Department. This file will contain, but is not limited to background information on the applicant, academic history information, credit history, and personality questionnaires. Once completed the pre-employment file will be used to screen if an applicant is suitable for employment with the department. Pre-employment files will be maintained temporarily by the Administrative Division designee and returned the Human Resources Department when no longer needed.

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1012.11 DIVISION FILE

Division files, also known as Guardian Tracking (GT), will be maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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Commendations and Awards

1014.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. Citizens may at times perform a meritorious act that deserves recognition. This procedure provides general guidelines for commending exceptional employee performance or the meritorious acts of citizens.

Command officers and supervisors are encouraged to identify and acknowledge the exceptional performance of individual employees and acts of assistance provided to the department by citizens. Furthermore, department employees are encouraged to nominate their co-workers for recognition by the department for acts which demonstrate professionalism, outstanding performance, and/or a commitment to the organization or the community.

1014.2 WHO MAY MAKE COMMENDATIONS

Any department employee may nominate another employee or citizen for a department award by submitting a written nomination to the nominated employee's respective division commander, or in the case of nomination for a citizen award, to the nominating employee's division commander. Nominations for all department awards must be made within one year of the incident which led to the nominated employees or citizens actions unless otherwise authorized by a division commander.

A written commendation may also be made by a member of the public regarding any department employee.

Written recommendations for a citizen's meritorious acts may be made by any member of this department or any member of the public.

1014.3 MERITORIOUS OR COMMENDABLE ACTIONS

1014.3.1 MERITORIOUS OR COMMENDABLE ACTS BY EMPLOYEES

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

(a) Superior handling of a difficult situation.

(b) Conspicuous bravery or outstanding performance.

(c) Any action or performance that is above and beyond the typical duties of an employee.

1014.3.2 AWARD NOMINATIONS

All nominations submitted to a division commander must include the following:

(a) Employee name or citizen name, division and assignment at the date and time of the nomination, if applicable.

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(b) A detailed description of the employee's or citizen's commendable action with official reports associated with the nomination included, as appropriate.

(c) A recommendation from the nominating employee as to which award the nominated employee or citizen is being nominated for.

Completed nomination reports should be forwarded to the appropriate Division Commander for review. The Division Commander shall sign and forward the report to the department's Awards Nomination Review Committee for review.

The department's Awards Nomination Review Committee will review and give thoughtful consideration to the awards nominations they receive. The committee will provide the division commander who forwarded the nomination on to the committee with a written recommendation relative to their review and consideration of the nomination. The division commander will then forward the committee's recommendation along with the division commander's written concurrence or non-concurrence, on to the Chief of Police, who will make the final determination relative to the award.The Chief of Police has the discretion to bypass the department's Awards Nomination Review Committee for extraordinary award events.

Nominations received by a division commander for Certificates of Commendation, Letters of Recognition, or Citizen Letters of Appreciation do not require submission to the Awards Nomination Review Committee. The division commander receiving the nomination will make the final determination regarding these awards.

If an award is approved, a copy of the award citation will be placed into the employee's personnel file.

1014.3.3 AWARDS NOMINATION REVIEW COMMITTEE

The department's division commanders shall appoint personnel from within their respective divisions to serve on the department's Awards Nomination Review Committee. Each department member appointed to the committee shall serve a term not to exceed three (3) consecutive years. The committee shall consist of the following department personnel:

- Field Services Division - one lieutenant (shall serve as the committee chairperson), one sergeant, and one police officer
- Investigations Division - one sergeant and one detective
- Administrative Division - one sergeant and one police support specialist

The Awards Nomination Review Committee shall convene on no less than a quarterly basis throughout the calendar year to review the awards nominations forwarded to the committee unless otherwise ordered by a division commander, or the committee's chairperson.

1014.4 AWARDS

Sworn officer/employee awards may be bestowed upon employees. These awards include (listed in order of precedence):

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- ***Medal of Honor***
  - Sworn officers, who give their life in the line of duty while performing an act of honor, valor, or bravery, are automatically eligible to receive the Medal of Honor, posthumously, OR
  - Sworn officers, who distinguish themselves by an act above and beyond the call of duty involving extreme risk to their life are eligible to receive the Medal of Honor.
  - The award will consist of a Medal of Honor medal, a Medal of Honor certificate, and a Medal of Honor ribbon to be worn on the police uniform.
- ***Medal of Valor***
  - Sworn officers, who distinguished themselves by an act above and beyond the call of duty involving substantial risk to their life, are eligible to receive the Medal of Valor.
  - The award will consist of a Medal of Valor medal, a Medal of Valor certificate, and a Medal of Valor ribbon to be worn on the police uniform.
- ***Police Officer's Silver Star***
  - Sworn officers, who distinguish themselves by an act above and beyond the call of duty, in which the circumstances indicate an act of bravery or heroism was performed, are eligible to receive the Police Officer's Silver Star.
  - The award will consist of a Police Officer's Silver Star medal, a Police Officer's Silver Star certificate, and a Police Officer's Silver Star ribbon to be worn on the police uniform.
- ***Distinguished Service Medal***
  - Sworn officers, who distinguish themselves by an act above and beyond the call of duty, in which the circumstances indicate an act which brings acclaim to the officer or the department was performed, are eligible to receive the Distinguished Service Medal.
  - Sworn officers and civilian employees serving the Fargo Police department in a distinguishable manner for twenty (20) years or more are also eligible to receive this award.
  - The award will consist of a Distinguished Service medal, a Distinguished Service certificate, and a Distinguished Service ribbon to be worn on the police uniform.For civilian employees not in uniform, the award will consist of a Distinguished Service Medal, and a Distinguished Service certificate.
- ***Purple Heart Medal***
  - Sworn officers, who are seriously injured or seriously wounded in the line of duty are eligible to receive the Purple Heart.
  - The award will consist of a Purple Heart medal, a Purple Heart certificate, and a Purple Heart ribbon to be worn on the police uniform.

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- ***Combat Cross Medal***
  - Sworn officers, who distinguish themselves during an encounter with an adversary armed with a deadly weapon, in which the officer's life was directly and significantly threatened, are eligible to receive the Combat Cross Medal.
    - A deadly weapon is considered to be any object used by an adversary in a manner which is likely to have caused death or serious injury to the officer.
  - The award will consist of a Combat Cross medal, a Combat Cross certificate, and a Combat Cross ribbon to be worn of the police uniform.
- ***Chief's Medal***
  - Sworn officers and civilian employees, who distinguish themselves with an act which significantly benefits the department or the community are eligible to receive the Chief's Medal.
  - Demonstrating outstanding leadership, professionalism, community service, or any other act deemed by the Chief of Police to have significantly benefited the department towards the accomplishment of its mission and goals are considerations for this award.
  - The award will consist of a Chief's medal, a Chief's medal certificate, and a Chief's medal ribbon to be worn on the police uniform. For civilian employees not in uniform, the award will consist of a Chief's medal, and a Chief's medal certificate.
- ***Life Saving Award***
  - Sworn officers and civilian employees, who distinguish themselves by an act which contributes to the saving of a person's life are eligible to receive the Lifesaving Award.
  - The award will consist of a Lifesaving Award medal, a Lifesaving Award certificate, and a Lifesaving Award ribbon to be worn on the police uniform. For civilian employees not in uniform, the award will consist of a Lifesaving Award medal, and a Lifesaving Award certificate.
- ***Supervisor/Police Officer/Civilian Employee of the Year Award***
  - Any supervisor, sworn officer, or civilian employee, regardless of rank or assignment, is eligible to be nominated for the Peace Officer/Civilian Employee of the Year award. This award will be presented to an officer and/or civilian employee in recognition for outstanding service, professionalism, and contribution to the department for the preceding year.
  - Supervisors, sworn officers, and civilian employees may be nominated for this award by their peers, supervisors, or command officers. Nominations for this award must be submitted in writing to the nominated employee's respective division commander by December 15th of each year.
  - The department Awards Nomination Review Committee will review all of the recommendations submitted for the award and provide the Chief of Police with a final recommendation consisting of no more than three finalists for the award.

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- The Chief of Police will select the recipient(s) of this annual award.
- The award will consist of a Supervisor/Police Officer/Civilian Employee of the Year medal, a Supervisor/Police Officer/Civilian Employee of the Year certificate, and a Supervisor/Police Officer/Civilian Employee of the Year ribbon to be worn on the police uniform. For civilian employees not in uniform, the award will consist of a Civilian Employee of the year plaque.

- ***Combat Action Award***
  - Sworn officers, who have competently performed their duties as a police officer, in a critical incident involving hostile gunfire from a suspect or suspects. Sworn officers may qualify for this award even if no direct fire was taken as long as there was risk of lethal danger.
  - The award will consist of a Combat Action Award certificate, and a Combat Action Award ribbon to be worn on the police uniform.
- ***Police Training Officer (PTO) Service Award***
  - Sworn officers, who demonstrate exemplary service and dedication to the department by serving as a Police Training Officer (PTO) for an extended period of time are eligible to receive the Police Training Officer Service Award.
  - Sworn officers who have satisfactorily served as a Police Training Officer for a minimum of five (5) years are eligible to receive the Police Training Officer Service Award.
  - The award will consist of a Police Training Officer Service Award certificate and a Police Training Officer Service Award ribbon to be worn on the police uniform.
- **SWAT Service Award**
  - Sworn officers, who demonstrate exemplary service and dedication to the department by serving as a member of the SWAT team for an extended period of time are eligible to receive the SWAT Service Award.
  - Sworn officers who have satisfactorily served as a member of the SWAT team for a minimum of five (5) years are eligible to receive the SWAT Service Award.
- **K-9 Service Award**
  - Sworn officers, who demonstrate exemplary service and dedication to the department by serving as a member of the Canine (K-9) Unit for an extended period of time are eligible to receive the K-9 Service Award.
  - Sworn officers who have satisfactorily served as a K-9 handler for a minimum of five (5) years are eligible to receive the K9 Service Award.
- ***Emergency Service Unit Citation***
  - Sworn officers and civilian employees, who demonstrated outstanding service and dedication to the City of Fargo, while performing extended police emergency operations during a natural or human disaster are eligible to receive the Emergency Service Unit Citation.

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- The award will consist of an Emergency Service Unit Citation ribbon to be worn on the police uniform. For civilian employees not in uniform, the award will consist of a Emergency Service Unit Citation certificate.

- ***Commendable Service Award***
  - Sworn officers and civilian employees, who distinguish themselves with an act which exemplifies the goals, values, and mission of the department are eligible to receive the Commendable Service Award. An act above and beyond the expectations of a sworn officer or civilian employee's assignment may be consideration for this award.
  - The Chief of Police or a division commander will present the Commendable Service Award to the recipient.
  - The award will consist of a Commendable Service Award certificate signed by the Chief of Police.

See attachment: Ribbon Order of Precedence II.pdf

See attachment: AWARDS LIST I.pdf

Citizen awards may be bestowed upon members of the public.These awards include:

- ***Citizen Citation for Distinguished Service***
  - Citizens who provide assistance to the department which involves risk to the citizen's life, or where the citizen contributes to the saving of another person's life, are eligible to receive the Citizen Citation for Distinguished Service.
  - The award will consist of a Citizen Citation for Distinguished Service plaque and a Commendation Letter from the Chief of Police.
- ***Citizen Recognition Award***
  - Citizen's who assist the department in accomplishing the organization's mission and goals are eligible to receive the Citizen Recognition Award.
  - The award will consist of a Letter of Recognition from the Chief of Police.
- ***Citizen Letter of Appreciation***
  - Citizens who provide assistance to the department are eligible to receive a Citizen Letter of Appreciation.Once reviewed and authorized by the nominating employee's division commander, the nominating employee may present this award to the recipient.
  - This award will consist of a Letter of Appreciation from a command officer, supervisor, or from the department employee recommending the award.

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Fitness for Duty

1015.1 PURPOSE AND SCOPE

All employees performing public safety duties are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of their respective duties. The purpose of this policy is to establish consistent policy and procedures for ordering and implementing physical and psychological fitness for duty evaluations of sworn personnel and other personnel involved in public safety functions.

It is not the intention of this policy to interfere with a supervisor's ability to recommend or suggest personal counseling to a subordinate, nor is this policy intended to alter or replace confidential counseling provided by the department as a result of critical incidents. In addition, this policy is not intended as a substitute for, or to preclude the department from, imposing discipline for employee misconduct. Rather, this policy is intended to provide a mechanism for the assessment of an employee's physical, mental, and emotional abilities to perform essential functions of his/her position when the employee's conduct, behavior, and circumstances indicate to a reasonable person that continued service by the employee may be a threat to public safety, the safety of other employees, the safety of the particular employee, or may interfere with the City's ability to deliver effective police services.

1015.2 POLICY

It is the policy of the Fargo Police Department to provide a work environment in which all employees performing public safety duties have the physical stamina and psychological stability free from physical, emotional, or mental conditions that might adversely affect their ability to perform the essential functions of their positions, with or without reasonable accommodation.

1015.3 PROCEDURES

To assist in determining the continuing physical, emotional, and mental fitness of Fargo Police officers to carry out their essential duties as armed police officers, and other employees whose duties affect the public safety, all supervisory employees should be alert to any indication that an employee may not be physically, emotionally, or mentally fit. Such indications may include, but are not limited to the following factors. The mere presence of any one factor or combination of factors may not be sufficient to order the evaluation. However, such presence should not be ignored and may lead to the ordering of an evaluation. While there is a great variety and range of acceptable behaviors among employees, dramatic or sudden changes in any particular employee's customary behavior may increase concerns. Some of the following factors may form the basis for imposing discipline in addition to, or instead of, ordering a fitness for duty evaluation. These factors, not all inclusive or in a specific order of importance, are:

(a) Three personnel complaints, whether originated internally or externally, particularly complaints of the use of unnecessary or excessive force, inappropriate verbal conduct, or any conduct indicating an inability to exercise self-control and self-discipline.

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(b) An abrupt and negative change in customary behavior toward an inability to perform essential functions of the position.

(c) Irrational verbal conduct or behaviors including delusions and hallucinations.

(d) Suicidal statements, behaviors, or personal expressions of mental instability.

(e) Unexplained and excessive tiredness or hyperactivity.

(f) Dramatic change in eating patterns resulting in sudden weight loss or gain, or diagnosis of a life threatening eating disorder.

(g) Change in behavior pattern to inattention to personal hygiene and health.

(h) Inappropriate use of alcohol, medications or other drugs, including symptoms of illegal drug use.

(i) Memory loss.

(j) Impatience or impulsiveness, especially with a loss of temper control.

(k) A pattern of conduct indicating a possible inability or decrease in ability to defuse tense situations, a tendency to escalate such situations or create confrontations.

(l) Unexplained and inappropriate excessive lateness or absenteeism.

(m) Any other factor or combinations of factors which causes a supervisor to reasonably suspect a fitness for duty evaluation may be necessary.

1015.4 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of the position.

(b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints, unless the constraints are Department approved.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1015.5 SUPERVISOR RESPONSIBILITIES

Each supervisor is responsible for monitoring those individuals in his/her command for any behavior that would warrant further inquiry. A supervisor observing an employee, or receiving a report of an employee who is perceived to be unable to safely perform his/her duties due to

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a physical, medical, or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(a) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem.

(b) In all cases, a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Shift Commander and the employee's Division Commander, a determination should be made whether the employee should be temporarily relieved from duty.

(e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

1015.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the Department of Human Resources to determine the level of the employee's fitness for duty.

(b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties, whether the condition which leads to the limitation is industrial or non-industrial in nature, and/or other information to the extent authorized by law, necessary to achieve the legitimate purpose of the Department. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.

(c) The Department has a right to information, which is necessary to achieve the legitimate purpose of public safety. The evaluation is ordered by and conducted for the department. It is not for the purpose of treatment, but to determine fitness for duty. The verbal and/or written results of the evaluation will be provided to the Chief of Police or his/her designee and to the City of Fargo Employee Health Medical file as a confidential personnel record.

(d) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the examination, evaluation and/or treatment.

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(e) All reports and examinations submitted by the treating physician or therapist shall be part of the employee's medical file. Depending on the results of the evaluation and recommendation of the treating physician or therapist, the Department may:

1. Return the employee to full duty;
2. Place the employee on temporary light duty or modified duty;
3. Remove the employee from any duties pending treatment and re-evaluation;
4. Conditionally allow full or modified duty on receipt of treatment;
5. Institute or resume disciplinary proceedings as appropriate; or
6. Institute proceedings to terminate, or when appropriate and in conjunction with the Human Resources Department, offer an alternative position for which the employee may be qualified.

(f) Any employee ordered to receive a fitness-for-duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and may subject the employee to discipline, up to and including termination.

(g) If the psychological fitness for duty evaluation determines the employee is unfit for duty, his/her badge, police identification card, and department issued weapon(s) will be retained by the department pending the employee's re-evaluation and return to duty.

(h) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

1015.7 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not work more than:

- 16 hours in a one-day period (24 hours)
- 30 hours in any two-day period (48 hours)
- 84 hours in any seven-day period (168 hours)

Except in very limited circumstances, members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve an employee from an on-duty status to an off-duty status when the employee has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

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1015.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness-for-duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

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Meal Periods and Breaks

1016.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible, shall conform to the policy governing all City employees that has been established by the City Manager.

1016.1.1 MEAL PERIODS

Sworn employees shall remain on-duty subject to call during meal breaks. Civilian employees are not on-call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol shall request clearance from Dispatch prior to taking a meal period. Uniformed officers shall take their breaks within the City limits and shall monitor their radios unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed, which is generally 30 minutes unless approved by a supervisor.

1016.1.2 15-MINUTE BREAKS

Non-sworn employees may be given a 15-minute break, near the midpoint, for each four-hour work period. Only one 15-minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

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Lactation Breaks

1017.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child.

1017.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing child for up to one year after the child's birth (29 USC § 207).

1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the employee’s regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1017.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area (N.D.C.C. § 23-12-16).

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1017.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

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Payroll Records

1018.1 POLICY

The Fargo Police Department maintains timely and accurate payroll records.

1018.2 PURPOSE AND SCOPE

Payroll records are submitted to Administration on a biweekly basis for the payment of wages.

1018.2.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages. Supervisors will be responsible for approving their employees' payroll to include submissions for pay and time off during the pay period.

1018.2.2 TIME REQUIREMENTS

All employees are electronically paid on a bi-weekly basis, usually on Thursday, with certain exceptions such as holidays. New employees will be enrolled in direct deposit with their financial institution by the Human Resources Department and they will receive a check for the first payroll cycle. Subsequent payroll cycles should be made via direct deposit. Payroll records shall be completed and submitted to Administration no later than 10:00 a.m. on the Monday morning before the end of the pay period, unless specified otherwise.

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Compensation

1019.1 PURPOSE AND SCOPE

It is the policy of the Department to establish work rules and compensate non-exempt salaried employees who work authorized overtime or straight time by payment of wages as agreed and in effect through an employment agreement. The employee must complete and submit a request for overtime/straight time compensation as soon as practicable after the additional time is worked.

1019.1.1 DEPARTMENT POLICY

Because of the nature of law enforcement work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of the shift in which the overtime is worked.

When agreed upon by the supervisor and employee, short periods of work at the end of the normal duty day (e.g., less than one hour in duration) ***may be*** handled unofficially by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime compensation. If the supervisor authorizes or directs the employee to complete an overtime slip for such a period, the employee shall comply. This does not prohibit any employee from claiming overtime or straight time for short periods of work at the end of their normal duty day.

1019.2 DEFINITIONS

Sworn Officers: A uniformed or plainclothes member of the Fargo Police Department who is empowered to enforce city ordinances and state laws, and has the power of arrest.

Other Employee: All employees of the Fargo Police Department excluding sworn officers.

Exempt Employees: The Chief of Police, Deputy Chief's, and Lieutenants.

Work Period: A reoccurring sequence of work and off days not to be less than seven (7), nor more than twenty-eight (28) consecutive days for sworn officers and seven (7) days for other employees.

NR: Not regularly assigned duty.

FLSA: Fair Labor Standards Act (Sworn officers are 207K employees).

Call-back: The requirement of non-exempt employee to report to work on a non-scheduled hours to work an unspecified period of time.

Hold-over: The requirement of a non-exempt employee to stay on duty as an extension of the regularly scheduled workday.

On-call: The general expectation that a department employee, or group of department employees, be accessible, via pager, phone, or other electronic devices, to return to work in an emergency situation.

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Scheduled on-call: A monthly, documented schedule of regular, reoccurring on-call status, requiring an employee be accessible, via pager, phone, or other electronic device, and available to respond to work.

Donning: The practice of putting on your uniform prior to the start of your work assignment, shift, or detail.

Doffing: The practice of taking off your uniform at the conclusion of your work assignment, shift, or detail.

1019.3 WORK PERIODS

Sworn Officers on the nine-hour (9) day schedule are on a 24-day work period. FLSA requires any work time over 147 hours in this period must be compensated for at one and one-half times the regular rate of pay.

Sworn Officers on the eight-hour (8) and ten-hour (10) day schedules are on a 28-day work period. FLSA requires any work time over 171 hours in this period must be compensated for at one and one-half times the regular rate of pay.

Other employees are on a seven-day work period. FLSA requires any work time over 40 hours in this period must be compensated for at one and one-half times the regular rate of pay.

1019.4 WORK TIME

(a) Work time is all hours on duty including briefing time, court time, special assignments, hold over time, call back time, and mandatory training time.

(b) **Prior approval is required from a supervisor for any work time other than regularly schedule hours.**

(c) All work time will be recorded on the appropriate record as soon as practical after the work is performed.

(d) Daylight Savings Time: Employees must have their work time reflect the actual numbers of hours worked in SPA.

1. Fall Daylight Savings: Employees who work the extra hour in the fall when clocks are turned back one hour, should be given a hour of NR or be given a hour off from work within the pay period to compensate for the extra hour worked. If the employee cannot take the extra hour off within the pay period, the employee must be compensated by receiving one hour of straight pay on the extended workday.

2. Spring Daylight Savings: Employees who work one hour less than their regularly scheduled work shift may have their schedule adjusted so they actually work the number of hours they are regularly scheduled to work (ex: begin work one (1) hour early or stay one (1) hour late). The employee may also take one hour of annual leave, or work an additional hour sometime with the pay period to make up for the lost hour of work time.

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1019.5 NON-WORK TIME

A. Extra details

B. Paid time off - i.e. vacation, sick, military, funeral, injury (re: Fargo Policy 600-007)

C. Travel time to and from work

D. Donning and doffing

1019.6 ON-CALL

On-call is a condition of employment of the Fargo Police Department. Employees in certain job assignments will be assigned to "scheduled on-call" status.

A. The Chief of Police will designate specific job assignments, which require scheduled on-call status.

B. Scheduled on-call status will generally be authorized for designated primary job assignments, such as investigators. Most secondary job assignments such as SWAT, or the Bomb Squad, involve employees considered to be on-call at all times outside of their regular work schedule.

C. Supervisors are responsible for creating and modifying their employees scheduled on-call schedule

D. Employees on scheduled on-call status are required to respond to the work site within one hour.

E. Employees will refrain from consuming alcohol while on scheduled on-call.

F. One hour of pay at one and one-half times (1.5x) the regular rate of pay per day for Friday's and non-scheduled work days including holidays will be paid to employees for being on-call.

G. If the employee is called in during this time, they will still receive the on-call pay in addition to any call in pay for which they are eligible to receive.

