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Ennis Police Department Policy & Procedures
2021

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Appendix 1 US DOJ Policy Areas

EMERGENCY VEHICLE OPERATION

1.0.0 PURPOSE

The purpose is to provide guidelines for the effective operation of law enforcement vehicles being driven in emergency vehicle operations.

1.1.0 POLICY

The policy of this agency is to direct members to use reasonable judgment and prudent conduct with due regard for their safety and the safety of all persons and property while engaged in emergency vehicle operations.

1.2.0 EMERGENCY VEHICLE OPERATIONS

1.2.1 Montana Code Annotated, 61-8-107, defines the circumstances and conditions to which a law enforcement officer operating a law enforcement vehicle can engage in emergency vehicle operations and or pursuit situations.

- a. The driver of a police vehicle or authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- b. The driver of a police vehicle or authorized emergency vehicle may:
 - park or stand, irrespective of the provisions of this chapter;
 - proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - exceed the speed limits so long as they do not endanger life or property;
 - disregard regulations governing direction of movement or turning in specified directions.
- c. The exemptions granted to a police vehicle or authorized emergency vehicle apply only when the vehicle is making use of an audible or visual

signal, or both, meeting the requirements of Montana Code Annotated, 61-9-402.

- d. The foregoing provisions shall not relieve the driver of a police vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from consequences of their reckless disregard for the safety of others.

1.3.0 EMERGENCY VEHICLE OPERATION

1. Officers should continually reassess all factors and conditions during all emergency vehicle operations. Officers must have a direct influence in choosing the preferred emergency response in direct relation to the event or circumstance that is being confronted all the while being constantly mindful of the risks to self and the public.
2. Unless circumstances warrant, employees should not use a cellular telephone while operating a vehicle in emergency response mode.

USE OF FORCE

2.0.0 PURPOSE

The purpose is to provide policy guidelines on the reasonable use of force by officers and to ensure that this agency's use of force policies adhere to all existing applicable Constitutional standards, federal, state, and local laws. (individual agencies may further modify this document if desired).

2.1.0 POLICY

2.1.1 Each use of force situation is unique and will be evaluated based on the circumstance faced by the officer at the time force is applied. Officers may use the amount of force which is objectively reasonable to make an arrest or gain control of a situation, but the person arrested may not be subjected to any greater restraint than is necessary to hold or detain that person. As the situation that necessitated the use of force de-escalates, so too shall the use of force. Officers should continually reassess all factors and conditions in use of force situations. Use of physical force should be re-evaluated and adjusted when resistance continues or ceases or when the incident is under control.

- a. This agency should maintain use of force policies and procedures that address when force against individuals who fail to comply with lawful commands should terminate, including the following requirement: when it is objectively reasonable that a subject is fully in law enforcement's control, then the force must terminate. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
- b. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a

crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

2.1.2 Many force and equipment options are available to the officer. The officer should choose the appropriate force option based on the threat, either actual or perceived, including but not limited to:

- a. officer presence;
- b. verbal direction;
- c. physical control;
- d. conducted electrical weapons;
- e. chemical or inflammatory agents;
- f. impact weapons;
- g. firearms;
- h. vehicles, and or weapons of necessity or opportunity.

2.1.3 In order to meet the basic test of objective reasonableness for all force situations, careful attention must be paid to the facts and circumstances of each case including:

- a. whether the suspect poses an immediate threat to the safety of officers or other, and;
- b. whether the suspect is actively resisting arrest or attempting to evade or escape, and;
- c. the severity of the crime at issue.

Additional factors may include:

- a. availability of alternative methods of capturing, controlling, restraining, or subduing the suspect;
- b. what officers knew about the suspect's health, mental condition or other relevant frailties.