1019.7 HOLD-OVER/CALL BACK TIME

A. Employees who are held over after their regularly scheduled hours will be credited for actual time worked.

B. Call back time will be credited for actual time worked, with a minimum of two hours.

C. Hold over and call back time are compensated as premium hours (overtime).

1019.8 TRAINING AND TRAVEL TIME (RE: CITY POLICY 600-006)

A. Time spent in training as required by the department is considered hours worked. Time spent for course preparation by instructors is also considered hours worked. Course preparation includes time spent preparing class outlines, curriculum, course materials, and other related activities.

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B. All department employees shall be scheduled to attend training on NR the same day as the training whenever possible. Instructors should also be assigned NR time to prepare in advance for course instruction whenever possible.

1. Department instructors will receive one hour of premium pay, at one and one-half times the officers hourly wage for every eight (8) hours of instruction completed.

C. Employees who cannot be scheduled to attend mandatory training on NR the same day as the training, or instructors who cannot be schedule on NR for preparation time prior to the period of instruction, and whose work time will exceed FLSA maximums for the work period will be granted equivalent time off within the work period that the training or course preparation occurs.

D. If the equivalent time off cannot be granted during the current work period, the actual time spent in training or course preparation will be recorded as work time (not premium time) in SPA. Specific prior approval from a supervisor is required for non-scheduled hours worked for course preparation. The supervisor will approve in advance the scope and time of the preparation projected.

E. Time outside of core training activity is not considered compensable

F. Travel

1. Travel during the workday within the Fargo area is compensable if the travel time is work-related

2. Prolonged same day travel time to other cities is considered hours worked if the employee is required to drive or ride as a passenger in an automobile.

3. The time spent engaged in travel during an employee's regular scheduled work hours on any day of the week (including non-scheduled days) is treated as hours worked. This travel time is paid at the employee's regular hourly rate of pay. Compensable travel time includes any portion of authorized travel, such as airport layovers.

4. Time spent in travel outside of regular scheduled work hours (including non-scheduled days) is only treated as hours worked if the employee is engaged as a driver or passenger in an automobile, plane, or any other mode of transportation. This travel time is paid at the employee's regular rate of pay. Time spent on non-travel activities outside of the normal work hours (including non-scheduled days) is not compensable.

1019.9 COURT TIME

A. A minimum of two hours of one and one-half times the hourly wage will be paid for testifying in court or administrative DUI hearings when performed off-duty. Department employees shall also receive this compensation if their scheduled appearance at the proceeding is cancelled or postponed within a 24-hour period or less.

B. Criminal and traffic cases

1. Subpoena: Officers will appear when subpoenaed for all criminal and traffic cases. This time is considered work time.

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2. Administrative Notices: Officers shall report for duty at the time and place specified in an administrative DUI hearing. This time is considered work time.

3. Depositions: When related to a case the officer has worked in a professional capacity this is considered work time.

   (a) If an officer is subpoenaed as a witness by the defense, in a criminal matter, the officer on the case shall immediately contact the prosecutor to let him/her know and to inquire as to whether any particular form of preparation for the testimony is in order.

C. Civil cases

1. Officer subpoenaed as a witness in a civil trial or deposition: This time is considered work time when related to a case the officer was involved within an official capacity.

2. Officer as an expert consultant/witness for attorney: In this instance, the officer is not on duty. Officers are prohibited from acting in this capacity during duty time, or if the work is in conflict with any case (criminal or civil) they or the department is or may be involved in.

3. Civil trial or deposition when the department or officer is named party: Time spent participating in a civil process where the department or the officer is named in an official capacity is considered work time.

   (a) The officer subpoenaed as a witness by the defense in a civil lawsuit or other civil matter, and there is a desire for legal support and assistance in the matter, the Fargo City Attorney's Office should be contacted to make a request for assistance.

D. Depositions and conferences are not counted as premium time. The actual time worked will be recorded as work time.

E. Payment attached to subpoenas shall be turned into the supervisor or payroll clerk for deposit with the city.

F. Officer are prohibited from collecting witness fees while working an on-duty status.

1019.10 REQUESTING/OVERDRAWING VACATION AND SICK LEAVE

A. Each employee is responsible for managing their vacation and sick leave balances in a prudent manner.

B. It shall be the employees responsibility for ensuring their vacation requests have been entered into the scheduling and payroll system and approved by an on-duty supervisor before going on leave.

C. Employees must ensure they have enough accrued leave available to cover the dates requested. Annual leave hours will only be approved if accrued by the beginning date of the requested annual leave. No advance of non-accrued leave will be permitted.

D. Division commanders will be responsible for determining the appropriate annual leave requirements for each division.

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E. Annual leave may not be taken in less than quarter hour (15 minute) increments.

F. Sick leave - refer to Sick Leave Policy 1007 of this manual.

G. Employees who overdraw their vacation or sick account will have their pay deducted for the deficit hours during the immediate pay period.

1019.11 MAJOR SECONDARY ASSIGNMENTS

A. Due to the unique nature of responsibilities associated with K-9, PTO, and SWAT Team assignments, each function will develop individual compensation procedures subject to approval by the Chief of Police.

B. These procedures will be consistent with Federal and State wage regulations.

1. K-9 Handlers:Division commander's with assigned K-9 handlers shall have the flexibility to manage the handlers hours worked by either flexing time or providing monetary compensation for the care of the canine during non-work periods.

   (a) If the Division monetarily compensates their handlers for non-duty hours for the care of the canine, the handlers shall receive three quarters of an hour of their regular hourly wage (straight time) each day for care and maintenance of the K-9 up to the FLSA limit on straight time, after which it will be compensated as overtime at one and one half times their regular hourly wage.

   (b) If the Division flexes time for their handlers for non-duty hours for the care of the canine, the handlers shall receive three quarters of an hour of flex time per day within the handlers FLSA period.

2. Police Training Officers:Shall receive one hour at one and one-half times their regular hourly wage each day they are assigned an officer in training.

3. Police Training Sergeants:Shall receive two hours per week at one and one-half times their regular hourly wage each week they are assigned to manage an officer in training.

4. SWAT Officers:Shall receive three hours of availability pay at one and one-half times their regular hourly wage each pay period.

1019.12 REQUEST FOR OVERTIME AND STRAIGHT TIME COMPENSATION

Employees shall submit any overtime or straight time compensation request through the department's scheduling and payroll system for verification by their shift supervisors as soon as practicable. Failure to submit a request for overtime compensation in a timely manner may result in discipline.

Employees may not take vacation or sick leave in order to work an overtime detail during their regular scheduled shift.

Comp Time is no longer an authorized form of compensation for work performed by department employees.

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1019.12.1 EMPLOYEE RESPONSIBILITY
Employees shall complete the request immediately after working the overtime/straight time and submit it to their immediate supervisor or the Shift Commander. Employees submitting an overtime request slip for on-call pay when off-duty shall submit it to their respective supervisor the first day after returning to work.

1019.12.2 SUPERVISOR RESPONSIBILITIES
The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

After the entry has been approved in the employee's payroll record, the overtime compensation request will be processed in the scheduling and payroll system by the employee's shift commander or higher for final approval.

1019.13 ACCOUNTING FOR OVERTIME AND STRAIGHT TIME WORKED
Employees are to record the actual time worked in an overtime and straight time status. The supervisor will enter the actual time worked.

1019.13.1 ACCOUNTING FOR PORTIONS OF AN HOUR
When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

TIME WORKED	INDICATE ON REQUEST
Up to 15 minutes	1/4 hour
16 to 30 minutes	1/2 hour
31 to 45 minutes	3/4 hour
46 to 60 minutes	1 hour

1019.13.2 VARIATION IN TIME REPORTED
Where two or more employees are assigned to the same activity, case or court trial, and the amount of time for which compensation is requested varies between the two, the Shift Commander or other approving supervisor may require each employee to include the reason for the variation on the overtime compensation request.

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Outside Employment

1020.1 PURPOSE AND SCOPE

To avoid actual or perceived conflicts of interest for department employees engaging in outside employment, all employees shall initially obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

Additional guidance, provisions, changes or additions may be contained in the employment agreement.

1020.1.1 DEFINITIONS

Definitions related to this policy include:

Outside employment - The employment of any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, products or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, products or benefits rendered.

Outside overtime - (Special Details) Overtime involving any member of this department who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Department. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1020.2 MILITARY EXCEPTION

This policy does not pertain to an employee's military service commitment or obligation to any National Guard or Reserve component.

1020.3 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of their respective Division commander. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete an application that shall be submitted to the employee's shift or unit commander. The application will then be forwarded through the appropriate chain of command to the appropriate Division commander for consideration.

If approved, the employee will be provided with a copy of the approved application within 30 days of submitting the application. Unless otherwise indicated in writing on the approved application, an approved application will be valid through the end of the calendar year in which it is approved.

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The employee's respective Division commander will review their employees outside employment status on a yearly basis and forward any issues to the Chief of Police.

Any employee seeking approval of outside employment whose application has been denied shall be provided with a written reason for the denial of the application at the time of the denial and within 30 days of submitting the application.

Employees engaged in any outside employment shall make themselves available for duty with the department if summoned for such duty. Employment responsibility with the department shall always take precedence over any secondary employment responsibilities.

See attachment: Policy 1021 OUTSIDE EMPLOYMENT REQUEST FORM.pdf

1020.3.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT
If an employee's application is denied or rescinded by the Department, the employee may file a written notice of appeal to the Chief of Police within 10 days of the date of denial.

1020.3.2 REVOCATION/SUSPENSION OF AN APPROVED OUTSIDE EMPLOYMENT APPLICATION
Any approved outside employment application may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Additionally, revocation or suspension will only be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

(a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency, and the outside employment may be related to the employee's performance. The Chief of Police or his/her designee may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment application. After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been re-established to the minimum level of acceptable competency.

(b) If, at any time during the term of an approved outside employment application, an employee's conduct or outside employment conflicts with the provisions of department policy, or any law.

(c) The outside employment creates an actual or apparent conflict of interest with the Department or the City.

1020.4 PROHIBITED OUTSIDE EMPLOYMENT
Department employees are prohibited from engaging in any secondary employment, which may present or otherwise create a potential conflict of interest between their duties as an employee of the department and an outside employer. This includes, but is not limited to, any employment involving the sale service, manufacturing, or transportation of alcohol or controlled

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substances, any employment associated with gambling, pornography, or obscenity, or any employment that involves the collection of debt.

Department employees are specifically prohibited from engaging in any outside employment activities for or on behalf of the City of Fargo, to include soliciting any work or entering into a contract to perform any work for or on behalf the City of Fargo, unless authorized by the Chief of Police.

Department employees are prohibited from using their position with the department for the purpose of performing or soliciting any work or work related activity for a secondary employer. This includes, but is not limited to, accessing information retained by or otherwise available to the department or its employees, using department equipment, or providing any service which may assist tor contribute to any criminal or civil proceeding which may cause or create a potential conflict of interest between the employee and the department.

The Department expressly reserves the right to deny any application submitted by an employee seeking to engage in any activity that:

(a) Involves the employee's use of department time, facilities, equipment or supplies, the use of the department badge, uniform, prestige or influence for private gain or advantage.

(b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.

(c) Involves the performance of an act, in other than the employee's capacity as a member of this department, that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department (the department will evaluate any driving related outside employment on a case by case basis).

(d) Involves time demands that would render performance of the employee's duties for this department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.

Officers may not be licensed or registered to provide private investigative or security services in North Dakota (N.D.A.C. § 93-02-01.1-07(2); N.D.A.C. § 93-02-02.1-07(2)).

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1020.4.1 OUTSIDE SECURITY EMPLOYMENT

Due to the potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator, or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Special Details manager in advance of the desired service. Such outside overtime will be monitored by the patrol supervisor.

(a) The applicant will be required to enter into a written indemnification agreement prior to approval.

(b) The applicant will be required to provide for the compensation and full benefits of all employees requested for such outside security/traffic control services.

(c) If such a request is approved, any employee working outside overtime shall be subject to the following conditions:

1. The officer shall wear the department uniform/identification.
2. The officer shall be subject to all the rules and regulations of this department.
3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services, outside employment or outside overtime shall not be subject to the employment agreement process.
6. No officer may engage in outside employment as a law enforcement officer for any other public agency without prior written authorization of the Chief of Police.

1020.4.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1020.4.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the officer's law enforcement status.

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1020.5 DEPARTMENT OFFICE RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1020.5.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their financial records, specific to their outside employment, may be requested and reviewed/audited for potential conflict of interest.

Failure of the employee to provide the requested financial records, specific to their outside employment, could result in denial of the outside employment application. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her financial records, specific to their outside employment, for review/audit. If the employee elects not to provide the requested records, his/her outside employment application may be revoked pursuant to this policy.

1020.6 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his/her outside employment during the period of an approved application, the employee shall promptly submit written notification of such termination to their respective Division commander through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to their Division commander any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

1020.7 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE

Department employees who are engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall be restricted from participating in any outside employment while on such leave or light-duty status, unless specifically authorized to do so by the Chief of Police. The employees lieutenant shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Chief of Police whether such outside employment should continue or the approved application be suspended or revoked.

The revocation process outlined in this policy shall be followed. Criteria for revoking or suspending an approved outside employment application while on disability status or administrative leave includes, but is not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisers.

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(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.

(c) The outside employment is not compatible with the reason the employee is on administrative leave.

(d) The employee failed to make timely notice of his/her intentions to their supervisor.

When the disabled employee returns to full duty with the Fargo Police Department, a written request may be made to the Chief of Police to restore the permit.

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Work-Related Disease and Injury Reporting

1021.1 PURPOSE AND SCOPE

The purpose of this policy is to provide directives regarding the timely reporting of occupational diseases and work-related injuries.

1021.1.1 DEFINITIONS

Definitions related to this policy include:

Work-related disease or injury - An injury by accident arising out of and in the course of employment which must be established by medical evidence supported by objective medical findings. This includes a disease caused by a hazard to which the member is subjected in the course of employment and where there is a direct causal connection between the work conditions and the disease (N.D.C.C. § 65-01-02).

1021.2 POLICY

The Fargo Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (N.D.C.C. § 65-05-01.4). For additional guidance, refer to City of Fargo policy 400-005, Workforce Safety and Insurance (WSI) Injury Leave Occupational Health.

1021.3 RESPONSIBILITIES

1021.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event immediately to a supervisor, and shall seek medical care when appropriate.

Except in an emergency, employees with work related injuries must seek medical attention at the City of Fargo Designated Medical Provider (DMP) or chiropractor unless another provider has been selected by the employee on the DMP form submitted to Human Resources prior to the injury/illness.

The injured employee is responsible for keeping their chain of command and Human Resources informed of their injury status. Forms are required to return to work with work release restrictions from the DMP or designated health care provider.

In the event an employee involved in or witnessing a near miss, which is an incident that did not result in any personal injury, property damage, or production interruption, shall fill out a near miss report to mitigate the likelihood of a potentially harmful future accident.

See attachment: COF Initial Incident Accident Report.pdf

See attachment: COF Medical Release of Information.pdf

See attachment: COF Near Miss Report.pdf

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1021.3.2 SUPERVISOR RESPONSIBILITIES
A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease or injury-reporting protocol shall also be followed. **Supervisors must report all injuries to Human Resources within 24 hours of notification of the injury.**

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

See attachment: Supervisor Initial Incident Report.pdf

1021.3.3 DIVISION COMMANDER RESPONSIBILITIES
The Division Commander who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the City's risk management entity in Human Resources, and the Administration Division Commander.

See attachment: COF Safety Self Inspection Report.pdf

1021.3.4 CHIEF OF POLICE RESPONSIBILITIES
The Chief of Police shall designate the injured employee's supervising command officer to review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Department of Human Resources shall be filed in the member's confidential medical file.

1021.4 OTHER DISEASE OR INJURY
Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Commander through the chain of command and a copy sent to the Administration Division Commander.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1021.5 SETTLEMENT OFFERS
When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

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1021.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

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Personal Appearance Standards

1022.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1022.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1022.2.1 HAIR

Hairstyles of all members shall be clean, neat, and combed in appearance. For male licensed officers, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female uniformed officers, hair shall be worn up or in a tightly wrapped braid, ponytail, or bun and shall not extend beyond the bottom of the uniform collar when standing erect. For females working in non-field and civilian assignments, hairstyles shall be neatly arranged, look professional, and clean.

All employees shall only exhibit a "natural" hair color when on-duty or otherwise performing any work related activity. Extreme hair styles (e.g. cornrows, dreadlocks, or pigtails) are not permitted.

Officers working undercover assignments may deviate from this policy at the approval of their division commander.

1022.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend more than one-half inch laterally beyond the edges of the mouth and below the corners of the mouth, or beyond the natural hairline of the upper lip.

1022.2.3 SIDEBURNS

Sideburns shall not extend below the middle of the ear and shall be trimmed and neat.

1022.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or the authorized designee.

1022.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no part of the nail extends beyond the tip of the finger.

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1022.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar. All jewelry must be professional in appearance and are subject to the approval of a command officer or supervisor.

Earrings shall not be worn by uniformed licensed officers, investigators, special assignment personnel, or uniformed civilian personnel without permission of the Chief of Police or the authorized designee. Civilian employees in civilian attire may wear no more than one "post-style" earring in each ear when on-duty, or performing any work related activity.

Only one ring may be worn on each hand of the employee while on-duty.

A wrist watch, a department authorized memorial bracelet, and/or a medical alert bracelet may be worn while in uniform.

1022.3 TATTOOS

No employee shall have visible tattoos, body markings, or other body art (referred to hereinafter as "markings") to the head, face, neck, or scalp. Visible markings on the other parts of the body are permitted as long as the markings are not inappropriate or offensive.

(a) Inappropriate: If the markings depicts, describes, or otherwise refers to sexual conduct, acts, or organs.

(b) Offensive: If the markings depicts, describes, or refers to intolerance, or discrimination against any race, color, preference, creed, religion, gender, national origin, or it is commonly associated with any organizations or groups which advocates such intolerance or discrimination, or brings discredit upon the department, detracts from the professional appearance of the employee, or violates the standards of decency and morality.

Markings determined to be inappropriate or offensive shall be covered with the department's authorized uniform or attire. Disguising, masking, or concealing a tattoo, or body marking by way of a bandage, make-up, gloves, or any other means (excluding regular clothing attire such as a long-sleeve shirt, pants, skirt, socks, etc.) is not an acceptable method of complying with the appearance standard and shall not be permitted.

The Chief of Police or his/her designee shall be the final authority in determining if a marking is considered inappropriate or offensive.

1022.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body that is visible in any authorized uniform or attire, and is a deviation from normal anatomical features and that is not medically required is prohibited. Such body alteration includes, but is not limited to, the following:

(a) Tongue splitting

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(b) Body piercings which are visible while on duty and/or wearing a department attire (examples include, but are not limited to, piercings to any portion of the ear, nose, eyebrow, tongue, lip, cheek, or any visible body part)

(c) The complete or transdermal implantation of any material other than hair replacement or breast augmentation

(d) Abnormal shaping of the ears, eyes, nose or teeth

(e) Branding or scarification

Disguising, masking, or concealing a body-piercing by way of a bandage, make-up, gloves, or any other means (excluding regular clothing attire such as a long-sleeve shirt, pants, skirt, socks, etc.) is not an acceptable method of complying with this appearance standard and shall not be permitted.

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Uniform Regulations

1023.1 PURPOSE AND SCOPE

The Uniform Regulations policy of the Fargo Police Department is established to ensure that uniformed officers, special assignment personnel and civilian employees will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following policies:

- Firearms
- Department-Owned and Personal Property
- Body Armor
- Personal Appearance Standards

The department's uniform and equipment specifications policy is maintained and periodically updated by the Chief of Police or the authorized designee. The policy should be consulted regarding authorized uniform and equipment specifications.

The Fargo Police Department will provide uniforms for all employees who are required to wear them when they are initially hired. Thereafter, employees required to wear uniforms will be given a yearly uniform allowance and the employee(s) will be responsible for ensuring they have sufficient uniforms for duty.

1023.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose, which is to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

(a) Uniforms and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean and appear pressed.

(b) All officers of this department shall possess and maintain at all times a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment.

(d) Employees shall not loan any portion of the uniform to others.

(e) Employees shall not permit the uniform to be reproduced or duplicated.

(f) The uniform is to be worn in compliance with the specifications set forth in policy.

(g) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

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(h) Civilian attire shall not be worn in combination with any distinguishable part of the uniform without Division commander approval.

(i) Uniforms are only to be worn while on-duty, while in transit to or from work, for court or at other official department functions or events.

(j) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform.

(k) Sunglasses shall be conservative in appearance. Mirrored sunglasses will not be worn with any department uniform. When practical, officers and civilian staff should remove their sunglasses whenever talking to the public.

1023.2.1 DEPARTMENT-ISSUED UNIFORMS

The Fargo Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency based on state law and agreed upon in City policy. Officers shall be issued a summer-weight (short sleeve) and/or a winter-weight (long sleeve) uniform that is blue in color (N.D.C.C. § 40-20-07).

1023.2.2 DUTY BELT AND ACCESSORIES

The Department issues each sworn officer and community service officer a duty belt and accessories which include the following:

Sworn Officers

(a) The duty belt and all accessories shall be black, and department issued or approved

(b) The duty belt and all accessories shall be kept clean, and unblemished

(c) Holster

1. Only a holster of the make and model issued or approved by the department shall be worn

(d) The following *minimum* equipment will be worn on the duty belt for field duty:

1. Holster and firearm
2. Handcuff case, with handcuffs, department issued or approved
3. Ammo pouches, which are department issued or approved
4. The department issued portable radio and carrier
5. Department issued defensive chemical spray
6. Department issued Taser and holster
7. Department issued flashlight and carrier
8. Department issued key chain carrier
9. Protective glove carrier
10. Additional equipment must have Field Services command officer approval

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(e) The following equipment, if space is available, can be worn on the duty belt for field duty

1. Department issued in-car audio remote and carrier
2. Department issued tourniquet and carrier

Community Service Officers

(a) Community Service Officers may wear the following on their duty belt

1. The department issued portable radio and carrier
2. Key chain carrier
3. Department issued expandable baton
4. Department issued flashlight and carrier
5. Protective glove carrier
6. Specialized equipment authorized by the Field Services Division Commander

1023.2.3 DEPARTMENT-ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department-issued identification card at all times, except when it is impractical or dangerous to do so.

(a) Whenever on-duty or acting in an official capacity representing the Department, employees shall display their department-issued identification in a courteous manner to any person upon request and as soon as practicable.

(b) Officers working specialized assignments may be excused from the requirements regarding the possession and display of identification when directed by their Division Commander.

1023.3 UNIFORM CLASSES

The various uniform specification classes are those identified in this policy.