2.2.0 PROCEDURE

- 2.2.1 The following procedures supplement and provide guidance in application of force.
- 2.2.2 Officers should use tactics and or weapons as necessitated by the situation.
- 2.2.3 When deploying any force, for any reason, officers shall exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers should give consideration to background, bystanders, and location.
- 2.2.4 A supervisor will be notified and respond to all cases where the use of force resulted in any known injury or death.
- 2.2.5 An officer is justified in the use of force likely to cause death or serious bodily harm only if the officer reasonably believes that such force is necessary to prevent imminent death or serious bodily harm to the officer or another or to prevent the commission of a forcible felony. A forcible felony is any felony involving the use or threat of physical force or violence against any individual (MCA 45-3-101).
- 2.2.6 Officers may use deadly force to affect the capture or prevent the escape of a felony suspect whose flight is reasonably believed to represent an imminent threat of serious bodily harm or death to the officers or other person(s).
- 2.2.7 Officers may discharge a firearm at a moving vehicle or from a moving vehicle if the officer reasonably believes it is necessary to protect against an imminent threat of serious bodily harm or death to the officers or others.
- 2.2.8 Agencies shall have a policy about warning shots either authorizing or prohibiting them. Should an agency choose to allow warning shots;

Warning shots are inherently dangerous. Therefore, a warning shot must have a defined target and shall not be fired unless

- a. the use of deadly force is justified;
- b. the warning shot will not pose a substantial risk of injury or death to the officer or others; and
- c. the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.

- 2.2.9 Whenever the use of force results in an injury, officers should institute appropriate first aid procedures for anyone taken into custody or who needs medical treatment. In the event that chemical agents are dispensed, officers should follow established procedures for treatment and decontamination.
- 2.2.10 A vehicle is a law enforcement tool, which is capable of inflicting serious injury or death when used as an offensive weapon. Therefore, its use should be considered in the same manner as any use of deadly force.
- 2.2.11 Officers have the duty to intervene where excessive force is being utilized to protect the individuals involved and report the excessive force to their supervisor as soon as possible.
- 2.2.12 The use of a choke hold, which is a physical maneuver or technique that restricts an individual's ability to breathe for the purpose of incapacitation, is prohibited unless deadly use of force is authorized.
- 2.2.13 If a decision has been made to use deadly force, if feasible the officer shall warn the subject of his or her intent to use deadly force.

2.3.0 USE OF DEADLY FORCE WHETHER OR NOT INJURIES OR DEATH RESULT

- 2.3.1 Any officer involved in the use of deadly force shall be allowed to consult with a representative or other person of the officer's choosing prior to being required to give an oral or written statement about the use of deadly force. Such right to consult with a representative or other person shall not unduly delay the giving of the statement. The officer involved should be allowed two full sleep cycles prior to being interviewed. This does not preclude initial inquiries by the responding supervisor.
- 2.3.2 The officers shall be afforded the opportunity to consult with a mental health provider at the Agency's expense. If the use of force results in death, the officers involved shall be required to consult with a mental health provider at the Agency's expense, prior to return to duty.
- 2.3.3 Any officer who is witness to or has information as to the use of force occurrence will prepare an appropriate report.
- 2.3.4 The officer's immediate supervisor shall respond to the scene and shall determine which support services, including but not limited to investigative and

identification personnel, would be beneficial to the reporting and evaluation of the occurrence and should request the response of these units as appropriate. In addition, a supervisor's report will be prepared detailing the activity regarding the incident. The agency administrator shall be notified as soon as practical.

2.3.5 When a death has occurred as the result of the use of force, the Agency shall notify the county coroner's office as soon as practical.

2.4.0 DESTRUCTION OF INJURED OR DANGEROUS ANIMALS

2.4.1 The destruction of an animal is justified for:

- a. self-defense;
- b. to prevent substantial harm to the officer or another; or
- c. when the animal is believed to be so badly injured that humanity requires its relief from further suffering.

2.4.2 Supervisory approval should be obtained when time and circumstances permit.

2.4.3 Officers using such force against animals will prepare an appropriate report detailing the incident, paying particular attention to the circumstances requiring the immediacy of the situation.

2.5.0 REPORTING USE OF FORCE

2.5.1. A report should be made in all occasions where use of force was utilized in excess of verbal directions where risk of injury exists regardless of whether or not injuries occurred. If officer-involved deadly force was utilized or a death resulted from an in-custody situation, officers may not be compelled to write and initial incident report in lieu of an investigative interview.

2.5.2 Officers using force will document the use of such force in the official reports of the incident and will, in addition, notify their immediate supervisor of such use of force as soon as practical after the occurrence. Reports will be written, documenting the use of force whether or not an arrest is made. Reports will be disseminated as required by state and federal law.