1023.3.1 DRESS UNIFORM

All command staff and Honor Guard personnel will be issued a Dress uniform. The Dress uniform is to be worn on special occasions, such as funerals, graduations, and ceremonies as directed. The Dress uniform will consist of:

(a) Navy blue "Ike" coat

1. Badge: will be displayed on the left side of the coat
2. Rank:

(a) Command officers shall wear their rank insignia (large jacket size) on the shoulder centered one inch from the shoulder seam

1. Deputy Chief insignia shall have the eagle's beak facing forward

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2. Lieutenant insignia shall have the long edge of the gold bar parallel to the shoulder seam

(b) Sergeants and PTO's, wearing the corporal rank, shall wear their chevrons on both sleeves, centered beneath the shoulder patch, with the top of the chevron about four and one-half inches below the shoulder seam

(c) A gold braid will be worn on each sleeve which signifies the officer's rank

1. Officer - one braid
2. Sergeant - one braid
3. Lieutenant - two braids
4. Deputy Chief - three braids
5. Chief - four braids

3. Parade Cord:

(a) Command Staff will wear a gold parade cord on their left shoulder/arm

(b) Honor Guard will wear a white parade cord on the left shoulder/arm

4. Name bar: will be centered, resting on (but not over) the edge of the welt pocket
5. Ribbons: will be centered one-half inch above, and parallel to the top edge of the name bar

(b) Navy blue trousers with a yellow stripe sewn onto the side

(c) White long sleeve shirt with department issued shoulder patches and service stripes sewn on the appropiate sleeve

1. Rank

(a) Sergeants and above will wear their issued rank insignia on their collar (see insert)

(b) Sergeants shall wear their sergeant chevrons on both sleeves, centered beneath the shoulder patch, with the top of the chevron about four and one-half inches below the shoulder seam

(c) PTO's shall wear their corporal chevrons on both sleeves, centered beneath the shoulder patch, with the top of the chevron about four and one-half inches below the shoulder seam

(d) High gloss low quarter shoes

(e) Black socks

(f) Department issued eight point hat with the Fargo Police headgear badge affixed to the front

1. Senior command officers shall have an oak leaf brim
2. Command officers shall have a gold lace cloth hat strap above the brim
3. Officers and Sergeants shall have a black hat strap above the brim

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(g) White gloves (optional wear for command officers)

(h) High gloss duty gear belt and holster

See attachment: Policy 1024 Uniform Insignia.pdf

1023.3.2 CLASS A UNIFORM

The Class A uniform can be worn during regular scheduled shifts or for special occasions, such as court, funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all licensed personnel. The Class A uniform includes the standard issue uniform with a long-sleeve shirt and tie, and polished black boots or footwear. Footwear with pointed toes are not permitted.

(a) Sergeants and PTO's shall where their chevrons on both sleeves, centered beneath the shoulder patch, with the top of the chevron about four and one-half inches below the shoulder seam.

(b) Sergeants and above shall wear metal rank insignia on their shirt collar. For metal rank placement refer to the Uniform Insignia attachment in section 1024.3.1.

(c) Shirts are to be tucked tightly into the trousers.

(d) All uniformed buttons must remain buttoned.

Command staff officers may wear the department issued eight point hat for events held outdoors.

1023.3.3 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The long or short-sleeve shirt may be worn with the collar open. Officers may also wear a navy blue or black turtleneck undergarment beneath their long sleeve shirt. No tie is required, but if a tie is worn it will match the color of the uniform. The tie and undergarments will be either department issued or an approved equivalent. A black crew neck undershirt must be worn with the long sleeve shirt if the collar is open, and no turtleneck is worn.

1. Sergeants and PTO's wearing the short-sleeve shirt shall wear their chevrons on both sleeves, centered beneath the shoulder patch, with the top of the chevron about four and one-half inches below the shoulder seam.

2. Sergeants and above shall wear metal rank insignia on their shirt collar. For metal rank placement refer to the Uniform Insignia attachment in section 1024.3.1.

(b) When wearing the short sleeve uniform shirt, no other undergarment shall be exposed at the open collar, or at the sleeves of the shirt. A black crew neck undershirt must be worn with this uniform.

(c) All shirt buttons must remain buttoned except for the last button at the neck.

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(d) Shirts are to be tucked tightly into the trousers.

(e) Shoes for the Class B uniform shall be as described in the Class A uniform.

(f) Boots with pointed toes are not permitted.

1023.3.4 CLASS C UNIFORM

The Class C uniform may be established to allow field personnel cooler clothing during the summer months or for special duty assignments. The Chief of Police will establish the regulations and conditions for wearing the Class C uniform and its specifications.

1023.3.5 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units, such as the canine team, SWAT, bicycle patrol, motor officers and other specialized assignments. The "soft" uniform typically worn by SRO's and the Crime Prevention Officer, consists of tan khaki pants and a blue polo (short or long sleeve) shirt with the Fargo Police shoulder patch sewn on each shoulder, and the Fargo Police cloth badge sewn on the left chest.

1023.3.6 FOUL WEATHER GEAR

Uniform Sweater:

(a) The department issued uniform sweater may be worn with:

1. The long sleeve shirt and tie,
2. The long sleeve shirt and approved turtleneck undergarment, or
3. Approved turtleneck undergarment alone.

(b) The uniform sweater is not approved for wear during court, at police funerals, or other formal police department functions.

Jackets:

(a) Only department approved jackets shall be worn while in uniform and on duty.

(a) Unauthorized pins, medals, emblems, etc., shall not be worn on any jacket

(b) Sergeant and PTO chevrons shall be worn on both sleeves of the spring and winter jackets, centered below the shoulder patch, with the top of the chevron four and one-half inches below the shoulder seam.

(c) Command officer rank (large jacket size insignia) shall be worn on the shoulder of the jackets with the insignia centered one inch from the shoulder seam.

(d) Department issued shoulder patches shall be sewn on each sleeve in the same manner as prescribed for uniform shirts.

Rainwear:

(a) Only department issued or approved raincoats shall be worn.

(b) Overshoes/rubbers may be worn during rainy/snowy weather, but shall be black with no buckles

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Headgear:

(a) A black or navy blue watch cap may be worn during cold weather.

Snowpants:

(a) Department purchased snow pants are available from the Quartermaster for extreme weather conditions.

Cold Weather Boots:

(a) In the event of an extreme cold weather event, a Field Services command officer may authorize officers or community service officers to wear cold weather boots which must be black in color.

1023.4 INSIGNIA AND PATCHES

(a) The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, 3/4 inch below the shoulder seam of the shirt, and should be bisected by the crease in the sleeve.

(b) Service stripes and other indicators for length of service may be worn on long-sleeve shirts. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn 1 1/2 inch above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.

(c) The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first initial of their first name and full last name. If the employee desires other than the legal name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.

(d) The department-issued badge, or an authorized sewn-on cloth replica, must be worn and be visible at all times while in uniform. Licensed non-uniformed personnel will wear or carry the badge so it is in reasonable proximity to the firearm and can be displayed whenever appropriate.

(e) The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police or the authorized designee may authorize exceptions.

1023.4.1 MOURNING BADGE BAND

Uniformed employees may wear a black mourning band across the uniform badge whenever a peace officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department - From the time of death until midnight on the 14th day after the death.

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(b) A peace officer from the tri-state region (ND, MN, and SD) - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of a fallen peace officer.

(d) National Peace Officers Memorial Day (May 15) - From 0001 hours until 2359 hours.

(e) As directed by the Chief of Police or the authorized designee.

1023.5 CIVILIAN ATTIRE

There are assignments within the Department which do not require wearing a uniform because recognition and authority are not essential to their function. There are also assignments in which wearing civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.

(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear clothing approved by their respective Division commander.

(c) All female administrative, investigative and support personnel who elect to wear civilian clothes to work shall wear clothing approved by their respective Division commander.

(d) The following items shall not be worn on-duty:

1. T-shirt alone
2. Open-toed sandals or thongs
3. Swimsuit, tube tops or halter tops
4. Spandex type pants or see-through clothing
5. Distasteful printed slogans, buttons or pins
6. Denim pants of any color
7. Shorts
8. Sweatshirts, sweatpants or similar exercise clothing

(e) **Variations from this order are allowed at the discretion of the Chief of Police or the authorized designee when the employee's assignment or current task is not conducive to wearing such clothing.**

(f) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Fargo Police Department or the morale of the employees.

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1023.6 OPTIONAL EQUIPMENT - MAINTENANCE AND REPLACEMENT

(a) Any of the items listed in this section of policy as optional shall be purchased at the expense of the employee. No part of the purchase cost shall be offset by the Department.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee (e.g., repairs due to normal wear and tear).

(c) Replacement of items listed in this section as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
2. When the item is no longer functional because of damage in the course of the employee's duties, it may be replaced following the procedures for the replacement of damaged personal property outlined in the Department-Owned and Personal Property Policy.

(d) The following is a list of items the department will not purchase for employees:

1. Knife - depending on the style of knife officers may have to get command officer approval to carry
2. Multi-tool
3. Extra handcuffs
4. Tennis shoes for bike patrol
5. Duty bag
6. Boots - employee must have completed one year of employment to be eligible for department purchased boots
7. Tactical gloves - employee must have completed one year of employment to be eligible for department puchased gloves
8. Badge holder
9. Off duty holster for patrol personnel

1023.7 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Fargo Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in this policy, or by the Chief of Police or the authorized designee. The following uniform pins have been approved for uniform wear:

(a) Bomb Unit - worn centered on the right pocket flap

(b) CIT - worn centered on the right pocket flap

(c) DRE - worn centered on the right pocket flap

(d) Honor Guard - worn centered on the left pocket flap

(e) K9 - worn centered on the right pocket flap

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(f) Motorcycle - worn centered on the right pocket flap

(g) Negotiations - worn centered on the right pocket flap

(h) SRO - worn centered on the right pocket flap

(i) SWAT - worn centered on the right pocket flap

(j) US Flag pins - 2 versions: 1) Red, White, and Blue flag pin, 2) Black, Grey, and thin blue line flag pin - worn centered, 1/2 inch above the name plate or ribbon bar

(k) Command School bar/ribbon - FBINA and SPSC - worn centered on the left pocket flap

No more than one pin may be worn on each pocket flap.

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Nepotism and Employment Conflicts

1025.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination or other actual or potential conflicts of interest by or between employees of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1025.1.1 DEFINITIONS

Definitions related to this policy include:

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the employee's annual interest, compensation, investment or obligation is greater than $250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that an employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, in-laws, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee who is vested with authority by law, rule or regulation, or to whom authority has been delegated.

Relative - An employee’s parent, stepparent, spouse, domestic partner, significant other, child/grandchild (natural, adopted or step), sibling of any type or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, appointment, evaluation and/or performance of a subordinate employee.

1025.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between employees, the following restrictions shall apply:

(a) The Chief of Police may only appoint a spouse, son, daughter, brother or sister when approved by the City (N.D.C.C. § 11-10-25; N.D.C.C. § 40-13-13).

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(b) Employees are prohibited from appointing, directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department reserves the right to transfer or reassign any employee to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.

(c) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(d) Whenever reasonably possible, Police Training Officers (PTOs) and other trainers will not be assigned to train relatives. PTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(e) To avoid actual or perceived conflicts of interest, employees of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.

(f) Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, or is a convicted felon, parolee, fugitive, registered offender or who engages in intentional violations of state or federal laws.

1025.2.1 EMPLOYEE RESPONSIBILITIES

Prior to entering into any personal or business relationship or other circumstance that the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other

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individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved immediate supervisor.

In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify Dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

1025.2.2 SUPERVISOR RESPONSIBILITIES

Upon being notified of or becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to mitigate or avoid such violations whenever reasonably possible. Supervisors shall also promptly notify the Chief of Police or the authorized designee of such actual or potential violations through the chain of command.

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Department Badges

1026.1 PURPOSE AND SCOPE

The Fargo Police Department badge and uniform patch as well as the likeness of these items and the name of the Fargo Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1026.2 POLICY

The uniform badge and the Fargo Police uniform patch shall be issued to department members as a symbol of authority and representative of the City of Fargo. The use and display of department badges and department uniform patches shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried, or worn by members while on-duty, or otherwise acting in an official or authorized capacity.

1026.2.1 UNIFORM BADGE

The department will issue two uniform badges to each sworn officer which is indicative of their rank within the department. Sworn officers shall turn in their badges to the Quartermaster upon promoting to a higher rank, retirement, or resignation/separation from the department, unless they obtain approval from the Chief of Police to purchase their badge.

Those sworn personnel who had previously purchased a personalized uniform badge will be allowed to keep their personalized uniform badge as long as when the officer leaves the department they do so under favorable circumstances. If the sworn officer leaves the department under less than favorable circumstances the officer shall turn in their badge and the department will reimburse the officer for the cost of the badge.

1026.2.2 FLAT BADGE

Command staff personnel will be issued a department flat badge reflecting their current rank.

Those sworn personnel who had previously purchased a flat badge will be allowed to keep their flat badge as long as when the officer leaves the department they do so under favorable circumstances. If a sworn officers leaves the department under less than favorable circumstances the officer shall turn in their flat badge and the department will reimburse the officer for the cost of the flat badge.

(a) Should the flat badge become lost, damaged or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department-Owned and Personal Property Policy.

(b) The purchase, carrying or display of a flat badge is not authorized for civilian personnel.

1026.2.3 CIVILIAN PERSONNEL

Badges and Department Identification Cards issued to civilian personnel shall be clearly marked to reflect the position of the assigned employee.

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(a) Civilian personnel shall not display any department badge except as a part of his/her uniform while on-duty or otherwise acting in an official and authorized capacity.

(b) Civilian personnel shall not display any department badge or represent him/herself, on- or off-duty, in such a manner which would cause a reasonable person to believe that he/she is a licensed peace officer.

1026.2.4 RETIREE UNIFORM BADGE

The department does not issue a retiree uniform badge for its members. Upon honorable retirement or honorable separation, as determined and approved by the Chief of Police, employees may purchase their duty badge for display purposes. It is intended that the duty badge shall be used only as private memorabilia, as other uses of the badge may be unlawful.

1026.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case, or similar holder shall be issued to anyone other than a current peace officer.

Department badges are issued to all licensed employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as electronic mail or websites and web pages.

The use of the badge, uniform patch and department name for all material (e.g., printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police or the authorized designee.

Employees shall not loan the badge or identification card to others, and shall not permit the badge or identification card to be reproduced or duplicated.

1026.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge and uniform patch shall not be used without the express authorization of the Chief of Police or the authorized designee and shall be subject to the following:

(a) The department uniform patch is a trademark protected item registered under the North Dakota Secretary of State.

(b) The employee associations may use the likeness of the department badge for merchandise and official association business, provided it is used in a clear representation of the association and not the Fargo Police Department. The following modifications shall be included:

1. The text on the upper and lower ribbons is replaced with the name of the employee association.

2. The badge number portion displays the acronym of the employee association.

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(c) The likeness of the department badge or uniform patch for endorsement of political candidates shall not be used without the express approval of the Chief of Police or the authorized designee.

1026.5 EXCHANGE OF UNIFORM PATCH

In order to be fiscally responsible the department will not give new department uniform patches to citizens or other officers from outside agencies who request them. If the Quartermaster has previously worn uniform patches in stock the Administrative Division commander or his/her designee may authorize the release or exchange of those patches. However, under no circumstances should a person requesting a department uniform patch be given more than one (1) patch.

If department members are attending a law enforcement conference, training, or event where there is the likelihood members may be asked to exchange the department's uniform patch the member shall contact the Administrative Division commander for approval. The approval will be handled on a case by case basis.

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Transitional Duty Assignments

1027.1 PURPOSE AND SCOPE

This policy establishes procedures for providing transitional duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, or City rules. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1027.2 POLICY

Subject to operational considerations, the Fargo Police Department may identify transitional duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A transitional assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1027.3 DEFINITIONS

Temporary Modified or **Transitional Duty**: An assignment to a temporary position within the police department or other city department due to an employee's injury or illness. These two terms shall be synonymous as it pertains to this policy.

Injury, Illness, other Medical Condition: A condition which limits or otherwise interferes with an employee's ability to perform the established functions of the employees regular work assignment. For the purposes of this policy, an injury, illness, or other medical condition is not limited to only physical injuries or illness.

Short-Term Transitional Duty: The assignment of an employee to a transitional duty position for a period not to exceed five (5) of the employee's scheduled work days.

Extended Transitional Duty: The assignment of an employee to a transitional duty position for a period greater than five (5) of the employee's scheduled work days.

Sedentary Work Assignment: An assignment generally associated with office work which requires limited physical work activities.

1027.4 GENERAL CONSIDERATIONS

Priority consideration for transitional duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the North Dakota Human Rights Act (N.D.C.C. § 14-02.4) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Fargo Police Department shall be created or maintained as a transitional duty assignment.

Transitional duty assignments are a management prerogative and not an employee right. The availability of transitional duty assignments will be determined on a case-by-case basis, consistent

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with the operational needs of the Department. Transitional duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in transitional duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Transitional duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

Generally, transitional duty assignments are for the purpose of bringing employees back to their regular work assignment after a sustained injury, illness, or other medical condition has caused an employee to be unable to perform their regular work assignment. However, the Chief of Police also has the discretion, based on the totality of the circumstances, to place an employee on a transitional duty assignment when that employee has been placed on administrative leave for situations such as, but are not limited to, officer involved shootings, or personnel complaints.

Transitional duty is intended to be used only for the period of time deemed reasonable by the department to bring an employee back to their regular work assignment. An employee's continued assignment to transitional duty may be impacted by the prognosis of the employee's ability to return to their regular work assignment. The department reserves the right to discontinue or withdraw an employee's assignment to transitional duty at any time.

See attachment: Transitional Duty Request Form.pdf

1027.5 PROCEDURES

SHORT-TERM TRANSITIONAL DUTY:

All department employees are subject to being placed in a short term transitional duty assignment while the employee recovers from a *work related* injury or illness. Employees may request a transitional duty assignment for short-term injuries or illnesses. Employees shall be permitted to utilize sick leave (if necessary), or otherwise follow a physician's recommendations in lieu of being placed in short-term transitional duty assignment.

Employees seeking a short-term transitional duty assignment should submit a written request to their respective shift/unit commander prior to being approved for such an assignment. The shift/unit commander will be responsible for reviewing the request and has the authority to approve or deny the short-term transitional duty request. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

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(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

If approved, the shift/unit commander will forward the request to their respective Division Commander, who will forward it on to the City of Fargo's Human Resources Office. The Division Commander will make a recommendation regarding transitional duty assignments that may be available based on the needs of the Department and the limitations of the employee.

In the absence of a shift/unit commander in an employee's chain of command, written requests for short-term transitional duty shall be submitted directly to the employee's Division Commander.

If an employee's request for short-term transitional duty assignment is approved by their shift/unit commander, or if the employee is otherwise placed in any such assignment, the employee will be given a sedentary work assignment. If the employee is a sworn officer, that officer will report to the assignment in appropriate civilian attire (no uniform) and without their firearm for the duration of the assignment unless an exception is authorized by the Chief of Police.

EXTENDED TRANSITIONAL DUTY:

All department employees are subject to being placed in an extended transitional duty assignment while the employee recovers from a *work related* injury or illness. In addition, employees recovering from a non-work related injury, illness, or other medical condition who have elected to use their leave and they exhausted their leave benefits afforded to them through the Family Medical Leave Act (FMLA) are also subject to being placed in an extended transitional duty assignment. Under no circumstances will the department prevent an employee from being absent from work under the parameters and/or conditions established within FMLA.

Employees seeking an extended transitional duty assignment should submit a written request to their respective Division Commander prior to being approved for such an assignment. The Division Commander will be responsible for reviewing the request and has the authority to approve or deny the extended transitional duty request. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the extended duty assignment.

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If approved, the Division Commander will forward the request on to the City of Fargo's Human Resources Office.

Prior to a Division commander approving a request for an extended transitional duty assignment, the employee making the request must be evaluated by both the City of Fargo Employee Health and the primary physician caring for the employee's injury, illness, or other medical condition to ensure the employee is fit for an extended transitional duty assignment. The Division Commander receiving the extended transitional duty request will work with City of Fargo Human Resource Office to ensure the physicians involved are provided with a copy of the complete job description for the transitional duty assignment the Division commander has decided upon.Only after being approved for an extended transitional duty assignment by the involved physicians may the employee be placed into that assignment.

If an employee's request for extended transitional duty assignment is approved by their Division Commander, or if the employee is otherwise placed in any such assignment, the employee will report to the assignment as directed. If the employee is a sworn officer, that officer will report to the assignment in appropriate civilian attire (no uniform) and without their firearm for the duration of the assignment unless an exception is authorized by the Chief of Police.

1027.6 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to transitional duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee’s medical appointments, as mutually agreed upon with the Division Commander.The supervisor responsible for the employee for the duration of the assignment will provide the employee with a work schedule and the expectations associated with the assignment.

1027.6.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

(a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.

(b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.Any deviation by the employee from a prescribed restriction or limitation may be cause for the department to immediately end the employee's transitional duty assignment.

(c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

(d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a transitional duty assignment extends beyond 60 days.

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Prior to being released from any transitional duty assignment for non-work related injuries, the employee must be evaluated by the City of Fargo Employee Health office to ensure the employee is fit to return to their regular assignment. Only after the physician approves the employee's return to their regular work assignment may the employee's Division Commander return the employee to that assignment.

Prior to being released from any transitional duty assignment for work related injuries, the employee must be cleared by their attending physician to ensure the employee is fit to return to their regular assignment. Only after the employee's attending physician approves the employee's return to their regular work assignment may the employee's Division Commander return the employee to that assignment.

If an employee elects to utilize their sick time in lieu of a transitional duty assignment for work related injuries, the employee must be cleared by their attending physician to ensure the employee is fit for return to their regular assignment.

If an employee elects to utilize their sick time in lieu of a transitional duty assignment for non-work related injuries, the employee must be evaluated by the City of Fargo Employee Health office to ensure the employee is fit for return to their regular assignment.

1027.6.2 SUPERVISOR RESPONSIBILITIES

The employee’s shift supervisor or unit commander shall monitor and manage the work schedule of those assigned to temporary modified duty. All tasks assigned to the transitional duty employee must be approved by the shift or unit commander to ensure compliance with the employees prescribed limitations for work.

The responsibilities of supervisors shall include, but not be limited to:

(a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.

(c) Ensuring that employees returning to full duty have completed any required training and certification.

1027.7 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their job without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

At the direction of the Chief of Police, an employee who requests or is placed in a transitional duty assignment shall immediately make themselves and/or the medical records associated with the employee's injury, illness, or other medical condition available for examination by the physician

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retained by the City of Fargo Employee Health.Failure or refusal to comply with any such directive may be cause for the department to immediately end the employee's transitional duty assignment.

1027.8 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Generally, the Department will follow the recommendations of the pregnant employees medical provider regarding her ability to perform her assigned duties.

1027.8.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City of Fargo's personnel rules and regulations regarding family and medical care leave.

1027.9 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a transitional duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

1027.10 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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Employee Speech, Expression and Social Networking

1029.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1029.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or public speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file sharing sites.

1029.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contradict the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Fargo Police Department will carefully balance the individual employee's rights against the department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1029.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Fargo Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety or privacy of any employee, an employee's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.

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- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following is prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Fargo Police Department or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Fargo Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Fargo Police Department or its employees.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the principles of the Law Enforcement Code of Ethics as adopted by the Fargo Police Department.

(f) Use or disclosure, through whatever means of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police, or an authorized designee.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1029.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens, employees may not represent the Fargo Police Department or identify themselves in any way that could be reasonably perceived as representing the Fargo Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

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(a) Endorse, support, oppose or contradict any political campaign or initiative (N.D.C.C. § 44-08-19)

(b) Endorse, support, or oppose any product, service, company or other commercial entity.

(c) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through some unofficial group or organization is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Fargo Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens on political subjects and candidates at all times while off-duty. However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1029.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

1029.6 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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Locker Rooms

1030.1 PURPOSE AND SCOPE

Maintaining secure and private locker rooms is an important obligation for the Department to ensure each employee's rights and privacy are maintained.

1030.2 SECURITY

At no time will a person of the opposite sex be allowed into the locker room unless the locker room is empty of employees of the opposite sex. Whenever possible, a member of the sex applicable to the locker room shall accompany any opposite sex member and enter first to ensure the locker room is empty, or that all occupants are properly clothed. Entry of the opposite sex should be restricted to locker room or building maintenance or the gathering of property.

Employees who seek to talk to, interrogate, or interview anyone inside the locker room should generally wait until after the employee has taken care of personal affairs and has exited. Situations requiring an immediate conversation regarding the safety or security of another employee, person or citizen, will require the employee to exit the locker room as soon as possible.

In critical or emergency situations where time is of the essence, an employee of the same sex may enter the locker room to obtain information from the employee.

1030.3 PRIVACY

At no time will video recording devices be used. Audio recording devices may be used only with the written permission of the Chief of Police. Situations allowing the audio recording of conversations in the locker room are generally limited to internal investigations of employee misconduct.

At no time will an employee capture, record or transfer video or audio recordings, either openly or in secret, of another employee by any means, including, but not limited to, the use of cameras, computers, Personal Digital Assistants (PDAs), tape or digital recorders, video cameras or cellular telephones.

1030.4 CLEANLINESS

No stickers or tape may be used on either the interior or exterior of the lockers. Photographs and other personal items may be attached to the interior of the lockers with the use of magnets. Nothing may be attached or mounted to the exterior of the lockers.

(a) Vests cannot be hung on the outside of the lockers.

(b) Boots/shoes/footwear may not be left on the top of the lockers or on the floor in front of the lockers, due to safety concerns and general appearance standards.

No permanent alterations are allowed to the lockers without permission (ex. holes drilled in lockers, hooks glued to locker walls, etc...).

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Peer Assistance Crisis Team

1033.1 POLICY

The Fargo Police Department places the highest possible value and emphasis upon the welfare of its employees and recognizes department personnel face situations which may create significant distress. The Fargo Police Department's Peer Assistance Crisis program is designed to provide confidential emotional support during and after times of personal or professional crisis to members who express a need for assistance, or for whom peers or supervisory staff feel could benefit from program involvement. The Peer Assistance Crisis program shall promote trust, allow anonymity, and preserve confidentiality for all members utilizing the program. The Peer Assistance Crisis program will provide a trained team member to any department employee who requests their services.

1033.2 PURPOSE

To establish guidelines for the establishment and utilization of the Fargo Police Department's Peer Assistance Crisis Team (PACT).

1033.3 DEFINITIONS

Crisis Management Briefing - Structured, large group, organizational meetings designed to provide information about an incident and education about referrals, symptoms, and stress management. This may involve a mental health professional.

Critical Incident - Abnormal, traumatic, or unusually challenging events with the potential to create significant human distress which can overwhelm usual coping mechanisms.

Critical Incident Stress Management (CISM) - A partnership between mental health professionals and emergency service employees, who are interested in preventing and mitigating the negative impact of acute stress on them and their peers.

Debriefing - Small group, phase sensitive, peer driven, formal crisis intervention tool usually accomplished within one to 10 days after a traumatic event or critical incident.

Defusing - A shorted version of the debriefing, generally lasting less than one hour. A defusing is a small group, peer driven, loosely guided discussion usually accomplished within 12 hours of a traumatic event or critical incident. The defusing may be used to determine the need for debriefing and/or other services.

Demobilization - Usually after shift/event, large group, information process which provides for information, rest, and assessment. Also, serves as a screening opportunity to assure an individual who may need assistance is identified early after a traumatic event, critical incident, natural disaster, or terroristic event.

One-on-One Peer Support - Initiated by a PACT member or at the request of an employee for assistance in peer support to include personal or professional situations.

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Peer Assistance Crisis Team (PACT) - Formally established and trained group of peers capable of providing one-on-one support, referrals, stress awareness/reduction help, small group defusing, and debriefing.

Personal or Professional Crisis - Any incident which causes severe physical or mental injury, usually due to an external agent. One of these events may include, but are not limited to:

(a) The use of deadly force.

(b) Assault on an employee involving a deadly weapon.

(c) Hostage situation where an employee is the victim.

(d) Injury, illness, or death of an employee or family member.

(e) Assisting family with an employee's death.

(f) Catastrophic incidents such as an airplane crash, natural disaster event, or fatal crash.

(g) Investigations involving death, such as S.I.D.S.

(h) Substance abuse.

(i) Marital, relationship, health, family, financial, employment, or other personal problems.

1033.4 SELECTION AND TRAINING

Given the sensitive nature of the PACT program, the department recognizes that not all employees will be suited to be PACT members. The PACT coordinator will be responsible for recruiting employees to fill vacant positions within the program. Selection to the PACT program will be based on the department needs, position vacancies, employee experience and qualifications, and PACT advisor recommendations.

All PACT members will receive training on stress awareness, reduction, referrals, and critical incident stress management techniques and procedures from an accredited CISM training program. The PACT coordinator will be responsible to ensue all members meet and maintain standardized training requirements.

1033.5 PACT COORDINATOR RESPONSIBILITIES

The Chief of Police will designate a command officer to serve as the department's PACT Coordinator. The PACT Coordinator shall function as the primary liaison between PACT members, the contracted police psychologist, and the Chief of Police.

The PACT Coordinator will be responsible for the following PACT activities:

(a) The activation of the team when requested for department members.

(b) When PACT activation is requested to assist another agency, the PACT Coordinator will consult with the Chief of Police to determine what assistance PACT can provide.

(c) Maintain a record of current contacts of all PACT advisors and continuously seek out those members who would qualify as a PACT advisor.

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(d) Function as a resource for supervisors, who may call the coordinator to ask advice on situations.

(e) Ensure all PACT members contact information are posted through out department facilities.

(f) Ensure all PACT members contact numbers are provided to RRRDC and department supervisory staff, and create PACT activation procedure for department supervisors to ensure there is an efficient method for obtaining PACT support.

(g) Fiscally responsible for the program and will ensure resources are readily available for the team (i.e: training, defusing and debriefing materials, equipment, etc.)

1033.6 PACT SUPERVISORY RESPONSIBILITIES

The PACT coordinator will assign PACT supervisors within the program. The PACT supervisors will be responsible for the daily oversight of PACT operations, and the implementation of the vision and goals of the team. The supervisors will be responsible for delegating tasks and assigning duties to the various team advisors. Statistical data will be sent and maintained by the supervisor(s) for the purpose of program evaluation, and it will include hours/time spent by team advisors on training, meetings, and peer support. The PACT supervisors may fill the role of a PACT advisor or PACT coordinator if the need or situation is warranted.

PACT Incident Coordinator Sergeant responsibilities:

(a) Assigning a PACT advisor to a critical incident.

(b) Contact and securing locations for debriefings.

(c) Arrange food and beverage purchases, if necessary.

PACT Incident Group Coordinator Sergeant responsibilities:

(a) Being available at debriefings to lend advice and support to those members conducting the debriefing.

(b) Assigning a PACT advisor to follow-up with individuals identified as needing additional assistance.

(c) Monitor PACT advisor's mental health to avoid burnout and/or becoming over tasked.

PACT Training Coordinator Sergeant responsibilities:

(a) Work with all PACT advisors to ensure all the CISM training is completed and current.

(b) Oversee the PACT advisors quarterly training.

(c) Maintain the PACT statistics and report the activities to the PACT coordinator annually.

1033.7 PACT ADVISOR DUTIES AND RESPONSIBILITIES

The PACT advisor will be identified and assigned by the PACT coordinator and supervisors. PACT advisors are seen as senior and experienced members of the team and provide assistance with a defusing, debriefings, and one-on-one interactions. PACT advisor responsibilities will be assigned and re-evaluated quarterly by the PACT supervisors. PACT advisors will have the ability to move

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between the Advisor position and PACT member position to reduce burnout and/or becoming over tasked.

When the PACT advisor is informed of a situation in which peer support is needed, they will be responsible for the following:

(a) Organizing and scheduling any defusing or debriefs.

(b) Calling team members to assist in a defusing or debriefing as they deem appropriate.

(c) Will follow the guidelines of the Peer Support SOP.

(d) Will assure the employee that use of the PACT is strictly voluntary.

(e) Shall remain in contact with the PACT coordinator and PACT supervisors regarding program activities and the scheduling of debriefings and defusings.

1033.8 PACT TEAM MEMBER DUTIES AND RESPONSIBILITIES

The behavior and actions of a PACT member reflects on the credibility of the PACT program. Inappropriate behavior can damage the trust all employees place in this program. Therefore, all PACT members are expected to be role models in their professional lives, appearance, and off-duty activities. Each advisor will have the utmost personal integrity and will have respect fro the employee's dignity, self-development, and personal welfare.

PACT membership and hierarchy includes the PACT Coordinator, PACT Supervisors, Advisors, and Team Members. All PACT members shall attend mandated meetings, trainings, and seek continued eduction opportunities. All PACT members will be mandated to do an annual mental health check-up with the City of Fargo's designated employee assistance program (EAP), or a provider approved by the PACT Coordinator.

PACT Team Member duties and responsible are the following:

(a) When advised of a situation, they will make contact with that employee as soon as possible. The PACT member will explain to the employee the purpose of the team, services the team can provide, names of each PACT member, and information on how the employee can utilize PACT services.

(b) Inform employees seeking assistance that the advisors are not exempt from laws, rules, regulations, or orders; but that any exchange of information not in violation of the aforementioned shall remain confidential. The employee is to be advised that any acts of self-injury or injury to others cannot go unreported.

(c) Must be knowledgeable with state statute and department policy involving confidentiality. Any other party seeking information about discussions shared between an employee and an advisor shall be informed that the information is confidential.

(d) Will assure the employee that use of the PACT is strictly voluntary.

(e) Should not enter into a "dual relationship" with employees.

    1. This can include situations where the employee is a subordinate or supervisor of the PACT member.

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2. PACT members should also avoid situations where the employee's need for peer support stems from an incident involving the PACT member, or any other situation diminishing the member's ability to remain objective.
3. Should any the the aforementioned situations arise, the PACT member shall contact the PACT Coordinator and/or a PACT Supervisor to be removed from that situation.

(f) Provide short-term supportive assistance and/or referral within the scope of their ability, knowledge and training, and may make additional referrals for assistance when deemed appropriate.

The Chief of Police or his/her designee, may require an employee to attend sessions with or without a group. The decision to require an employee's attendance will be made on a case-by case basis, with advice from the department's EAP representative.

1033.9 DEPARTMENT SUPERVISOR RESPONSIBILITIES

When practical to do so, department supervisors shall be responsible for the following:

(a) Requesting a PACT advisor to be contacted to assist department personnel involved in events or circumstances which would typically be considered critical incidents or high-stress situations.

(b) Briefing PACT advisors who are contacted to assist employees regarding critical incidents by providing them with an overview of the situation and any key actions taken with the involved employees.

(c) Assisting PACT advisors in arranging a private place to talk with involved employees.

(d) When in doubt, contact the PACT coordinator or PACT supervisors when they believe an employee could benefit from PACT assistance or referrals.

1033.10 PACT ACTIVATION PROTOCOL

Trauma takes a variety of forms and cannot be accurately or exhaustively quantified in description. There are certain events which are of such magnitude they should be considered disruptive to nearly anyone involved. Situations appropriate for PACT activation and usage include, but are not limited to:

(a) Line of duty deaths/serious injuries

(b) High risk incidents

(c) Incidents involving serious injury/death to others

(d) Natural disasters

(e) Significant events (duty and non-duty related)

(f) Shootings

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When such incidents occur, the on-duty shift supervisor or command officer will assess the situation and if appropriate, contact PACT for support. The need for group intervention or immediate peer support will be assessed and mobilized when appropriate.

Department supervisors should be aware of situations which may require PACT activation and usage. Supervisors or the shift commander may contact the PACT coordinator or a PACT supervisor anytime to activate PACT, or inquire if activation may be necessary.

This program is dependent upon the identification of all traumatic and critical incidents, large and small, to help reduce the emotional impact and to avoid the effects of post-traumatic stress.

Department employees may access any PACT member for one-on-one informal peer support and referrals anytime at their discretion.

Requests for department defusing can be made through any PACT member. The department supervisor(s) may request a PACT member to conduct a defusing as needed without prior approval from the PACT Coordinator.

All requests for PACT assistance involving formal debriefings, and demobilizations, shall be made through and coordinated with the PACT coordinator or his/her designee. The PACT coordinator in conjunction with the PACT supervisor and PACT advisor(s) will identify the type of service and staffing required.

1033.11 OUTSIDE AGENCY PACT ACTIVATION

There are several instances where the department's PACT could be activated to assist other agencies. The following is a non-inclusive list of those instances:

(a) Line of duty death

(b) Officer involved shooting

(c) Natural disaster with mass casualties

(d) Terroristic event

(e) Conflict of interest identified

(f) Other agency does not have a PACT available for use

All activations will be brought to the PACT Coordinator and or his/her designee for approval prior to activation. The Chief of Police will have the final decision to activate the department's PACT to assist another agency.

1033.12 MULTI-AGENCY INCIDENTS

The Fargo Police Department has a mutual aid agreement with the surrounding law enforcement agencies to include PACT utilization. Each agency has their own respective PACT and should utilize them when available for defusings. The PACT coordinator and/or their designated counterpart from the other agencies will be responsible for designating which department's

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PACT will defuse/debrief specialized work groups (ie. SWAT, Negotiations, and other designated groups).

Since debriefings are scheduled at a later date, the PACT advisor assigned to the event will determine in conjunction with the other agencies PACT leads if a multi-agency debrief is necessary. It will be the responsibility of the PACT advisor assigned to the event to communicate with the PACT coordinator/PACT supervisor about the details of their efforts with the other involved agencies.

1033.13 REPORTING

No written note taking or recordings are allowed on any PACT interventions. PACT members providing any type of assistance will complete and forward a PACT usage report form to the PACT Coordinator. The only names included on this report will be those of assisting PACT members. The report will include the type of assistance provided, PACT members involved, location, date and times, number of attendees/agency and type of incident involved. Supervisors will provide an annual report to the PACT Coordinator.

1033.14 COMPENSATION FOR PACT MEMBERS

All PACT members who are activated to perform PACT related functions or tasks will be compensated in accordance with Policy 1019 Compensation.

1033.15 COMPENSATION FOR EMPLOYEES PARTICIPATING IN PEER SUPPORT ACTIVITIES

Any employee participating in a defusing, which typically occurs shortly after the critical incident and may be during the shift of the involved officer(s) or directly afterwards, will be compensated in accordance with Policy 1019 Compensation, if the defusing is past their scheduled shift time.

Debriefings are scheduled for a later date and employees participating in a debriefing will be compensated with NR time for any meeting outside of their regular work schedule. It will be up to the participating employee to coordinate the NR time with their respective supervisor.

1033.16 CONFIDENTIALITY

Matters discussed between PACT members and attendees/employees will be handled as strictly confidential in nature. PACT members will maintain confidentiality of all discussions they have with attendees/employees unless required to disclose the details of such conversations by law.

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Attachments

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Agreement for the Joint Exercise of Peace Officer Duties.pdf

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FPD Policy 804 - Appendix 1.pdf

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RECORDS RETENTION SCHEDULE FOR THE FARGO POLICE DEPT

The following schedule has been established for the retention and disposal of records which include reports, pictures, citations, digital and prints, video and evidence, etc.

1. **Traffic Citations** – including DUI Citations which contain the name, driver's license number, and location of offense, type of offense and name of officer(s) involved.
    a. Retain for 4 years from date of issuance then dispose.

2. **Criminal/incident cases** – containing arrest reports, dispositions, crime scene photos, narrative, and scanned images.
    a. Retain for 10 years after report was made unless warrant (DF or open exist).
    b. Homicide cases would be maintained for 75 years from date of incident. This includes all narrative, scanned images and audio/video recordings.
    c. Case files for Sex Offenses that require registration under ND Century Code 12.1-32-15, will be maintained for 30 years from date of incident**.**

3. **Juvenile files –** containing arrest reports, incident reports, dispositions, photos, and other case related records.
    a. Retain for 10 years after report was made.
    b. Upon turning 18, the file of the juvenile will remain in the FPD RMS, unless a court order has been issued to remove the juvenile file.

4. **Crash Reports** – containing names of those involved, crash number assigned, date and time, description and /or diagram of crash, make and model of cars, injury reports, arrests and /or citations.
    a. Retain for 2 years from date of crash and then dispose unless the case is a fatal crash.
    b. In the case of fatal crashes, the report and all attachments would be archived for a minimum of 25 years.

5. **Education/Training Material** – maintained by the trainer, disposed of when new training DVD or manuals become available.

6. **Training Records** – these records become part of the permanent file for the employee and contain training certificates, a running total of training hours (also maintained at the state level).
    a. Retained for 6 years after employee termination.

7. **Lesson Plans** – plans for training of law enforcement personnel, class lists and time tables, locations of training and names of instructors.
    a. Retained for 1 year or until updated.

8. **Case Photographs**
    a. Disposed of 60 days after all case related dispositions/judgments are received.

b. Homicide related photos will be held for 75 years from the date of incident, and then destroyed.
c. Fatal crash photos will be held for 25 years from the date of crash, and then destroyed.
d. Unattended death photos will be held for 10 years from the date of incident, and then destroyed.
e. Non-fatal crash photos will be held for 3 years from the date of the crash, and then destroyed.
f. Uncharged cases photos will be disposed of when written authorization for the disposal is received from the prosecuting attorney or the investigating officer; or the statue of limitations for the listed crime(s) has expired.

9. Sobriety Check point reports
a. Retain for Five years (from date of event) then destroy.

10. Volunteer files
a. Maintain personal information on spread sheet and destroyed upon termination/end of volunteer career

11. Criminal History Checks and Safe Housing Checks
a. Retain for one month and then destroy.

12. Offender Registration Documentation
a. Maintain registration forms, photos, fingerprint cards, risk assessment files, interview forms until term of registration expires or until death of offender.

FPD AWARDS LIST.pdf

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Security Incident Response Form.pdf

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Security Incident Response Form

FBI CJIS DIVISION
INFORMATION SECURITY OFFICER (ISO)
SECURITY INCIDENT REPORTING FORM

NAME OF PERSON REPORTING THE INCIDENT: _____

DATE OF REPORT: _____ (mm/dd/yyyy)

DATE OF INCIDENT: _____ (mm/dd/yyyy)

POINT(S) OF CONTACT (Include Phone/Extension/Email): _____
_____

LOCATION(S) OF INCIDENT: _____

INCIDENT DESCRIPTION: _____

SYSTEM(S) AFFECTED: _____
_____

SYSTEM(S) AFFECTED (e.g. CAD, RMS, file server, etc.): _____
_____

METHOD OF DETECTION: _____

METHOD OF DETECTION: _____

ACTIONS TAKEN/RESOLUTION: _____
_____
_____

Copies To:

George White
(FBI CJIS Division ISO)
1000 Custer Hollow Road
Clarksburg, WV 26306-0102
(304) 625-5849
iso@ic.fbi.gov

John C. Weatherly
(FBI CJIS CSIRC POC)
1000 Custer Hollow Road/Module D-2
Clarksburg, WV 26306-0102
(304) 625-3660
iso@ic.fbi.gov

Action Codes.pdf

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Criteria for Issuing Warnings

Urgency	Severity	Certainty	= Action Code
Immediate	Extreme	Observed	EVI, SPW, CDW, CEM*
Expected	Severe	Likely	EVI, SPW, CDW, CEM*
Future	Moderate	Possible	Advisory
Past	Minor	Unlikely	Advisory

* Using a CEM will activate Wireless Emergency Alerts, but not Emergency Alert System

When deciding whether to issue a public warning, the following criteria should be applied:

- Does the hazardous situation require the public to take immediate action?
- Does the hazardous situation pose a serious threat to life and property?
- Is there a high degree of probability that the hazardous situation will occur?
- Are other means of disseminating the information adequate to ensure rapid delivery of urgent information?

Action Codes:

EVI – Evacuate Immediately – is where an immediate evacuation is recommended

CDW – Civil Danger Warning – is an event which presents a danger to a significant amount of the local population – usually warns of specific hazard and gives specific protective actions

SPW – Shelter-in-Place Warning – a warning of an event where the public is recommended to shelter-in-place or to take cover from a dangerous situation in their area

CEM – Civil Emergency Message (WEA only) – is an emergency message regarding an in progress or imminent significant threat(s) to public safety and/or property

Criteria for Issuing Warnings

In order to successfully send a Wireless Emergency Alert (WEA), the alert must contain certain values for these fields, reflected an "Imminent Threat". The values marked in red (below) are the ones which will activate a WEA or EAS alert:

1) **Urgency**:
   "**Immediate**" – Responsive action should be taken immediately
   "**Expected**" – Responsive action should be taken soon (within the next hour)
   "Future" – Responsive action should be taken in the near future
   "Past" – Responsive action is no longer required
   "Unknown" – Urgency not known

2) **Severity**:
   "**Extreme**" – Extraordinary threat to life of property
   "**Severe**" – Significant threat to life or property
   "Moderate" – Possible threat to life or property
   "Minor" – Minimal to no known threat to life or property
   "Unknown" – Severity unknown

3) **Certainty**:
   "**Observed**" – Determined to occurred or to be ongoing
   "**Likely**" – Likely 9more than 50% chance)
   "Possible" – Possible but now likely (less than 50% chance)
   "Unlikely" – Not expected to occur
   "Unknown" – Certainty unknown

Response to Resistance Report.pdf

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FARGO POLICE DEPARTMENT
RESPONSE TO RESISTANCE REPORT

OFFICER NAME:_____ COMPUTER #:_____ ICR #: _____
DATE OF INCIDENT: _____ TIME: _____ LOCATION: _____
DUTY STATUS: [___] ON [___] UNIFORMED
[___] OFF [___] PLAIN CLOTHES CURRENT ASSIGNMENT:_____
SUBJECT: _____ DOB: _____ AGE: _____
RACE: (circle) White / Black / Hispanic / American Indian / Asian Pacific Islander / Other _____
GENDER (circle) M / F Photos (circle) Y/N (order two sets if yes)

FIREARMS

	MAKE	MODEL	SERIAL NUMBER	CALIBER
OFFICER:	_____	_____	_____	_____
SUSPECT:	_____	_____	_____	_____

WHY DID YOU USE YOUR FIREARM?
[___] ACCIDENTAL DISCHARGE [___] TO DESTROY AN ANIMAL [___] TO PROTECT OFFICER
[___] TO PREVENT/STOP FELONY [___] TO PREVENT AN ESCAPE [___] TO PROTECT CITIZEN

PHYSICAL FORCE/DEFENSIVE WEAPON

WHAT TYPE OF FORCE WAS USED?
[___]PHYSICAL [___] CHEMICAL [___] TASER [___] OTHER _____

REASON FOR RESPONSE TO RESISTANCE

[___] Effect Arrest [___] Effect Transport [___] Defend Officer / Employee [___] Defend Another
[___] Prevent Violent Act [___] Restraint to protect others [___] Other _____
[___] N/A

EFFECT / RESULT OF FORCE

Subject / Officer/ Employee
[___]1[___] no visible injury, no complaint of injury
[___]2[___] no visible injury, complaint of injury, no medical treatment required
[___]3[___] OC (pepper spray) decontamination
[___]4[___] minor visible injury, no medical treatment required
[___]5[___] injury requiring outpatient treatment / facility: _____
[___]6[___] injury requiring hospitalization / facility: _____
[___]7[___] death
[___]8[___] other
[___]9[___] n/a