2.5.3 Whenever possible, photographs of any injury should be taken to be included with the report.

- 2.5.4 In instances where the use of force resulted in an injury, a supervisor should respond to the scene and/or hospital and will document the findings on a supplemental report.
- 2.5.5 This agency will report all required use of force incidents to the Montana Board of Crime Control as required under federal law. Reporting is achieved through <http://mbcc.mt.gov/Data/Use-of-Force>.

2.6.0 USE OF FORCE TRAINING

- 2.6.1 All officers shall receive regular and reoccurring training on this agency's use of force policy and related legal updates. This agency shall maintain training protocols that adhere to, or exceed, any applicable state laws to become, and remain in good standing as, law enforcement officers.
- 2.6.2 In addition, training shall be provided on a regular and periodic basis designed to
 - a. Provide techniques for the use of and reinforce the importance of de-escalation;
 - b. Simulate actual shooting situations and conditions; and
 - c. Enhance officers' discretion and judgment in using less lethal and deadly force in accordance with this policy.
- 2.6.3 All use-of-force training shall be documented.

GENERAL ARREST AND CUSTODY

3.0.0 PURPOSE

The purpose is to provide guidance to officers in making arrests and taking persons into custody in a fashion that provides a reasonable level of safety and security for the officer(s), suspect and the public.

3.1.0 WHEN ARREST AUTHORIZED WITHOUT A WARRANT

3.1.1 An officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest.

3.2.0 WHEN ARREST AUTHORIZED WITH A WARRANT

3.2.1 An officer may arrest a person when the officer has a warrant commanding that the person be arrested or when the officer believes on reasonable grounds:

- a. that a warrant for the person's arrest has been issued in this state, except that unless otherwise provided by law, a warrant for violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred; or
- b. that a felony warrant for the person's arrest has been issued in another jurisdiction.

3.3.0 PERSONS EXEMPT FROM ARREST

3.3.1.

- a. Electors shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at election and in going to and returning from the same.
- b. Senators and representatives shall in all cases except felony or breach of the peace be privileged from arrest during the sessions of the state legislature and in going to and returning from the same.
- c. The militia shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at musters and election and in going to and returning from the same.
- d. Judges, attorneys, clerks, sheriffs, and other court officers shall be privileged from arrest while attending court and while going to and returning from court.
- e. Persons exempt from arrest are not immune from prosecution. Officers should continue to intervene as appropriate and engage in sound investigative practices and submit all reports and findings to the appropriate prosecutor for other criminal procedure considerations.

3.4.0 METHOD AND MANNER OF ARREST

- 3.4.1 An arrest is made by an actual restraint of the person to be arrested or by the person's submission to the custody of the person making the arrest.
- 3.4.2 Reasonable force may be used in making an arrest, but the person arrested may not be subject to any greater restraint than is necessary to hold or detain that person.
- 3.4.3 Reasonable force may be used to affect an entry into any building or property or part thereof to make an authorized arrest.
- 3.4.4 An arrest may be made at any time of the day or night, except that a person may not be arrested in the person's home or private dwelling place

at night for a misdemeanor committed at some other time and place unless upon the direction of a judge endorsed upon an arrest warrant. However, a person may be arrested in the person's home or private dwelling at night if the person is being arrested pursuant to 46-6-311 for the offense of Partner/Family Member Assault (PFMA).

3.4.5 An officer making an arrest without a warrant shall inform the person to be arrested:

- a. of the officer's authority;
- b. of the intention to arrest that person;
- c. and of the cause of the arrest,

except when the person to be arrested is actually engaged in the commission of or in an attempt to commit an offense or is pursued immediately after its commission, after an escape, or when the giving of the information will imperil the arrest.

3.4.6 When making an arrest pursuant to a warrant, an officer shall inform the person to be arrested:

- a. of the officer's authority;
- b. of the intention to arrest that person;
- c. the cause of the arrest;

and the fact that a warrant has been issued for that person's arrest, except when the person flees or forcibly resists before the peace officer has an opportunity to inform the person or when the giving of the information will imperil the arrest.

3.4.7 The officer need not have possession of the warrant at the time of the arrest, but after the arrest, the warrant must be shown to the person arrested as soon as practical if the person requests.