AT TIME OF CONTACT SUBJECT APPEARED TO BE:

[___] under influence of alcohol [___] under influence of chemical drug
[___] emotionally disturbed person (explain) [___] other (explain)
[___] n/a
_____
_____
_____

OFFICER SIGNATURE: _____ DATE:_____

SUPERVISOR SIGNATURE:_____ DATE:_____

CI-SOI Agreement form.pdf

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Fargo Police Department - Source of Information Agreement Form

I, _____, voluntarily and without coercion, agree to all the terms of this Source of Information Agreement:

- I am free to consult an attorney at any time. SOI Initial_____
- I am providing information by my own free will and have not been coerced or threatened in any way to provide information. SOI Initial_____
- There is an inherent risk by providing information to law enforcement regarding criminal activity and/or the location of criminals. SOI Initial_____
- My identity is subject to release during court proceedings. SOI Initial_____
- Any consideration regarding pending criminal charges against me, or another person, is up to the prosecuting attorney, and no promises have been made to me in exchange for this information. SOI Initial_____
- Any payment received by me for information is not subject to federal, state or social security and all reporting of income is my responsibility. SOI Initial_____
- I am not an employee of the Fargo Police Department or City of Fargo. SOI Initial_____
- I am not entitled to worker's compensation or unemployment benefits. SOI Initial_____
- I am not privileged to violate any laws during my association as a Source of Information with the Fargo Police Department. SOI Initial_____
- I will not attempt a controlled buy or controlled sale, or surreptitiously record someone during my association as a Source of Information for the Fargo Police Department. SOI Initial_____
- I am understand that I must testify truthfully if called as a witness in a court proceeding. SOI Initial_____
- I will not hold the City of Fargo or State of North Dakota liable for any damages or injuries that occur related to the information I am providing. SOI Initial_____

Dated this_____day of _____, _____

SOI Signature:_____

Case Agent Signature:_____Comp#_____

Supervisor Signature:_____Comp#_____

ACTIVITY LOG

DATE	CASE#	COMPENSATION	SOI SIGNATURE	CASE AGENT SIGNATURE

Fargo Police Department - Source of Information Agreement Form

Case Agent (Print):_____Comp#_____ SOI #_____

SOI Full Name:_____
(Last) (First) (Middle)

DOB:_____ Alias(es):_____

Address:_____
(Street Address) (City, State) (Zip)

Telephone:_____
(Cell) (Home) (Work)

Race:_____ Sex:_____ Height:_____ Weight:_____ Hair:_____ Eyes:_____

SSN:_____ Place of Employment:_____

Driver's License:_____
(Number) (State)

Tattoos/Scars/Marks:_____

Vehicle:_____
(Year) (Color) (Make) (Model) (State) (Plate)

Vehicle:_____
(Year) (Color) (Make) (Model) (State) (Plate)

Alternative Point of Contact:_____
(Name) (Relationship)

_____
(Address) (City, State) (Zip)

_____
(Phone Number)

POST Approved CI Agreement 7-1-2018.pdf

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CONFIDENTIAL INFORMANT AGREEMENT

ND PEACE OFFICER STANDARDS AND TRAINING BOARD

PFN17 (03/18)

Confidential Informant Submission	Confidential Informant Number	Telephone Number	Email
Name (Last, First, Middle)			

Address	City	State	ZIP Code
Alias or Other Name			

Date of Birth	Place of Birth (City and State)	Race	Gender ☐ M ☐ F	Height	Weight	Eye Color	Hair Color
Identifying Characteristics (scars, marks, physical defects, etc.)				Occupation			

Drug User ☐ Yes ☐ No	If Yes, What Drug(s)	Social Security Number
FBI Number	SID Number	Other

The Privacy Act of 1974 requires the following information be provided when individuals are requested to disclose their social security numbers. Disclosure of the social security number is voluntary and it is requested for identification purposes. Failure to disclose this information will not affect participation in this program.

Driver's License Information

State or County	Number	Expiration Date

Vehicle Registration

Make/Model	Year of Car	License Number	Year	State

Education

Name of School	Level Completed

Controlling Agent Observation/Miscellaneous

Comments

Criminal Activity

Locations of Criminal Activity (City, State, County)
Criminal Associates (Last, First, Middle Name)

Source of Supply (Name)	Telephone Number
Prior Criminal Record	

Name of Confidential Informant	Confidential Informant Number

Family

Spouse		Telephone Number	
Address	City	State	ZIP Code
Father		Telephone Number	
Address	City	State	ZIP Code
Mother		Telephone Number	
Address	City	State	ZIP Code
Brothers/Sisters/Children (Name and Relationship)		Telephone Number	
Address	City	State	ZIP Code
Brothers/Sisters/Children (Name and Relationship)		Telephone Number	
Address	City	State	ZIP Code
Brothers/Sisters/Children (Name and Relationship)		Telephone Number	
Address	City	State	ZIP Code

Controlling Agent Name	Signature	Date
Supervisors Name	Signature	Date

Name of Confidential Informant	Confidential Informant Number

1. Do you understand as a Confidential Informant you have the right to remain silent, you have the right to speak with legal counsel at any time, and you have the right to cease working as a Confidential Informant: if you choose to seek legal counsel at any time this will not invalidate the agreement?	☐ Yes ☐ No
2. Do you understand that there is an inherent risk associated with acting as a Confidential Informant, which could include death or injury?	☐ Yes ☐ No
3. Do you understand that the controlling agent with whom you are working with will notify you with any known information about crimes of violence committed by the target(s) of the investigation?	☐ Yes ☐ No
4. Do you understand that as a Confidential Informant you are not an employee of the agency named below nor are you entitled to Worker's Compensation or unemployment benefits from the state of North Dakota and will not hold the state liable for any injuries or damage incurred by reason of your association with the agency named below?	☐ Yes ☐ No
5. Do you understand that your association with the agency named below is only as a Confidential Informant and that any payment received from them will not be subject to federal or state withholding or social security? All reporting of income is the responsibility of the Confidential Informant; and any money or property provided to the Confidential Informant by law enforcement to be used during an investigation may not be used for personal use and must be accounted for at all times.	☐ Yes ☐ No
6. Do you understand that you are not privileged to violate any laws during the course of your association with the agency named below and you are not to handle any contraband or illegal drugs at any time unless specifically authorized to do so by whom you are working?	☐ Yes ☐ No
7. Do you understand that as a Confidential Informant that any sexual relations with an intended target of a police investigation is a violation of the agreement and may be a violation of the law?	☐ Yes ☐ No
8. Do you understand you are not to divulge to any person, except the controlling agent with whom you are associated, your status as a Confidential Informant for the agency named below and that you will not use your association with them to resolve your personal problems?	☐ Yes ☐ No
9. Do you understand that you are to report to the controlling agent assigned to work with you on a continuous basis while actively associated with the agency named below?	☐ Yes ☐ No
10. Do you understand that your association with the agency named below does not afford you any special privileges regarding the use or sale of controlled substances; and any violation of any of the rules set forth could terminate the terms of this written agreement. You could receive no benefit and you could incur additional criminal charges.	☐ Yes ☐ No
11. Do you understand that you are not to use the personnel from the agency named below as credit references or employment references unless prior approval is obtained from the controlling agent with whom you are associated?	☐ Yes ☐ No
12. Do you understand the law as it relates to entrapment, as I have explained it to you? Entrapment is defined as: for the purpose of obtaining evidence of the commission of a crime, the law enforcement agent induces or encourages and, as a direct result, causes another person to engage in conduct constituting such a crime by employing methods of persuasion or inducement which create a substantial risk that such crime will be committed by a person other than one who is ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.	☐ Yes ☐ No
13. Do you understand that if you are currently on parole or probation that prior approval must be obtained from a district judge, after an in-camera hearing, before entering into any agreement with the agency named below?	☐ Yes ☐ No
14. Do you understand that no promises can be made to you about court appearances and that you may have to appear in court and testify truthfully if called as a witness in court proceedings?	☐ Yes ☐ No
15. Do you understand that the controlling agent will not provide an absolute guarantee or promise regarding any potential charges against you; however, the controlling agent will truthfully report your cooperation based on your substantial compliance with the informant agreement? Substantial compliance with the terms of this agreement could result in	☐ Yes ☐ No

Name of Confidential Informant	Confidential Informant Number

16. Anticipated Number of Control Buys	Anticipated Number of Controlled Sales	CI Initial
Anticipated Number of Surreptitious Recordings	Duration of Agreement	

17. If you are acting as a paid confidential informant, understand that compensation amounts for each successful controlled buy, successful controlled sale or successful surreptitious recording may vary depending upon the individual facts and circumstances of each. The controlling agent will discuss with you and document on this form what those compensation amounts will be prior to and for each controlled buy, controlled sale, or surreptitious recording. Please list those compensation amounts below. If additional space is needed attach additional sheet (same format).	CI Initial

Date	Compensation Amount	Date	Compensation Amount	Date	Compensation Amount
Date	Compensation Amount	Date	Compensation Amount	Date	Compensation Amount

18. Do you have any questions concerning the rules and regulations to which you will be required to adhere?	☐ Yes ☐ No

Confidential Informant Signature	Date
Witness Signature	Date
Controlling Agent Signature	Date

Deactivating Confidential Informant

Controlling Agent Name	Controlling Agent Badge Number	Date

Confidential Informant Name	Date

Comments/Reasons for Deactivation

Controlling Agent Signature	Date
Supervisor Signature	Date

Confidential Informant Waiver of Right to Counsel

Confidential Informant Name	
Agency Name	Controlling Agent

I, named above, am willing and agreeing to work with the above named agency and controlling agent as a Confidential Informant. I do not want a lawyer at this time and I understand that I have the right to an attorney. No promises or threats have been made to me, and no mental or physical force of any kind has been used against me. I understand and know what I am doing and I also understand that I can request an attorney at any time, and by asking for an attorney it will not invalidate the agreement.

Confidential Informant Signature	Date	Time Field

Certification

I CERTIFY that the foregoing Confidential Informant Waiver of Right to Counsel was read to the above signatory, that he/she also read it and has affixed his/her signature in my presence.

Controlling Agent Signature	Date
Witness Signature	Date

COF Safety Self Inspection Report.pdf

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CITY OF FARGO RISK MANAGEMENT PROGRAM
SAFETY SELF-INSPECTION REPORT

Area Inspected: _____ Date: ____/____/____

Inspected By: _____ Title: _____

LOCATION	HAZARDS	CORRECTIVE ACTIONS	DATE COMPLETED	INITIALS

Comments: _____

_____

Management Signature: _____

REVISED 7/11

AWARDS LIST.pdf

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RRVS-025 Attachment A Risk Assessment.pdf

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Child Supervision Guidelines - March 2013.pdf

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CHILD SUPERVISION GUIDELINES

north dakota department of human services

FACTORS TO CONSIDER BEFORE LEAVING A CHILD HOME ALONE:

- **Age and maturity, emotional health, the child's physical or cognitive abilities, length of time alone, time of day or night, whether the child will be expected to supervise other children, location and safety of neighborhood, frequency of being left alone, and how far a parent or other adult would be from home.**
- **A parent or caregiver is responsible for the safety, care, well-being, and behavior of their children, whether they are present to supervise them or not.**
- **In all instances below where "yes" is indicated, the parent is ultimately responsible for using sound judgment.**

Age of Child	Left Alone for Two Hours or Less	Left Alone for More Than Two Hours	Left Alone Overnight	Outside Unattended	Left In Car Unattended for brief time (10-15 minutes)	Child Provides Care For Other Children
Newborn - Age 4	NO	NO	NO	NO	**Caution!** Dangerous in temps over 72° F. or under 32° F; must be in view of caregiver and in a restraint; keys removed, door locked and emergency brake applied	NO
Age 5- 6	NO	NO	NO	YES Playground or yard within visual sight or hearing distance to supervision	**Caution!** Dangerous in temps over 72° F. or under 32° F; must be in view of caregiver and in a restraint; keys removed and emergency brake applied	NO
Age 7 - 8	NO	NO	NO	YES Parent or caregiver must be available (visual sight or hearing distance)	**Caution!** Dangerous in temps over 72° F. or under 32° F; must be in view of caregiver; keys removed and emergency brake applied	NO
Age 9	YES (During daytime hours)	NO	NO	YES	YES (Keys removed and emergency brake applied)	NO
Age 10 - 11	YES (During daylight hours, with ready access to an adult supervisor)	YES (During daylight hours, not to be alone during sleeping hours)	NO	YES	YES (Keys removed and emergency brake applied)	NO
Age 12 - 14	YES	YES (During hours before curfew)	NO	YES	YES	YES (Child care classes recommended)
Age 15 - 18	YES	YES	**Caution!** Assess your child's level of maturity and responsibility	YES	YES	YES

For more information contact: A local county social service agency: http://www.nd.gov/dhs/locations/countysocialserv/ or Prevent Child Abuse North Dakota: 701-223-9052 or visit www.pcand.org

(Revised 3/2013)

AWARDS LIST I.pdf

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AWARDS LIST

MEDAL OF HONOR:
Blackington – Medal #A8365, Red, White, and Blue Ribbon, Ribbon Bar #RC-3

MEDAL OF VALOR:
Blackington – Medal #A8365, Blue and White Ribbon, Ribbon Bar #RC-6

POLICE OFFICER'S SILVER STAR:
Blackington – Medal #A2619, Silver and Blue Ribbon, Ribbon Bar #RC-19

DISTINGUISHED SERVICE MEDAL:
Blackington – Medal #A4131, Blue Ribbon, Ribbon Bar #RC-5

PURPLE HEART:
Blackington – Medal #A2629B, Purple Ribbon, Ribbon Bar #RC-45

COMBAT CROSS:
Blackington – Medal #A5499, Red, White and Blue Ribbon, Ribbon Bar #RC-32

CHIEF'S MEDAL:
Blackington – Medal #A3282, Gold and Blue Ribbon, Ribbon Bar #RC-30

LIFESAVING AWARD:
Blackington – Medal #1595, Red and White Ribbon, Ribbon Bar #RC-42

POLICE OFFICER OF THE YEAR:
Blackington – Medal #A1789, White, Blue and Gold Ribbon, Ribbon Bar #RC-38

COMBAT ACTION AWARD
Blackington – (No Medal) Blue, White, and Red Ribbon, Ribbon Bar #RC-54

POLICE TRAINING OFFICER (PTO) SERVICE AWARD:
Blackington – (No Medal) Blue, White, and Blue Ribbon, Ribbon Bar #RC-26*

SWAT SERVICE AWARD
Blackington – (No Medal) Red and Green Ribbon, Ribbon Bar #RC-25*

K9 SERVICE AWARD
Blackington – (No Medal) Black and Orange Ribbon, Ribbon Bar #RC-16*

EMERGENCY SERVICE UNIT CITATION:
Blackington – (No Medal) Blue and Red Ribbon, Ribbon Bar #RC-36

Subsequent/Duplicate Awards
In the event a sworn officer or civilian employee receives a second or subsequent medal/ribbon previously awarded to them, a star or other denotation will be added to the commendation ribbon worn on the police uniform.

* A star or other denotation will be added to the commendation ribbon associated with the respective Service Award for every five years of satisfactory service (beyond the first five years) an officer serves in a major secondary assignment, or when an officer satisfactorily serves a minimum of five years in an additional major secondary assignment.

Transitional Duty Request Form.pdf

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Fargo Police Department
Transitional Duty Assignment Request

Request (to be completed by the employee)

Name _____ Position_____

Source of Injury/Illness: (***circle one***) Work-related Non work-related

Date of Injury/Illness _____

Personal healthcare provider (Name & Address) _____

_____

Type of transitional duty requested (refer to page 2 of policy)
(***circle one***)
Short-Term Extended

Anticipated start date of transitional duty_____

Anticipated return to full duty _____

Approval (to be completed by the supervisor)

Transitional Duty Assignment: (***circle one***)

Administrative Assistant Front Desk Officer

Investigations Assistant Evidence Technician Assistant

Office Associate

Approved start date of transitional duty _____

Approved end date of transitional duty _____

Approved work _____

Direct supervisor for transitional duty _____

_____ _____

Approval Signature of Lieutenant Commander

Approval Signature of Division

For office use only:

Public Alert Flow chart.pdf

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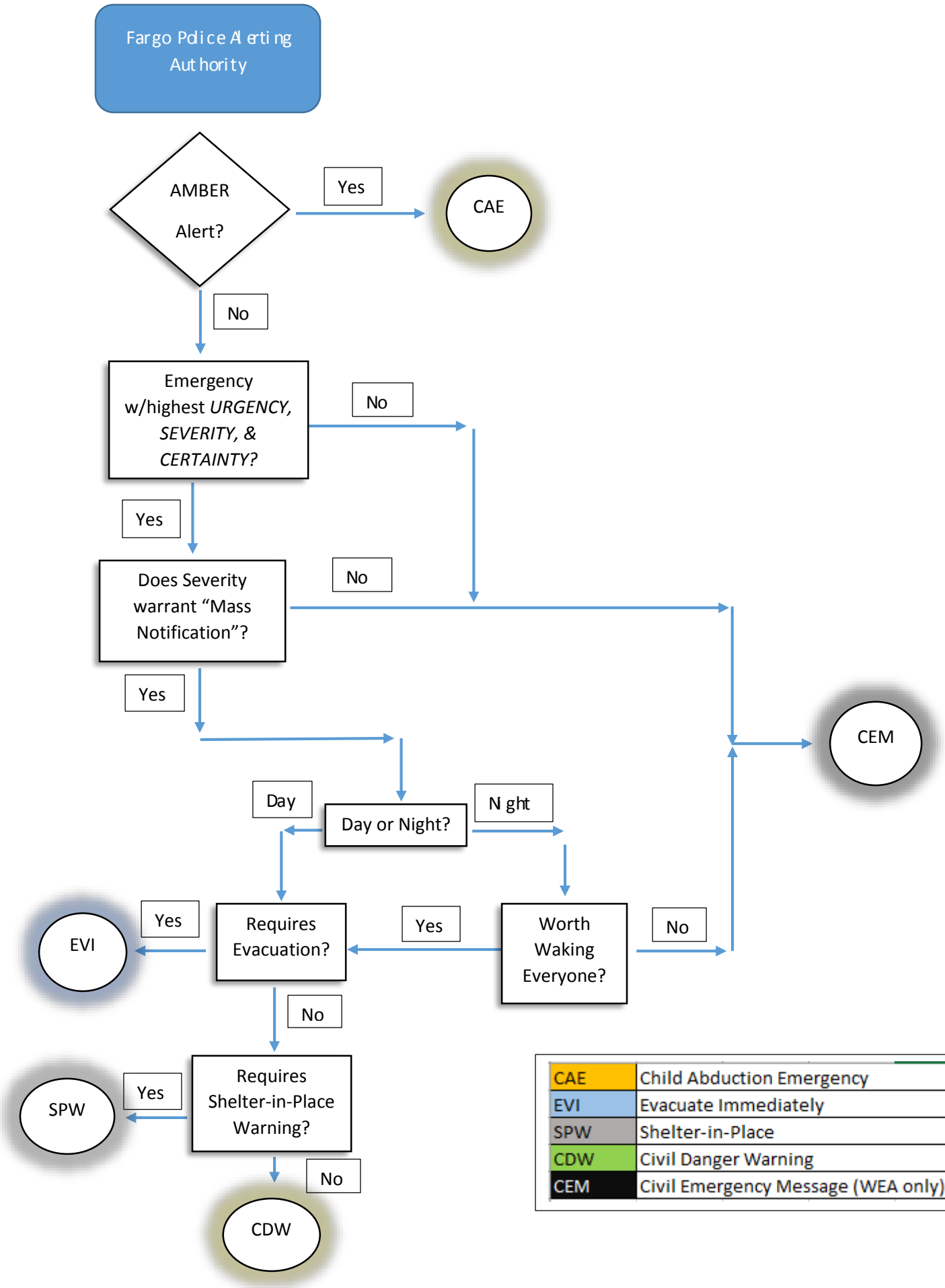
Emergency Alerting System (EAS) Flow Chart



CAE	Child Abduction Emergency
EVI	Evacuate Immediately
SPW	Shelter-in-Place
CDW	Civil Danger Warning
CEM	Civil Emergency Message (WEA only)

COF Near Miss Report.pdf

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CITY OF FARGO RISK MANAGEMENT PROGRAM

NEAR MISS REPORT

This report is to be filled out by any employee involved in or witnessing a near miss. A near miss is an incident that did not result in any personal injury, property damage or production interruption. It is a very important indicator of potentially harmful future accidents.

Department _____

Date of Incident _____ Time _____

Location _____

_____

Description of incident or potential hazard _____

_____

_____

Employee Signature _____ Date _____
(optional)

SUPERVISOR'S PORTION

Immediate Causes: _____

_____

_____

Corrective Action Taken: _____
(REMOVE, REPLACE, REPAIR, RETRAIN)

_____

_____

_____

Supervisor _____ Date _____

Management _____ Date _____

REVISED 8/05

Personnel Complaint Form.pdf

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Investigations # _____
(Professional Standards Office Use Only

FARGO POLICE DEPARTMENT
PERSONNEL COMPLAINT

Employee(s) Involved: _____ ID # _____

_____ ID # _____

_____ ID # _____

_____ ID # _____

Complainant's Name: _____

Address: _____ Phone # (home) _____ (work) _____

Location of Occurrence: _____

Date/Time of Occurrence: _____

Witness Name: _____ Phone # _____

Address: _____

Employee Receiving Complaint: _____ ID # _____

Date/Time Complaint Received: _____

Details of Complaint (attach additional pages if necessary): _____

_____

_____

_____

_____

_____

_____

_____

_____

Assigned Investigator: _____ ID # _____

Date Assigned: _____ Date Completed: _____

DISPOSITION:

Sustained [ ] **Not Sustained** [ ] **Unfounded** [ ] **Exonerated** [ ] **Policy Failure** [ ]

Mediation [ ] **Closed** [ ] **Date of Disposition Determination**: _____

Chief of Police/Designee: _____

Policy 1008 Communicable Diseases Supervisor Checklist.pdf

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EMPLOYEE EXPOSURE TO BLOODBORNE PATHOGENS INCIDENT

SUPERVISOR CHECKLIST

- Make sure the employee has provided you with details of the exposure incident.
- Remind the employee to thoroughly wash the exposed area with soap and water and to remove and properly dispose of any contaminated clothing and/or equipment.
- Seek medical treatment for the employee by sending them to Sanford Occupational Health or Essentia Occupational Health during regular business hours, or to a hospital emergency room after hours.
- Have the attending physician or other health care provider assess the exposure to determine if testing is necessary or appropriate.
- Contact and inform the City of Fargo's Human Resources Office and the City's Employee Health Clinic (701-476-4030) of the exposure as soon as practical or necessary because of the circumstances surrounding the exposure.
- Ensure the employee completes the appropriate worker's compensation paperwork.
- When convenient, review and discuss the incident with the employee to determine if the exposure could have been prevented or avoided, and to ensure department policy was followed.
- If appropriate, determine if the source person will consent to a blood draw for bloodborne pathogen testing.
- If the source person consents to testing, assign an officer or other department employee to accompany the source person to Sanford Hospital or Essentia Hospital for testing.
- If a sample of the source person's blood is already available, use the sample to have bloodborne pathogens testing conducted. Complete the appropriate forms for testing under these circumstances. The appropriate forms are available in the patrol sergeants' office.
- If the source person does not consent to testing and there is no other blood sample available, begin completing the appropriate forms for presentation to a district court judge for a judicial order for testing. The appropriate forms are available in the patrol sergeant's office.
- If necessary, contact the City Attorney's office for assistance in obtaining the judicial order. Remember, upon the recommendation of the treating physician, the employee may have to begin preventative treatment immediately.
- Inform the employee that if the source person is tested, the employee will be notified directly by the health care facility of the test results.
- Encourage the employee to utilize the EAP or the PACT team.
- Remind the employee of the department policy and legal limitations on disclosing the source person's identity.
- Remind the employee to replace/replenish any personal protective equipment he or she used during the incident.
- When practical, notify the employee's shift lieutenant and division commander of the incident.

General Liability Incident Report (other than auto).pdf

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City of Fargo, North Dakota
Incident or Claim Report
(For Incidents or Claims - Other than Automobile)

Person Completing this report: _____ Phone #:_____

Department: _____ Date of this report: _____ Unit # _____

Date and Time of INCIDENT: _____

Injured Party/Claimant: _____ Phone #:_____

Address:_____City:_____State:_____ Zip:_____

Location of Incident:_____

Description: _____

_____

_____

(*Use separate sheet if you need additional space.)*

Any Witnesses? ( ) Yes ( ) No Name & Phone #: _____

_____

Please email this report to Janet Rostad, jrostad@warnerandcompany.com

Warner and Company
318 Broadway, PO Box 1470
Fargo, ND 58107

Phone: 800-369-2501 or 701-237-6414
Fax: 701-239-0009

Instructions to Departments:

You are required to obtain the claim data related to bodily injury or property damage to others and send it directly to Warner & Company. The claims will be handled directly by our insurance carrier, North Dakota Insurance Reserve Fund. This form is to be completed immediately. DO NOT delay the filing of this report. A copy of the accident reporting form should also be sent to Kent Costin, Director of Finance at Kcostin@cityoffargo.com, or FAX to 701-476-6754. Richard Penning is the name of our local agent at Warner & Company.

Ribbon Order of Precedence II.pdf

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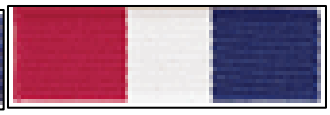
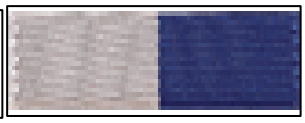
Ribbon Chart in Order of Precedence (set from the wearer's right to left, bottom to top)

Medal of Valor ribbon

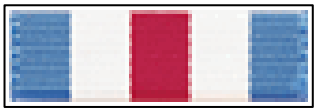


Medal of Honor ribbon

Distinguished Service ribbon



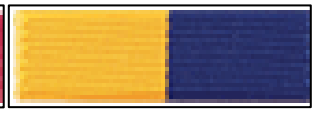
Silver Star ribbon



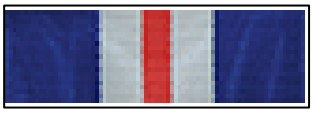
Combat Cross ribbon

Purple Heart ribbon

Lifesaving Award ribbon



Chief's Medal ribbon



Combat Action Ribbon

Officer/Employee of the Year ribbon (Sup, Ofc, & Civ)

SWAT Service Award ribbon

PTO Service Award ribbon

Emergency Service Unit Citation ribbon

K9 Service Award ribbon

LAB EVIDENCE SUBMISSION FORM.pdf

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EVIDENCE SUBMISSION FOR LABORATORY ANALYSIS

SUBMITTING AGENCY:	**Fargo Police Department**		
MAILING ADDRESS:	**222 4th Street North**		
CITY: **Fargo**	STATE: **ND**	ZIP CODE: **58102**	
REPORT TO BE DIRECTED TO: **Fargo Police Records Division (records@cityoffargo.com)**			
COPIES TO CASE DETECTIVE (Email Address):			
AGENCY CASE NUMBER:			
SUSPECT(S):			
VICTIM:			
OFFENSE:			
FPD EXHIBIT NUMBER and EVIDENCE DESCRIPTION:			
1.			
2.			
3.			
4.			
5.			
CASE SYNOPSIS and ANALYSIS REQUESTED:			

Policy 328 Death Investigation Checklist.pdf

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Fargo Police Firearms Information Form Fillable.pdf

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Fargo Police Firearms Information Form

Case # _____ Tracker Item # _____

Reason Taken (circle): Evidence Found Property Safekeeping

If Evidence, offense associated to firearm: _____

Where taken from (ie: on person, in car, from residence etc.):

_____

NCIC run? Yes No Results:_____

If Stolen, from which jurisdiction?_____

That jurisdiction's case #: _____

Possessor: _____

Questions to ask or ☐ invoked right to not answer (check if applies)

Are you the owner of the firearm? YES NO

If No, who is the owner? _____

How did you come to possess the firearm? _____

_____

If Yes, can you provide proof of ownership? YES NO

When and Where was firearm purchased/acquired? _____
If from a private party, who?_____

*Photograph and collect any receipts, bills of sale or other documents or items that tend to prove ownership.

COF Medical Release of Information.pdf

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CITY OF FARGO RISK MANAGEMENT PROGRAM

EMPLOYEE RELEASE OF MEDICAL INFORMATION

I authorize the attending physician to release to the City of Fargo or its designee any medical information pertaining to my work-related injury/illness. This release is valid until revoked by me in writing.

PRINT EMPLOYEE NAME EMPLOYEE SIGNATURE/DATE

REVISED 7/11

Video-Audio Disclosure Form.pdf

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Fargo Police Department

Arbitrator 360 Video/Audio Disclosure Form

Case Number: ___ ___ ___ ___- ___ ___ ___ ___ ___ ___ ___ ___

**** CASE NUMBER RECORDED WITHIN SYSTEM MUST INCLUDE 13 CHARACTERS (Example: 2012-00053535)**

Suspect/Subject Name: _____

Police Vehicle #: _____

Date/Time of Video/Audio Recording: __ __/__ __/__ __ __ __ @ _____hrs

Officer Name (print): _____ Computer #: _____

Type of Offense: _____

Category (circle one): Felony Misdemeanor Non Traffic
RTR/Other Policy Other_____

Police vehicle #'s for other units that recorded video/audio relative to this case - **(include only if other unit video/audio contains evidentiary value and ensure it is categorized with same case number**): _____ _____ _____ _____

****

Date/Time of Disclosure: _____

Officer Name and Computer # (print):_____

**** Officer completing form please forward to Records**

Unattended Death Investigations.pdf

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Department Counseling Form.pdf

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Fargo Police Department
Informal Employee Counseling Form

Employee: _____ ID #: _____

Supervisor: _____ Date: _____

Reason for Counseling:

Summary of Counseling:

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

i-918supb.pdf

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Supplement B, U Nonimmigrant Status Certification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-918
OMB No. 1615-0104
Expires 02/28/2019

For USCIS Use Only	Remarks

► **START HERE - Type or print in black or blue ink.**

Part 1. Victim Information

1. Alien Registration Number (A-Number) (if any)
► **A-**

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

Other Names Used (Include maiden names, nicknames, and aliases, if applicable.)

If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information**.

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

4. Date of Birth (mm/dd/yyyy)

5. Gender ☐ Male ☐ Female

Part 2. Agency Information

1. Name of Certifying Agency

Name of Certifying Official

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3. Title and Division/Office of Certifying Official

Name of Head of Certifying Agency

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

Agency Address

5.a. Street Number and Name

5.b. ☐ Apt. ☐ Ste. ☐ Flr.

5.c. City or Town

5.d. State **5.f.** ZIP Code

5.g. Province

5.h. Postal Code

5.i. Country

Other Agency Information

6. Agency Type
☐ Federal ☐ State ☐ Local

7. Case Status
☐ On-going ☐ Completed
☐ Other

8. Certifying Agency Category
☐ Judge ☐ Law Enforcement ☐ Prosecutor
☐ Other

9. Case Number

10. FBI Number or SID Number (if applicable)

Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable** boxes)

- ☐ Abduction
- ☐ Abusive Sexual Contact
- ☐ Attempt to Commit Any of the Named Crimes
- ☐ Being Held Hostage
- ☐ Blackmail
- ☐ Conspiracy to Commit Any of the Named Crimes
- ☐ Domestic Violence
- ☐ Extortion
- ☐ False Imprisonment
- ☐ Felonious Assault
- ☐ Female Genital Mutilation
- ☐ Fraud in Foreign Labor Contracting
- ☐ Incest
- ☐ Involuntary Servitude
- ☐ Kidnapping
- ☐ Manslaughter
- ☐ Murder
- ☐ Obstruction of Justice
- ☐ Peonage
- ☐ Perjury
- ☐ Prostitution
- ☐ Rape
- ☐ Sexual Assault
- ☐ Sexual Exploitation
- ☐ Slave Trade
- ☐ Solicitation to Commit Any of the Named Crimes
- ☐ Stalking
- ☐ Torture
- ☐ Trafficking
- ☐ Unlawful Criminal Restraint
- ☐ Witness Tampering

Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy) ☐

2.b. Date (mm/dd/yyyy) ☐

2.c. Date (mm/dd/yyyy) ☐

2.d. Date (mm/dd/yyyy) ☐

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

_____

_____

4.a. Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States?

☐ Yes ☐ No

4.b. If you answered "Yes," where did the criminal activity occur?

_____

_____

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?

☐ Yes ☐ No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

_____

_____

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1.** Attach copies of all relevant reports and findings.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

_____

_____

_____

_____

_____

_____

_____

_____

Part 4. Helpfulness Of The Victim

For the following questions, if the victim is under 16 years of age, incompetent or incapacitated, then a parent, guardian, or next friend may act on behalf of the victim.

1. Does the victim possess information concerning the criminal activity listed in **Part 3.**? ☐ Yes ☐ No

2. Has the victim been helpful, is the victim being helpful, or is the victim likely to be helpful in the investigation or prosecution of the criminal activity detailed above?

☐ Yes ☐ No

3. Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above? ☐ Yes ☐ No

If you answer "Yes" to **Item Numbers 1. - 3.**, provide an explanation in the space below. If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

4. Other. Include any additional information you would like to provide.

Part 5. Family Members Culpable In Criminal Activity

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? ☐ Yes ☐ No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

3.d. Relationship

3.e. Involvement

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

4.d. Relationship

4.e. Involvement

Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)

➡

2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number

Part 7. Additional Information

If you need extra space to complete any item within this supplement, use the space below or attach a separate sheet of paper; type or print the agency's name, petitioner's name, and the Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet. If you need more space than what is provided, you may also make copies of this page to complete and file with this supplement.

1. Agency Name

Petitioner's Name

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3. A-Number (if any)

► **A-**

4.a. Page Number **4.b.** Part Number **4.c.** Item Number

4.d.

5.a. Page Number **5.b.** Part Number **5.c.** Item Number

5.d.

6.a. Page Number **6.b.** Part Number **6.c.** Item Number

6.d.

Line of Duty Death Benefits.pdf

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Fargo Police Department

Appendix 2

Line of Duty Death Benefits

Updated September 26, 2011

In the event of a line of duty death the Fargo Police Department will assign a Benefits Officer. This assignment is responsible for compiling all death benefits due to the survivors. The Benefits Officer will work in conjunction with the command officer overseeing Human Resources and the Human Resources Department to assemble this information as soon as possible upon the death of a member and coordinate with the Family Liaison Representative to provide this information to the survivors. The Benefits Officer will also prepare and file the necessary paperwork for these benefits on behalf of the family, as well as check the status of the claims until the benefits are paid to the survivor(s).

The Benefits Officer will/can assist the survivor(s) with the following benefits:
Due to ever-changing benefits and legislative reviews, if officers and their families would like to know current benefit amounts, please refer to the "Resource Information" provided with each area.

- City of Fargo salary and benefits up to time of death—Resource information: City of Fargo Human Resource office

- Fargo Police pension—Resource information: Fargo Police Pension Board

- City of Fargo medical insurance coverage—Resource information: City of Fargo Human Resource office

- Workforce Safety Insurance (Workers Compensation—State of ND) Resource information: City of Fargo Human Resource office

- State of ND education benefit—Resource information: ND State Statute 15-10-18.5

- Public Safety Officer Benefit program—Resource information: http://www.ojp.usdoj.gov/BJA/grant/psob/PSOBPaymentAmounts.pdf or www.psob.gov

- Social Security—Resource information: http://www.ssa.gov/survivorplan/index.htm

- Veteran benefits—Resource information: Cass County Veterans Service Officer—211 9th St S, Fargo

- United States Department of Labor—Office of Worker's Compensation—Resource information: http://www.dol.gov/owcp/regs/compliance/ca-721.pdf

- North Dakota Peace Officer Association—Resource information: http://www.ndpoa.org

- Fraternal Order of Police—Resource information: http://www.ndfop.org

- Police Family Survivors Fund—Resource information: http://www.afp-cc.org

- Concerns of Police Survivors—Resource information: http://www.nationalcops.org

- National Rifle Association (for members only)—Resource information: http://www.nrahq.org/law

- City & County Credit Union (for members only)—Resource information: http://www.citycountyecu.org

- Personal insurance policies

Personnel Complaint Form II.pdf

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Investigation # _____
(Professional Standards Office Use Only

FARGO POLICE DEPARTMENT
COMPLAINT FORM
(Please print)

Name: _____

Address: _____ E-Mail: _____

Home Phone: _____ Business Phone: _____ Best Time to Reach: _____

Location of Incident: _____ Time/Date of Incident: _____

Name/ID # of Employee being complained on (if known): _____

Details of Complaint: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

(Use additional sheets if necessary)

I, _____ affirm that the forgoing information provided by me is true and complete to the best of my knowledge.

_____ _____
Complainant's Signature Date/Time

Return to Fargo Police Department
Office of Professional Standards
222 4th Street North, Fargo, ND 58102
(701) 476-4189

COF Initial Incident Accident Report.pdf

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+CITY OF FARGO RISK MANAGEMENT PROGRAM

INITIAL INCIDENT/ACCIDENT REPORT

EMPLOYEE PORTION

ALL INJURIES MUST BE REPORTED TO YOUR SUPERVISOR IMMEDIATELY AND TO HUMAN RESOURCES WITHIN 24 HOURS OF NOTIFICATION OF INCIDENT. All necessary forms must be provided to Human Resources within 7 days of incident. Please retain a copy of this completed form and send the original to Human Resources. PLEASE PRINT LEGIBLY.

_____ _____
Employee Name Job Title/Department

Location of Incident: _____

Date/Time of Incident: _____/_____/_____ _____ a.m. /p.m.

Describe the nature/extent of the incident: What Happened: include exact body part injured, how and where the incident occurred. (Please attach additional paper if more space is necessary.)

_____

_____

_____

Did you seek medical attention? _____ Yes _____ No If so, provide name of physician and facility:

_____

Date/Time injury reported to supervisor: _____/_____/_____ _____ a.m. /p.m.

Employee's scheduled shift: From: _____ To: _____

Do you have a secondary employer? If so, give name and address: _____

Was incident reported to law enforcement? _____ Yes _____ No

In your opinion, how may the incident have been prevented? _____

_____

_____ _____
Employee Signature/Date Supervisor Signature/Date

WITNESSES: _____ _____

WITNESS COMMENTS: _____

_____

_____

REVISED 8/98

Bloodborne Pathogen Testing Flow Chart.pdf

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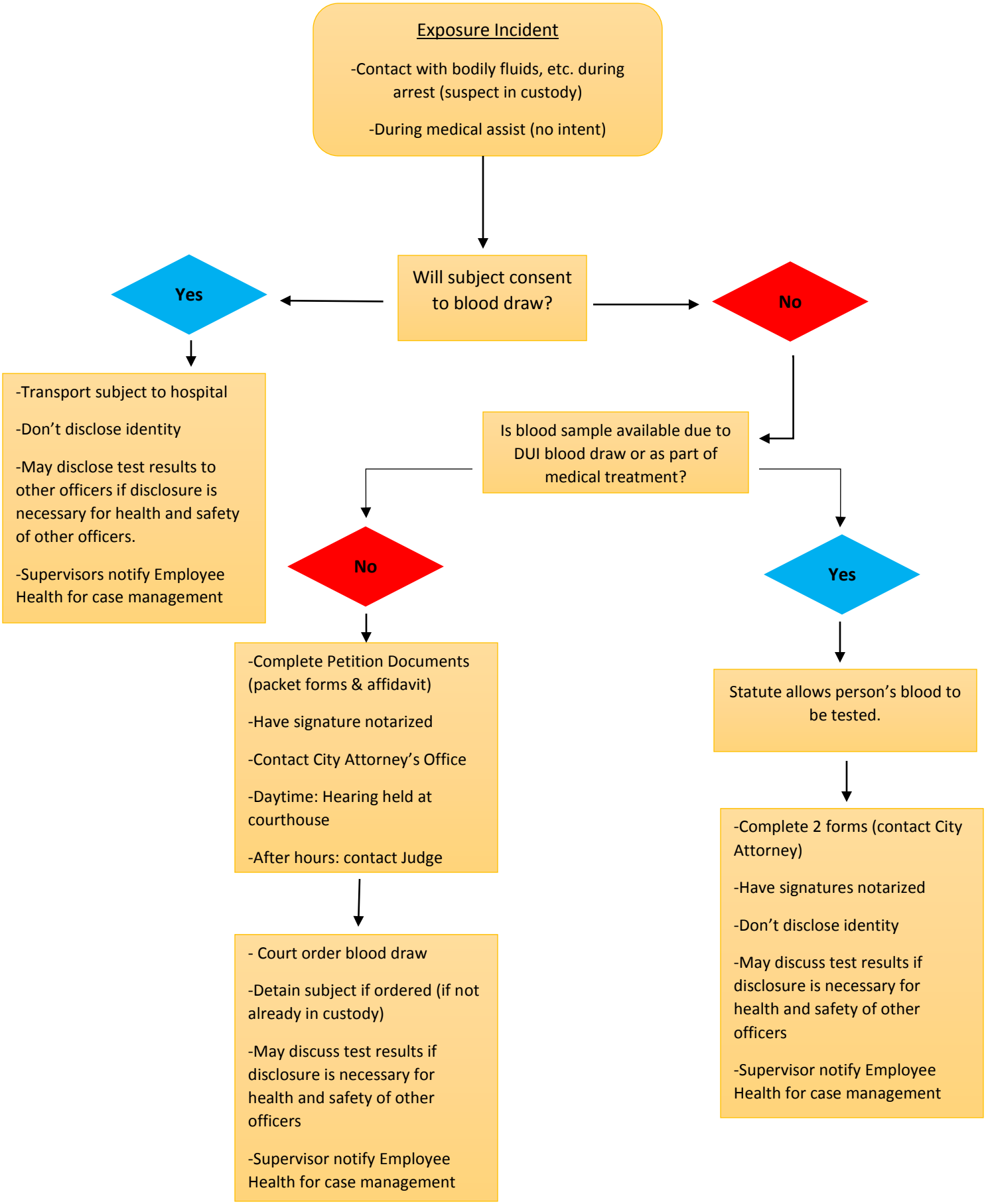
Policy 1008 Communicable Diseases Bloodborne Pathogen Testing Flow Chart



request-for-blue-alert.pdf

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2007-002 Seizing Firearms.pdf

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INVESTIGATIONS DIVISION – MEMORANDUM

TO: All Department Personnel

FROM: Lieutenant Jason Nelson

SUBJECT: Seizing Firearms for Evidence, Found Property, or Safekeeping

DATE: February 1st, 2017 (Updated)

NUMBER: 2007–002

POLICY REFERENCE: FPD - 019

This memorandum provides guidelines for officers when they can and should take custody of firearms. Firearms should only be seized when such seizure is *lawful and necessary* for the purpose of a criminal investigation (evidence), removing the firearms from the possession of those who may not legally possess them (contraband), it is considered found property, or to secure the firearms to prevent harm and limit the department's liability (safe keeping).

EVIDENCE/CONTRABAND

Firearms should be seized and logged in as evidence when the seizure is made lawfully with a warrant or a valid exception to the warrant requirement AND there is an offense listed in the report that relates to the firearm. Examples of when to take guns for evidence include:

- When the firearm was used (includes actual use, threatened use or display) during the commission of a crime such as Homicide, Assault, Robbery, GSI, Terrorizing or Menacing **OR**
- When the firearm was possessed by a person who is prohibited by state or federal law from possessing firearms. (See NDCC 62.1-02-01 & USC Title 18 922[g]) **OR**
- When the firearm is found in a location or carried by an individual in a manner prohibited by law (examples, carried concealed w/o a permit, loaded uncased in a MV) **OR**
- When the firearm has been modified in a way prohibited by law (examples: shotgun barrel sawed off too short or serial number obliterated) **OR**
- When the firearm has been reported stolen (Note: Information on recovered stolen guns should be documented in a supplement to the original theft report or, if the original theft was reported in another jurisdiction, in a Recovered Stolen Property or Assist Other Agency report, NOT a Found Property report. The gun should then be logged in as Evidence under that case number.)

Firearms should not be seized and logged in as evidence when:

- The firearm is merely present in a location where other criminal activity took place or is taking place. These circumstances do not necessarily justify a seizure and a seizure may not be lawful.
    - You should investigate if the firearm is stolen or lawfully possessed.
- The firearm is not related to a crime under investigation.

FOUND PROPERTY

Firearms should be taken and logged in as found property when:

- The firearm is discovered or located by the officer or a citizen under circumstances that would indicate the firearm has been lost, misplaced or abandoned. **AND**
- An NCIC inquiry (and/or others records check) indicates no record of the firearm being reported stolen. **AND**
- The firearm is not known or suspected of being related to any criminal investigation.

Firearms should not be taken and logged in as found property when:

- The firearm is surrendered to police by a person with an ownership interest in the firearm. **OR**
- The firearm is seized by an officer from another's possession. **OR**
- The firearm is found by an officer during the course of a criminal investigation or impound inventory.

SAFEKEEPING

NOTE: ND law does NOT grant specific authority to seize property from another for purposes of safekeeping (not even from suicidal individuals) and doing so could create a liability for the department and the officer. In cases where there is no lawful reason to seize the firearms as evidence, the firearms may only be taken into custody with consent of the lawful owner or their designee. These persons should be encouraged to find alternative methods of securing the firearms such as, turning them over to family member, friend, rendering them un-usable or selling them to a licensed firearm dealer.

Firearms may be taken and logged in as safekeeping when:

- All other options for alternative storage have been exhausted AND
- The owner has given permission for the firearms to be placed in police custody AND
- A report has been done documenting the reason for police custody and consent from the owner AND
- A Safekeeping Receipt has been issued to the owner.

NOTE: The Fargo Police Department does background checks on all persons claiming the return or release of a firearm from the Property Unit. Firearms will not be returned to claimants who are not the lawful owner and/or who cannot lawfully possess them.

GUIDELINES AND DIRECTION WHEN A FIREARM IS TAKEN INTO POLICE CUSTODY

The police department has to make an effort to establish ownership of a firearm. It is important to note, simply possessing a firearm does not equate to ownership. We need to document the steps we take to establish ownership. An arrested person may choose not to provide information regarding a gun in their possession. Please document this in your report. The following must be done when taking a gun into custody:

- Anytime a firearm is taken into custody by the police department, officers will complete a New World case report (this includes found property and for safekeeping). This will allow for tracking the firearm and case follow up.

- A "Fargo Police Firearms Information Form" will be completed for each firearm taken into custody. The entire form should be filled out as completely as possible by the original officer. Completing this early in the process helps determine if/when the gun should be returned or destroyed. This form should be scanned into the case report.

- On scene officers or investigators will also utilize the "Request for Destruction" form when on scene and applicable.

    - In cases of suicide, please consider asking next of kin if they are interested in providing written authorization for the destruction of the firearm upon conclusion of the investigation. Obviously if a family member is extremely distraught this is not expected to happen; however this can save everyone involved some uncomfortable moments down the road. If written consent for destruction is obtained, please scan it into the case report. State law allows us to destroy these weapons when we have a written request from a family member and there are no "innocent owners" claiming the firearm.

- The Evidence Room will send an email to the Criminal Investigations Division (CID) Lieutenants, CID Sergeants, and Intel when a firearm is taken in. This will allow for case assignment so any needed follow-up is completed.

    - CID will start an E-trace and any other gun background information needed.
    - CID will complete the case investigation and the "Firearm Disposition Form."

- Request for Release/Return of Firearm form is completed by the person requesting to take lawful possession and control of the firearm.

Fargo Police Firearms Information Form

ICR # _____ Tracker Item # _____

Reason Taken (circle): Evidence Found Property Safekeeping

If Evidence, offense associated to firearm: _____

Where taken from (ie: on person, in car, from residence etc.):

_____

NCIC run? Yes No Results:_____

If Stolen, from which jurisdiction?_____

That jurisdiction's case #: _____

Possessor: _____

Questions to ask or ☐ invoked right to not answer (check if applies)

Are you the owner of the firearm? YES NO

If No, who is the owner? _____

How did you come to possess the firearm? _____

_____

If Yes, can you provide proof of ownership? YES NO

When and Where was firearm purchased/acquired? _____
If from a private party, who?_____

*Photograph and collect any receipts, bills of sale or other documents or items that tend to prove ownership.

Request for Destruction of Firearm

FPD Case#_____

The Fargo Police Department is required to comply with North Dakota Century Code 62.1-01-02(5) regarding destruction of firearms. In order to destroy a firearm, three criteria must be met:

1. The firearm was used in a violent crime, in an accidental shooting, or a self-inflicted shooting resulting in the death of an individual
2. There is not a claim for the firearm by an innocent owner*; and
3. **A family member of the deceased individual makes a written request for the destruction of the firearm.**

*North Dakota Century Code 62.1-01-02(8) defines an innocent owner as a person who:

a. Did not beforehand know or in the exercise of ordinary care would not have known of the conduct which caused that person's firearm to be forfeited, seized, or abandoned to any law enforcement agency of the state or any political subdivision of the state, including the game and fish department;
b. Did not participate in the commission of a crime or delinquent act involving that person's firearm;
c. Legally owned and presently owns the firearm forfeited, seized, or abandoned; and
d. Is authorized by state and federal law to receive and possess his or her firearm.

I, _____/_____, request the firearm used in this violent crime, accidental
(printed name of family member/relationship to deceased)
shooting, or self-inflicted shooting resulting in the death of an individual be destroyed.

_____ _____
Signature of Family Member Date

_____ _____
Witness (Officer and ID#) Date

Firearm Disposition Form

Case Number _____
Detective _____
Firearm Make _____ Model_____Serial#_____
Firearm Evidence Exhibit # (Use Tracker Number) _____

1. State law requires an agency to use "best efforts" to determine ownership of a firearm and to notify the owner of its custody of the firearm. Does the owner know the firearm is in the custody of the Fargo Police Department? Yes___ No___

2. Is the firearm unsafe for use because of wear, damage, age, or modification or because any federal or state law prohibits the sale or distribution of the firearm? Yes___ No___
   If "Yes," the firearm is authorized to be destroyed and section 3 is irrelevant.

3. Mark if each statement is "Correct" or "Incorrect":
   a. The firearm was used in a violent crime, in an accidental shooting, or a self-inflicted shooting resulting in the death of an individual. Correct___ Incorrect___
   b. There is not a claim for the firearm by an innocent owner*. Correct___ Incorrect___
   c. A family member of the deceased individual made a written request for the destruction of the firearm. Correct___ Incorrect___
   (*See NDCC 62.1-01-02(8) for definition of innocent owner)
   If "Correct" to <u>all three</u>, the firearm may be destroyed.

4. State law requires the owner submits sufficient proof of ownership (of the firearm) as determined by the agency. **Your method of determining ownership must be described in a supplement.** If ownership of the firearm was determined, who is the owner:
   First Name:_____ MI____ Last Name_____
   Address:_____City_____ State___ Zip code_____
   Phone#_____ DOB_____(**Owner must Complete Request for Return Form**)

5. Before release of a firearm, the party must be determined as lawful to possess the firearm. Check **<u>only</u>** if the person was determined as lawful to possess through:
   NCIC___ NICS____ CWIS___ MOCIC___ TRIPLE III___ Probation___ ND Courts____
   NCIC on firearm___

6. Disposition of firearm:
   ____The listed firearm is authorized for release to the owner listed in section 4.
   ____The listed firearm is authorized for destruction
   ____The listed firearm is authorized for auction

_____ _____
Detective/ ID# Date

_____ _____
Supervisor/ ID# Date

Request for Release/Return of Firearm Case # _____
From Fargo Police Evidence

Federal and state laws restrict ownership, possession and the control of firearms. Before a firearm can be released from the custody of the Fargo Police Department, an investigation must be conducted to determine if the person it is being released to can take lawful possession. Please complete all areas on both sides of this request form. You will be contacted at the phone number or address you list below when the investigation of this request has been completed. NOTE: Firearms must be picked up within 30 days of the completion of the background check. If not picked up within those 30 days, the firearm will be disposed of per department procedures.

Person making request (print Full, legal name): _____

Address: _____

Phone Number(s): (H)_____ (W)_____ (C)_____

Date of Birth: _____

Social Security Number: _____

Other names used: _____

List ALL states in which you have resided: _____

List the firearm(s) you are requesting: _____

Are you the lawful owner of the firearm(s) you are claiming? _____

If Yes, provide proof of ownership (attach):

If No, who is the lawful owner? _____

Are you currently on Parole or Probation? Circle one: Yes No

If Yes, who is your Parole/Probation Officer? _____

What is your PO's phone number? _____

Have you ever been convicted of a felony level offense? Circle one: Yes No

If Yes, provide date(s) and jurisdiction(s): _____

_____

Have you ever been convicted of a misdemeanor involving violence or intimidation while using or possessing a firearm or dangerous weapon? Circle one: Yes No

If Yes, provide date(s) and jurisdiction(s): _____

_____

Have you ever been convicted of a crime involving domestic violence? Circle one: Yes No

If Yes, provide date and jurisdiction: _____

_____

Are there any court orders in place that prohibit you from possessing firearms? Yes No

If Yes, provide type of order and jurisdiction: _____

_____

Is there a court order for the release/return of the firearm(s) you are claiming? Yes No

If Yes, you must provide a court certified copy (attach).

Mark the statement below that applies to your situation. MARK ONLY ONE!

[ ] I certify that I have never been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere as a mentally ill or mentally deficient person.

[ ] I have been diagnosed and confined or committed to a hospital or other institution in this state or elsewhere as a mentally ill or mentally deficient person, but otherwise claim I may lawfully own possess or control a firearm because:

_____

_____

_____

I certify that my responses to the above questions are true and correct. I understand that I will NOT receive the firearm(s) I am claiming if it is determined that I cannot lawfully own, possess or have a firearm under my control. Firearm(s) that are unclaimed or that may not be lawfully returned to the owner will be destroyed.

_____ _____

Signature **Date**

Revised RRVS-025 Attachment A Risk Assessment.pdf

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Attachment A
Risk Assessment

Incident type / Location:

SWAT AAR#:

Date:

Rater:

Location Factors

- ☐ **Additional persons on site = 5pts**
- ☐ **Armed counter surveillance = 25pts**
- ☐ **Chemicals / Lab = 15pts**
- ☐ **Children on site = 15pts**
- ☐ **Counter surveillance = 5pts**
- ☐ **Dogs = 5pts**
- ☐ **Fortification = 5pts**
- ☐ **Geographic Barriers = 5pts**
- ☐ **Locked perimeter / Gate = 5pts**
- ☐ **Possible booby traps = 5pts**
- ☐ **Security gate = 5pts**
- ☐ **Use of undercover personnel = 5pts**
- ☐ **Video surveillance = 5pts**

Suspect Criminal History

- ☐ ***Assault w/ Deadly Weapon = 5pts***
- ☐ **Assault on Police = 25pts**
- ☐ **Drug Lab = 5pts**
- ☐ **Firearms = 10pts**
- ☐ **Homicide = 35pts**
- ☐ **Probation / Parole = 5pts**
- ☐ **Robbery = 10pts**
- ☐ **Sexual assault = 10pts**

Weapon Factors

☐ **Assault Weapons = 35pts**
☐ **Explosives = 35pts**
☐ **Fully Automatic = 35pts**
☐ **Pistol = 10pts**
☐ **Revolver = 10pts**
☐ **Rifle = 10pts**
☐ **Shotgun =10pts**
☐ **Stabbing Instrument = 5pts**

General Risk Factors

☐ **Drug / Alcohol abuse = 5pts**
☐ **Gang Association = 5pts**
☐ **Hate Group = 10pts**
☐ **Mentally Unstable/Suicidal = 15pts**
☐ **Military experience = 5pts**
☐ **Paramilitary = 25pts**
☐ **Police experience = 10pts**
☐ **Religious extremist = 10pts**
☐ **Terrorist = 35pts**
☐ **Hostage(s) =35pts**

Total Points:

Subject & General Risk Factor sections should be repeated for each suspect or subject that is known or suspected to be present.

Operation Risk Level

☐ **Risk Level 1 (Low) 0 – 20pts (Do Not Need to Consult SWAT)**
☐ **Risk Level 2 (Moderate) 21-34pts (Must Consult SWAT Commander)**
☐ **Risk Level 3 (High) 35pts or more (SWAT Activation Recommended)**

Information Assessment

Information Source:
☐ **Confidential Informant**
☐ **Citizen**
☐ **Law Enforcement/Federal Agency**
☐ **Other**

☐ **Reliable**
☐ **Confirmed**
☐ **Unknown**

Authorized by:

_____	_____
Fargo Police Department	Cass County Sheriff's Department
_____	_____
West Fargo Police Department	Clay County Sheriff's Department
_____	_____
Moorhead Police Department	FM Ambulance
_____	
NDSU Police Department	

SOI Agreement form.pdf

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Fargo Police Department - Source of Information Agreement Form

I, _____, voluntarily and without coercion, agree to all the terms of this Source of Information Agreement:

- I am free to consult an attorney at any time. SOI Initial_____
- I am providing information by my own free will and have not been coerced or threatened in any way to provide information. SOI Initial_____
- There is an inherent risk by providing information to law enforcement regarding criminal activity and/or the location of criminals. SOI Initial_____
- My identity is subject to release during court proceedings. SOI Initial_____
- Any consideration regarding pending criminal charges against me, or another person, is up to the prosecuting attorney, and no promises have been made to me in exchange for this information. SOI Initial_____
- Any payment received by me for information is not subject to federal, state or social security and all reporting of income is my responsibility. SOI Initial_____
- I am not an employee of the Fargo Police Department or City of Fargo. SOI Initial_____
- I am not entitled to worker's compensation or unemployment benefits. SOI Initial_____
- I am not privileged to violate any laws during my association as a Source of Information with the Fargo Police Department. SOI Initial_____
- I will not attempt a controlled buy or controlled sale, or surreptitiously record someone during my association as a Source of Information for the Fargo Police Department. SOI Initial_____
- I am understand that I must testify truthfully if called as a witness in a court proceeding. SOI Initial_____
- I will not hold the City of Fargo or State of North Dakota liable for any damages or injuries that occur related to the information I am providing. SOI Initial_____

Dated this_____day of _____, _____

SOI Signature:_____

Case Agent Signature:_____Comp#_____

Supervisor Signature:_____Comp#_____

ACTIVITY LOG

DATE	CASE#	COMPENSATION	SOI SIGNATURE	CASE AGENT SIGNATURE

Fargo Police Department - Source of Information Agreement Form

Case Agent (Print):_____Comp#_____ SOI #_____

SOI Full Name:_____
(Last) (First) (Middle)

DOB:_____ Alias(es):_____

Address:_____
(Street Address) (City, State) (Zip)

Telephone:_____
(Cell) (Home) (Work)

Race:_____ Sex:_____ Height:_____ Weight:_____ Hair:_____ Eyes:_____

SSN:_____ Place of Employment:_____

Driver's License:_____
(Number) (State)

Tattoos/Scars/Marks:_____

Vehicle:_____
(Year) (Color) (Make) (Model) (State) (Plate)

Vehicle:_____
(Year) (Color) (Make) (Model) (State) (Plate)

Alternative Point of Contact:_____
(Name) (Relationship)

_____
(Address) (City, State) (Zip)

_____
(Phone Number)

Ride-Along Request Waiver of Liability Agreement.pdf

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Crime Scene Entry Roster.pdf

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CRIME SCENE ENTRY ROSTER

DATE: TIME: LOCATION: INCIDENT #:

1. SECURING OFFICER: _____SQUAD # _____TIME _____

2. SECURING OFFICER: _____SQUAD # _____TIME _____

3. SECURING OFFICER: _____SQUAD # _____TIME _____

SENIOR OR LEAD INVESTIGATOR IN CHARGE OF SCENE _____

SCENE OPEN TIME_____SCENE CLOSE TIME_____

SIGNATURE OF SENIOR OR LEAD INVESTIGATOR IN CHARGE_____

NAME	AFFILIATION	TIME IN	REASON FOR ENTRY
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

MEMO:

Authority to Search Premises.pdf

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CITY OF Fargo

FARGO POLICE DEPARTMENT

222 Fourth Street North, Fargo, North Dakota 58102

AUTHORITY TO SEARCH PREMISES

DATE_____

PLACE_____

I, _____ _____
(Name) ***(Address)***
having been informed of my constitutional right not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize:

_____, _____,
(Officer's Name) ***(Department)***

County of_____**, State of North Dakota, to conduct a complete**

search of my (*residence, automobile,* _____*)* described as:

_____

_____

_____

Located at: _____

These investigators are authorized by me to take from my (*residence, automobile*

_____***)*** **any materials and property relating to violations of the North Dakota Century Code.**

This written permission is being given by me to the above named investigator voluntarily and without threats or promises of any kind.

(*Signed)*_____

(*Date)* _____

(*Time)* _____

Witness _____

Date _____

Time _____

ADMINISTRATION
Phone: 701-241-1427
Fax: 701-297-7789

INVESTIGATIONS
Phone: 701-241-1405
Fax 701-241-1407

RECORDS
Phone: 701-241-1420
Fax: 701-241-8272

NON EMERGENCY
Phone: 701-235-4493

www.fargopolice.com

CHEMICALLY TREATED EVIDENCE WAIVER FOR THE RELEASE OF LIABILITY.pdf

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WAIVER FOR THE RELEASE OF LIABILITY
(Chemically Processed Evidence)

Fargo Police Department Case Number_____

I, the undersigned, hereby acknowledge receipt of the below listed property which the City of Fargo has released to me. I understand that the property has been chemically processed in order to facilitate evidence recovery. I also understand that the chemicals used in the evidence processing procedure may be of a carcinogenic and/or hazardous nature.

I HEREBY waive and release the City of Fargo, its officers, employees, agents and assigns, from any claim I may have or which may accrue to me, my heirs and assigns, for bodily injury or death arising out of exposure by possession of said property.

Property Processed:_____

Signed:_____

Date:_____

Witnessed:_____

Amber Alert forms.pdf

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AMBER ALERT
Media Advisory Form

IMPORTANT INFORMATION CONCERNING AN ABDUCTED/ENDANGERED CHILD

PLEASE READ IMMEDIATELY

On _____ at _____ am/pm, _____
(Date) **(Time)** **(Child's Name)**

was abducted, or is otherwise endangered. _____
(Child's Name)

is described as a _____ _____ and is _____ years old. He/She has
(Race) **(Sex)** **(Age)**

_____ hair, _____ eyes, and weighs approximately _____ lbs. He/She
(Color) **(Color)**

was last seen wearing _____
(Clothing Description)

and was last seen at _____
(Location)

_____ may be with _____
(Child's Name) **(Suspect's Name)**

who may be driving a _____ _____ _____
(Auto Year) **(Auto Color)** **(Auto Make/Model)**

_____ is described as a _____ _____
(Suspect's Name) **(Race)** **(Sex)**

with _____ hair, _____ eyes, and approximately _____ years of age.
(Color) **(Color)**

Additional Information: _____

_____

_____

IF YOU HAVE INFORMATION CONCERNING THE WHEREABOUTS OF THIS CHILD, PLEASE CONTACT THE FARGO POLICE DEPARTMENT IMMEDIATELY BY CALLING: 701-235-4493 OR 911

Red River Regional Dispatch Center FAX: 298-6910

REQUEST FOR AMBER ALERT
STATE OF NORTH DAKOTA
SFN 10/02

Date:	Time:	Requesting Law Enforcement Officer/Agency/Phone Number:

VICTIM INFORMATION

Name:		Address:			
DOB:	Sex:	Race:	Height:	Weight:	Eye Color:
Hair Color and Style:					
Identifying Marks:					
Clothing Description:					
Where the Abduction Took Place:					
Where and When the Child Was last Seen:					

SUSPECT INFORMATION

Name:		Address:			
Age	Sex	Race:	Height:	Weight:	Eye Color:
Hair Color and Style:					
Identifying Marks:					
Clothing Description:					
Area Last Observed:					

VEHICLE INFORMATION

Color:	Make:	Model:	License Plate Number/State:	Year:
Body Damage:		Miscellaneous Information:		

ADDITIONAL INFORMATION

Were there witnesses to the abduction: ☐ Yes ☐ No	
Indicate reason you believe individual to be in danger:	
Is there reason to believe the suspect is a relative or has some other special relationship with the victim: ☐ Yes ☐ No	
Indicate any circumstances you feel are pertinent to the case:	
Phone number for public to call to provide information:	Phone number for the media to call:

CRITERIA

1. The abduction involves a child or children 17 years of age or younger;
2. Confirmation by local law enforcement of a stranger or a family abduction in which the child is believed to be in grave danger of serious bodily harm or death; and,
3. Descriptive information about the child, the abductor, and/or suspect's vehicle to assist with the safe recovery of the victim and/or the apprehension of the suspect.
4. Is there enough information about the child, suspect, and/or suspect's vehicle to believe an immediate broadcast alert will help?

INSTRUCTIONS

If the criteria for an AMBER Alert has been met, the law enforcement agency requesting the AMBER Alert should complete this form and fax it to State Radio Communications at 701-328-9926 while at the same time calling State Radio at 701-328-9921 to request the Alert. The request will be reviewed by the Bureau of Criminal Investigation. The Highway Patrol will authorize activation of the AMBER Alert and dissemination of alert information to the media. State Radio will activate the AMBER Alert.

Ribbon Order of Precedence I.pdf

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Appendix 1 Funeral Protocols.pdf

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Fargo Police Department

222 4th Street North, Fargo, North Dakota 58102

Appendix 1

This is only a guide, not a rigid set of rules. All protocols and order of events will be pre-arranged by the Family Liaison Officer in accordance with the families' wishes and abilities of the department.

I. FUNERAL PROTOCOL:

1.01 All members will maintain excellent personal appearance – conforming to all current grooming regulations. Uniforms and equipment must be in outstanding condition.

1.02 Uniforms

- Command officers and Honor Guard will wear their Dress uniforms, for others the uniform will be their Class A uniform.
- A black band will be worn across the badge.

1.03 Funeral Services – Depending on the wishes of the family and the ability of the Department, this funeral protocol may be subject to change.

- Members who attend the funeral services will report to a pre-designated assembly point away from the place of services for inspection and briefing.
- If a squad car processional is utilized all squad cars will be washed and in good appearance.
- From the assembly point, members will proceed to the place of service, timing their arrival to permit immediate entry. Officers and department civilian personnel should proceed from the assembly point to the place of service in an organized manner.
- Upon entering the building, members wearing headgear will remove their uniform hats, hold them upright resting on their left arm, hat brim forward, and move in an orderly manner to the place reserved for them.
- Once in the funeral service area, members will remain standing until all members are in their places and the command "BE SEATED" is given.
- Members with headgear will sit with their hats upright in their laps.
- At the end of the service, members, upon receiving the command "OFFICERS RISE", will rise in unison and place their hats upright on their left arm in preparation to filing past the casket, applicable. Officers will hold their hats in this position until they are outside.
- Upon leaving the building, members will replace their hats and proceed as instructed in accordance with the funeral services plan of events.
- Any Department formation used during the pallbearer's escort of the coffin to the hearse will be coordinated prior to the funeral service. If a formation is used members will stand at parade rest.

- When the casket comes into view, the formation will be called to “Attention”. The next command will be “PRESENT ARMS”. All members salute and hold this salute until the casket is placed in the hearse. At this time, the command, “READY”, “FRONT”, will be given and members will return their hands to their sides.
- The Commander will then dismiss the formation with the command, “OFFICERS DISMISSED”. The members will break ranks and leave in a quiet and orderly manner.

- Members will then take their assigned places in the motorcade and proceed to the cemetery.

1.04 Gravesite Services

- Members will report to the places that have been reserved for them immediately upon arrival at the gravesite. If indoors, members will remove their hats and hold them on their left arm with the hat brim forward. If seating is available members will sit with hats in laps, maintaining a military bearing throughout the services. If services are held outdoors, members will wear their hats.
- Just prior to the 21-gun salute and taps, the command “Attention” will be given. Members will stand at attention facing the firing team or bugler. When the 21-gun salute and taps have concluded, the command “OFFICERS DISMISSED” will be given. Members will then break ranks and return to their assigned vehicles.

II. HONORS ACCORDED

2.01 Any Fargo Police Officer who dies in the line of duty will be accorded full honors if requested by the survivors. This will include the casket watch during viewing, honor guard, pallbearers, firing squad, taps, military flag-fold and presentation and motor escort.

2.02 The Honor Guard commander is responsible for coordinating and directing the activities of the Honor Guard, casket watch, pallbearers, firing squad, bugler, and flag presentation. The following is a brief description of some of the ceremonial rituals.

Casket Guard

Usually comprised of officers from the Honor Guard. However, volunteers may stand watch at the discretion of the Honor Guard commander. Officers who are assigned to the casket watch must present an excellent uniform appearance and conform to all current grooming regulations

- The dress uniform, including hat, and white gloves, will be worn for the casket watch. The watch will be divided into shifts with two officers standing 30 minutes at a time.
- If the family wishes, an informal watch can take place after the viewing has been concluded for the day.
- The casket watch moves in slow cadence. This includes marching movements, and saluting. The official will post the watch and the officers will position themselves at or near the head and feet of the deceased officer.

Residence Guard

A marked cruiser and officer will be posted outside the incapacitated or deceased employee's home from the time of the fatality through the end of the funeral day. The duty of this detail is to

discourage any visits from media or others, unless the family liaison representative indicates the family wishes to speak with the media. This guard will only be provided to those officer's residences within the corporate limits of the City of Fargo.

Honor Guard and Flag Presentation
The Fargo Police Honor Guard contingent will participate in the funeral service. They may act as pallbearers should the survivor wish to have them act in that capacity. The casket will be draped with an American casket flag that will be removed, folded and presented by the honor guard commander to the Chief of Police. The Chief of Police will then present the flag to the survivor at the gravesite. If there are parents of the deceased employee in attendance, a flag will also be presented to them.

Former members of the Fargo Police Department that have served at least ten years with the department are eligible to receive an American casket flag presented to the survivor from the department.

Twenty-One Gun Salute
The Fargo Police Honor Guard will carry out this ceremony if the survivor(s) wishes to have this tribute.

Bagpipes
A bagpipe detail can be arranged for the service. The bagpipes can be played at the funeral service site as well as the gravesite. Again, the survivor's wishes should be honored.

Taps
Taps should be arranged for playing at the gravesite.

2.03 Members of the Honor Guard will assemble at a location near the service (church, funeral home, or cemetery) for inspection by the Honor Guard Commander.
- Commands will be executed by the Honor Guard Commander.

2.04 If pallbearers are requested by the family, they will be selected by the Honor Guard Commander and will be under the direction of the Honor Guard Commander. They will report to the funeral home as directed for instructions and seating arrangements.

III. PROCEDURAL VARIATION

3.01 The procedures outlined in this appendix are a guideline to be used in planning purposes. Any changes made necessary by a shortage of manpower, the unusual size of the funeral, the type of service, the physical arrangement of the place of services or for any other reason shall be made by the Officer in Charge or the Department Liaison Officer in conjunction with the wishes of the deceased officer's family.

3.02 Any additional honors to be accorded to deceased members or employees of the Fargo Police Department or to deceased members of other law enforcement agencies shall be at the discretion of the Chief of Police.

Bomb Threat Checklist.pdf

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BOMB THREAT PROCEDURES

This quick reference checklist is designed to help employees and decision makers of commercial facilities, schools, etc. respond to a bomb threat in an orderly and controlled manner with the first responders and other stakeholders.

Most bomb threats are received by phone. Bomb threats are serious until proven otherwise. Act quickly, but remain calm and obtain information with the checklist on the reverse of this card.

If a bomb threat is received by phone:

1. Remain calm. Keep the caller on the line for as long as possible. DO NOT HANG UP, even if the caller does.
2. Listen carefully. Be polite and show interest.
3. Try to keep the caller talking to learn more information.
4. If possible, write a note to a colleague to call the authorities or, as soon as the caller hangs up, immediately notify them yourself.
5. If your phone has a display, copy the number and/or letters on the window display.
6. Complete the Bomb Threat Checklist immediately. Write down as much detail as you can remember. Try to get exact words.
7. Immediately upon termination of call, DO NOT HANG UP, but from a different phone, contact authorities immediately with information and await instructions.

If a bomb threat is received by handwritten note:

- Call _____
- Handle note as minimally as possible.

If a bomb threat is received by e-mail:

- Call _____
- Do not delete the message.

Signs of a suspicious package:

- No return address
- Excessive postage
- Stains
- Strange odor
- Strange sounds
- Unexpected delivery
- Poorly handwritten
- Misspelled words
- Incorrect titles
- Foreign postage
- Restrictive notes

**** Refer to your local bomb threat emergency response plan for evacuation criteria***

DO NOT:

- Use two-way radios or cellular phone. Radio signals have the potential to detonate a bomb.
- Touch or move a suspicious package.

WHO TO CONTACT (Select One)

- **911**
- **Follow your local guidelines**

BOMB THREAT CHECKLIST

DATE: **TIME:**

TIME CALLER HUNG UP: **PHONE NUMBER WHERE CALL RECEIVED:**

Ask Caller:

- Where is the bomb located? (building, floor, room, etc.)
- When will it go off?
- What does it look like?
- What kind of bomb is it?
- What will make it explode?
- Did you place the bomb? Yes No
- Why?
- What is your name?

Exact Words of Threat:

_____

_____

_____

Information About Caller:

- Where is the caller located? (background/level of noise)
- Estimated age:
- Is voice familiar? If so, who does it sound like?
- Other points:

Caller's Voice	Background Sounds	Threat Language
☐ **Female**	☐ Animal noises	☐ Incoherent
☐ **Male**	☐ House noises	☐ Message read
☐ Accent	☐ Kitchen noises	☐ Taped message
☐ Angry	☐ Street noises	☐ Irrational
☐ Calm	☐ Booth	☐ Profane
☐ Clearing throat	☐ PA system	☐ Well-spoken
☐ Coughing	☐ Conversation	
☐ Cracking voice	☐ Music	
☐ Crying	☐ Motor	
☐ Deep	☐ Clear	
☐ Deep breathing	☐ Static	
☐ Disguised	☐ Office machinery	
☐ Distinct	☐ Factory machinery	
☐ Excited	☐ Local	
☐ Laughter	☐ Long Distance	
☐ Lisp		
☐ Loud	**Other Information:**	
☐ Nasal		
☐ Normal		
☐ Ragged		
☐ Rapid		
☐ Raspy		
☐ Slow		
☐ Slurred		
☐ Soft		
☐ Stutter		

FPD Discipline Recommendation-Determination Form.pdf

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Investigation # _____
(Professional Standards Office Use Only

FARGO POLICE DEPARTMENT
PERSONNEL COMPLAINT
DISCIPLINE RECOMMENDATION/DETERMINATION

Name of Employee: _____ ID # _____

Violation Summary: to include specific rule, procedure, directive, and/or order violated including policy title and numerical reference:

_____

_____

_____

_____

_____

_____

Recommended Discipline: _____
(Provide disciplinary rational on attached sheet)

Lieutenant's Signature: _____ Date: _____

Division Commander: _____ Concur ( ) Do Not Concur ( )

Predetermination Hearing – List all person's present -
( ) *Check if not applicable*

_____ _____

_____ _____

_____ _____
Recorder Date/Time

Final Disciplinary Determination by Chief of Police or Designee: _____

_____

Signature: _____ _____
Date/Time

I acknowledge I have received notification of the disciplinary sanction:

_____ _____
Employee's Signature Date/Time

Attach any documentation provided by employee.

AWARDS LIST II.pdf

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Updated 2016 RIDE ALONG WAIVER.pdf

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RIDE-ALONG WAIVER OF LIABILITY AGREEMENT

ASSUMPTION OF RISK OF INJURY FROM INCIDENTS OCCURRING WHILE ACCOMPANYING A POLICE OFFICER OR OTHER EMPLOYEE OF THE FARGO POLICE DEPARTMENT IN THE PERFORMANCE OF THEIR WORK ACTIVITIES AND WAIVER OF ALL CLAIMS AGAINST THE CITY OF FARGO

I am requesting to accompany or "ride-along" with a Fargo police officer assigned to patrol duties, or otherwise accompany other sworn officers or civilian employees of the Fargo Police Department in the performance of their work activities.

I realize that police work can and oftentimes does include many risks of injury to persons and property. I further realize that police officers can and do become involved in high speed vehicle chases, shooting incidents, other violent situations, and a variety of other situations that are dangerous to persons or property. I acknowledge that by accompanying a police officer assigned to patrol duties, or other sworn officers or civilian employees of the Fargo Police Department in the performance of their work activities, that my life, property, or safety may be subject to danger or otherwise compromised.

I am voluntarily requesting to accompany a Fargo police officer assigned to patrol duties or other sworn officers or civilian employees of the Fargo Police Department in the performance of their work activities. I freely ASSUME THE RISK OF ALL DANGEROUS CONDITIONS associated with being transported in vehicles owned and operated by the Fargo Police Department and/or any other situation or condition that may be present during the time I am accompanying a sworn officer or civilian employee of the Fargo Police Department.

I realize that were I or my property injured, damaged, or otherwise compromised, I might have a legal claim against the Fargo Police Department, its employees, or the City of Fargo, based on the negligent or intentional acts or omissions of Fargo police officers or other employees or agents of the City of Fargo, but I HEREBY WAIVE ALL CLAIMS FOR DAMAGE OR LOSS TO MY PERSON OR PROPERTY which may be caused by any act or omission by the Fargo Police Department, its officers, agents, employees, or the City of Fargo.

I ACKNOWLEDGE THAT I HAVE READ THE ABOVE AND DO AGREE TO SAME.

Dated this _____ day of _____, _____

_____ _____

Signature Print Your Name

*I am the parent or legal guardian of _____ who is less than eighteen (18) years-of-age, and do acknowledge that I have read the information above and execute this writing on their behalf.

FARGO POLICE DEPARTMENT RIDE-ALONG INSTRUCTIONS

Thank you for your interest in riding along with a Fargo Police Officer. Please read the following guidelines before submitting your application:

- Ride-alongs can occur at anytime on any shift. The Day Shift runs from 7:15 am to 5:15 pm; the Evening Shift runs from 4:30 pm to 2:30 am; the Night Shift runs from 10:45 pm to 7:45 am.

- Generally, riders are allowed a four-hour block every six months. However, exceptions will be made if the applicant is attending a law enforcement academy, citizen academy, intern program or if other special circumstances apply.

- Riders must be at least 14 years of age. Those under the age of 18 will need a parent's approval prior to riding along.

- You should indicate the time and date you wish to ride in the appropriate space on the application. The selected date should be at least **2 weeks** from the date of application.

- We may not be able to accommodate requests to ride with specific officers or in specific parts of town.

- Those wanting to ride-along with a Fargo Police Officer must agree to have a criminal records check completed prior to the request being approved. Prior citations, arrests or convictions will not necessarily disqualify you from riding along. Each application will be considered on a case-by-case basis.

- You will not be contacted about your ride-along unless there is a problem with your application or some other complication. Unless you hear differently, you should show up at the Fargo Police Station on the date and time you selected.

Dress Code/Ride Along Ettiquette: Citizens riding along with Fargo Police Officers must dress appropriately for the duration of their ride. Business casual or professional attire is preferred. However, blue jeans, tennis-shoes, and other casual attire is acceptable as long as it is not offensive or in disrepair. Riders should be prepared to be outside for short or extended periods in a variety of weather conditions. Smoking or the use of other tobacco products is not permitted in any police facility, motor vehicle, or while in the presence of the general public.

Any person riding along must agree to follow all lawful instructions provided to them by any member of the Fargo Police Department during the time the person is participating in the ride-along.

Weapons: You are not allowed to carry or bring with you any firearm or other dangerous weapon during the time you are accompanying a sworn officer or other department employee, regardless of your status or ability to otherwise lawfully possess or carry any such firearm or dangerous weapon.

****Failure to adhere to these rules and guidelines could result in the ride-along being terminated early at the discretion of the officer or supervisor.**

FARGO POLICE DEPARTMENT RIDE-ALONG APPLICATION

Please provide us with the following information:

Full Name: _____
First Middle Last

SSN: _____ Date of Birth: _____
*You must be at least 14 years of age to participate

Phone Number: _____ Email Address: _____

Date Requested: _____
(Must be at least 2 weeks from now)

Time Requested: _____
(4 hour block)

If you have any questions or would like to confirm your ride along, please call 701-241-8175.

Policy 1024 Uniform Insignia.pdf

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Chief of Police – 4 Gold 5 pointed Stars

Worn in a vertical manner on each collar centered between the tip of the collar and the start of the neck line

The top point of the stars should face inward

The bottom star should touch the inner stitching of the collar

Deputy Chief of Police – Gold Eagle

Worn on each collar centered along the center line of the point of the collar

Eagle's beak should face inward

Olive branches should touch the inner stitching of the collar

When wearing the long sleeve shirt with tie, the long edge of the olive branches should be parallel with the ground and the eagles should be aligned with each other

Lieutenant – ¾ inch Gold Bar

Worn on each collar centered between the tip of the collar and the start of the neck line

Lays parallel to the inner stitching with the long edge of the bar touching the inner stitching.

Sergeant – Gold 3 Stripe Chevron

Worn on each collar centered along the center line of the point of the collar

The bottom points of the chevron should touch the inner stitching

When wearing the long sleeve shirt with tie, the chevrons should be aligned with each other and edges of the chevron should be vertical in appearance

Ribbon Order of Precedence.pdf

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Supervisor Initial Incident Report.pdf

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CITY OF FARGO RISK MANAGEMENT PROGRAM
INITIAL INCIDENT/ACCIDENT REPORT

SUPERVISOR PORTION

Department/Division: _____

Location of Incident: _____

Date of Incident: _____/_____/_____ Date of Review: _____/_____/_____

NATURE OF LOSS: Nature and extent of actual or potential loss to persons or property:

_____

_____

_____

DESCRIPTION: Description of incident (who, what, how, when...):

_____

_____

_____

CAUSE (S): Why did the incident occur?

_____

_____

_____

CORRECTIVE ACTION: Action to prevent recurrence (REMOVE, REPLACE, REPAIR, and RETRAIN):

_____

_____

_____

COMMENTS: _____

_____

_____

_____ _____

Risk Management Coordinator Signature/Date Supervisor Signature/Date

REVISED 8/05

i-914supb.pdf

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Supplement B, Delaration of Law Enforcement Officer for Victim of Trafficking in Persons

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS Form I-914
OMB No. 1615-0099
Expires 01/31/2019

START HERE - Type or print in blank ink. This form should be completed by Federal, State, or local law enforcement authorities for victims under the Victims of Trafficking and Violence Protection Act, Public Law 106-386, as amended.

For USCIS Use Only	
Returned	**Receipt**
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	

Remarks

PART A. Victim Information

Family Name *(Last Name)* **Given Name** *(First Name)* **Middle Name** *(if any)*

Other Names Used *(include maiden name/nickname)*

Date of Birth *(mm/dd/yyyy)*

Gender
☐ Male ☐ Female

A # *(if known)*

Social Security # *(if known)*

Part B. Agency Information

Name of Certifying Agency

Name of Certifying Official

Title and Division/Office of Certifying Official

Agency Address - Street Number and Name

Suite #

City

State/Province

Zip/Postal Code

Daytime Phone # *(area code and/or extension)*

Fax # *(with area code)*

Agency Type
☐ Federal ☐ State ☐ Local

Case Status
☐ On-going ☐ Completed ☐ Local _____

Certifying Agency Category
☐ Judge ☐ Law Enforcement ☐ Prosecutor ☐ Other _____

Case Number

FBI # or SID # *(if applicable)*

Part C. Statement of Claim

1. The applicant is or has been a victim of a severe form of trafficking in persons. Specifically, he or she is a victim of: *(Check all that apply. Base your analysis on the practices to which the victim was subjected rather than on the specific violations charged, the counts on which convictions were obtained, or whether any prosecution resulted in convictions. Note that the definitions that control this analysis are not the elements of criminal offenses, but are those set forth at 8 CFR 214.11(a).)*

☐ Sex trafficking in which a commercial sex act was induced by force, fraud, or coercion. Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

☐ Sex trafficking and the victim is under the age of 18.

Part C. Statement of Claim *(Continued)*

☐ The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for subjection to involuntary servitude, peonage, debt bondage, or slavery.

☐ Not applicable.

☐ Other, specify on attached additional sheets.

2. Please describe the victimization upon which the applicant's claim is based and identify the relationship between that victimization and the crime under investigation/prosecution. Attach the results of any name or database inquiry performed in the investigation of the case, as well as any relevant reports and findings. Include relevant dates, etc. Attach additional sheets, if necessary.

3. Has the applicant expressed any fear of retaliation or revenge if removed from the United States? If yes, explain. Attach additional sheets, if necessary.

4. Provide the date(s) on which the acts of trafficking occurred.

Date *(mm/dd/yyyy)*	**Date** *(mm/dd/yyyy)*	**Date** *(mm/dd/yyyy)*	**Date** *(mm/dd/yyyy)*

5. List the statutory citation(s) for the acts of trafficking being investigated or prosecuted, or that were investigated or prosecuted.

6. Provide the date on which the investigation or prosecution was initiated.

Date *(mm/dd/yyyy)*

7. Provide the date on which the investigation or prosecution was completed *(if any)*.

Date *(mm/dd/yyyy)*

Part D. Cooperation of Victim *(Attach additional sheets, if necessary)*

The applicant:

- ☐ Has complied with requests for assistance in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- ☐ Has failed to comply with requests to assist in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- ☐ Has not been requested to assist in the investigation/prosecution of any crime of trafficking.
- ☐ Has not yet attained the age of 18.
- ☐ Other, specify on attached additional sheets.

Part E. Family Members Implicated In Trafficking

☐ Yes ☐ No Are any of the applicant's family members believed to have been involved in his or her trafficking to the United States? If "Yes," list the relative(s) and describe the involvement. Attach additional sheets if necessary.

Full Name	Relationship	Involvement

Part F. Attestation

Based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make, no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the acts of trafficking of which he/she is a victim, I will notify USCIS.

Signature of Law Enforcement Officer *(identified in Part B) (sign in ink)*

Date *(mm/dd/yyyy)*

Signature of Supervisor of Certifying Officer *(sign in ink)*

Date *(mm/dd/yyyy)*

Printed Name of Supervisor

Policy 1021 OUTSIDE EMPLOYMENT REQUEST FORM.pdf

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OUTSIDE EMPLOYMENT REQUEST

Employee's Name _____ Present Assignment _____

Prospective Secondary Employer _____ Address _____

Prospective Immediate Supervisor _____ Business Phone _____

Anticipated Starting Date _____ Approx. # of Hours Per Week _____

Nature of Work to be Performed (General and Specific)

_____

_____

_____

Call-back-for-duty information: Phone _____
Location _____
Third Party _____

IF APPROVED FOR SECONDARY EMPLOYMENT, I HEREBY AGREE TO COMPLY WITH THE REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS AS DESCRIBED IN DEPARTMENT POLICY 1021 OUTSIDE EMPLOYMENT.

_____ _____
Submitting Employee Date

Request: **Approved / Denied**

_____ _____
Lieutenant/Manager Date

Request: **Approved / Denied**

_____ _____
Division Commander Date

If Denied, reasoning:_____

_____

_____

_____

_____

_____

_____

APPROVAL MUST BE GRANTED BEFORE STARTING DATE

Unattended Death Investigations 2017.pdf

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Unattended Death Investigations & Documentation:

The documentation involved in these types of cases is crucial in ruling out foul play and assuring the family of the deceased that a thorough investigation has been done. The medical examiner needs to know details from the scene investigation to correctly interpret conditions and marks on the body. The following list identifies valuable pieces of information that should be documented in **all** death cases.

1) **List the person(s) who found the body as the "Complainant." Also identify any other persons who were with the complainant or who were present when the victim died. (i.e. other people who live in the home and were present when the victim died in his sleep) These people should be listed as "Mentioned" in the report.**

2) Document any changes in the positioning of the body and who moved him/her. (i.e.: did the family move to floor to try CPR? Did they remove blankets? Did ambulance or Fire move body or alter clothing?). **If something was altered prior to the death investigator arriving, relay that information to him/her.**

3) Document the scene with photographs. (Consider utilizing a sketch too.)

4) Photography does not diminish the need for **complete and detailed narrative description of the scene**. This description should include:

   A) Overall description of scene (complete vehicle description, third floor two bedroom apartment, single family dwelling etc...)

   B) Where within scene victim was found.

   C) Condition of the residence (ransacked, dirty, tidy etc..) Try to determine if those conditions are normal for your victim.

   D) Signs of forced entry OR lack of signs of forced entry. Include condition of locks on doors and windows, damage to doors and windows.

   E) Lights on/off. Doors opened/closed. TV, radio, stove on. Alcohol/drugs present. Temperature in residence, vehicle, or outdoors.

   F) Signs of a struggle. Signs of a fall. Signs victim tried to get help.

5) Document, through detailed description, the condition of the body. Include:

   A) Physical description of deceased. (White, male, approximately 40 years of age, long brown hair, beard, glasses and clothing). If identity is known, document how identification was confirmed (Family member, tattoos, ID in wallet etc...) NOTE: When looking for ID on the body, be careful about how you handle or alter the clothing and possible evidence on the clothing. The death investigator will collect ID and/or Social Security Card if located at scene.

   B) What position was victim found in? (Sitting in chair, lying on stomach in bed, on left side-fetal position on floor in front of toilet etc...) Was the victim clothed?

   C) LOOK FOR and document any visible injuries to Victim ? (describe location and appearance)

   D) Presence of Lividity, Rigor Mortis, Decomposition, and/or Insect activity (only if Coroner's office does not come to the scene.) Look for and document consistency in position of body and location of Lividity and/or other blood evidence. **The Death Investigator will document this if at the scene.**

6) Evidence of last time Victim was known to be alive. Should be obtained from statements by friends, neighbors or family, mail at the scene, phone messages on answering machine, dates on newspapers inside and outside residence, receipts, checks in a checkbook etc….

7) Evidence of medical conditions or illnesses. Can be obtained from statements from: friends, neighbors, co-workers, or family; documents within residence; medications present. (Medications need to be logged and should be sent with body for autopsy if one is ordered.) Also note the presence of vomit, diarrhea, and blood. NOTE: It is normal to see a small amount of blood tinged fluid coming from the nose or mouth of a deceased person.

8) Identify who from Coroner's office was notified. (Dispatch will confirm who is on-call.) Did they come to scene or were they consulted over the phone? What comments or observations were made by him/her? Was an autopsy ordered? **The body should not be moved until Coroner gives permission. If life-saving efforts are performed, the body should be left as is once those efforts are stopped. Don't forget to take additional photographs of parts of body that were not visible before being moved and the area under the body.**

9) Take measures to ensure evidence on the body is preserved. **Don't remove ligatures from neck unless necessary for life saving efforts. NEVER untie the knot at either end of the ligature.** Place paper bags over hands if applicable. Also, leave all clothing and jewelry items on the body. If handcuffs are on body, officers will remove them if requested by the death investigator.

10) The Coroner's office will tag the body and seal the body bag for transportation to the autopsy.

11) Evidence to look for and collect includes:

A) Notes or writings that would suggest suicide. (Document where found.)
B) Weapons. (Document complete description) **Do not move weapons until photographed and documented. Proper documentation of the location and position of bullets within guns is crucial.** Documentation identifying who owns any firearm collected should also be obtained.
C) Other items that would explain marks or injuries on the body.
D) Rope that matches ligature, receipts for rope etc..
E) Pills or drugs that might identify substances from overdose. (**Collect Drug evidence**.)
F) Medications deemed relevant to the death as determined by the Coroner's Office.
G) Evidence of assault, sexual assault, theft/robbery or other crimes that may be related to the death.

*** Note: In cases involving a weapon found at scene, the Medical Examiner will want the photographs of the weapon when they start the autopsy. Guns/knives <u>cannot</u> be sent along in the body bag.**

12) DO NOT collect personal property items that are not needed for evidentiary reasons just for Safekeeping. Items such as money, keys, phones etc…should be left in the residence or vehicle for the family to deal with. Items logged into evidence will be held a minimum of 6 months before being released (Coroner's office requirement).

12) Document who transported body, when, and to where. (Death investigator will notify funeral home.)

13) Document if any alterations to the body are made while loading body for transport. Document if body was dropped, skin slippage etc...

14) Obtain next of kin information. Indicate in report if death notification was made and who was notified. Relay if other notifications need to be made. **Next of kin should be listed as "Mentioned" persons in report with complete address and phone number information.** <u>Notify death investigator and funeral home once NOK has been identified and if notification has been made.</u>

15) When leaving scene, take measures to secure scene and notify landlord if applicable. Explain issues related to Biohazards. The Coroner's office will have information on companies that provide cleaning services for biologically contaminated scenes.

16) Ensure that the initial report is completed as soon as possible. In cases where an autopsy has been ordered, the Medical Examiner and coroner's office will need a copy of the report by the time he begins the autopsy.

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