3.4.8 The summoning of an officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. A person may be arrested in the person's home or private dwelling at night if

the person is being arrested pursuant to 46-6-311 for the offense of partner or family member assault. Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of an order of protection, or other imminent danger to the victim. When an officer responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor; the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor:

- a. the prior history of violence between the partners or family members, if information about the prior history is available to the officer;
- b. the relative severity of injuries received by each person;
- c. whether an act of or threat of violence was taken in self-defense;
- d. the relative sizes and apparent strength of each person;
- e. the apparent fear or lack of fear between the partners or family members; and
- f. statements made by witnesses.

3.4.9 When an officer is called to the scene of a reported incident of domestic violence but does not make an arrest, the officer shall file a written report with the officer commanding the law enforcement agency employing the officer, setting forth the reason or reasons for the decision.

3.4.10 Officers should take reasonable precautions when effecting an arrest in order to minimize risk of injury to self or others. These precautions could include:

- a. Summoning additional assistance;
- b. Searching and seizing weapons found upon or within the immediate area of the perpetrator;
- c. Making an assessment of the location of arrest for relevant

hazards;

- d. Conducting pre-arrest criminal history checks;
- e. Utilizing appropriate restraint devices.

3.5.0 ALTERNATIVES TO CUSTODIAL ARREST

3.5.1 The decision to make a custodial arrest should be carefully considered and acceptable alternatives utilized when appropriate. The use of a Notice to Appear or a Summons rather than a custodial arrest is the preferred course of action when the offense is non-jailable. Factors to consider in making a custodial arrest include whether there is a factual basis to believe the offender:

- a. may abscond from the jurisdiction or State of Montana;
- b. has a history of non-appearance;
- c. is likely to re-offend or continue to engage in criminal conduct;
- d. presents a danger to the safety or welfare to self or others

3.5.2 Alternatives to custodial arrest may include

- a. Notice to Appear;
- b. Summons;
- c. Release.

3.5.3 Notice To Appear - Whenever an officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear. The notice must:

- a. be in writing;
- b. state the person's name and address, if known;
- c. set forth the nature of the offense;
- d. be signed by the issuing officer;
- e. direct the person to appear before a court at a certain time and place; and
- f. state the failure to appear may result in the suspension of the person's driver's license.

An officer who issues a Notice to Appear shall complete and sign the form, serve a copy upon the defendant and without unnecessary delay cause the original to be filed with the court.

3.5.4 Summons – The City Attorney, County Attorney or Attorney General may use discretion in the filing of a charge and when authorized to issue an arrest warrant a court may instead issue a summons. A summons may be served personally or by first-class mail. The summons must:

- a. be in writing in the name of the State of Montana or in the name of the municipality if the violation of a municipal ordinance is charged;
- b. state the name of the person summoned and that person's address, if known;
- c. set forth the nature of the offense;
- d. state the date when issued and the municipality or county where issued;
- e. be signed by the judge of the court with the title of office noted; and
- f. command the person to appear before a court at a certain time and place.

The summons must plainly state that, upon failure to appear following the service of summons, an arrest warrant must be issued immediately or, if

the service is made to a corporation, that a plea of not guilty will be entered.

- 3.5.5 Release - When no warrant has been issued, a peace officer having custody of a person arrested may release the arrested person without requiring that person to appear before a court when the officer is satisfied that there are insufficient grounds to commence prosecution.
- 3.5.6 Use of Bail Schedule - Acceptance by an Officer. A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:
 - a. any assault on a partner or family member, as partner or family member is defined in 45-5-206;
 - b. stalking, as defined in 45-5-220;
 - c. violation of an order of protection, as defined in 45-5-626; or
 - d. a felony.
- 3.5.7 An officer may accept bail on behalf of a judge:
 - a. in accordance with the bail schedule established; or
 - b. whenever the warrant of arrest specifies the amount of bail; or
 - c. with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4).
- 3.5.8 Whenever an officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then cause or deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt for the bail delivered.
- 3.5.9 Whenever an officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the

officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The peace officer shall cause or deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give a receipt acknowledging delivery of the offender's driver's license to the court.

3.6.0 FOREIGN NATIONAL ARRESTS

3.6.1 When foreign nationals are arrested or detained the United States Department of Homeland Security should be notified and the foreign national's must be advised of the right to have their consular officials notified. In some cases the nearest consular officials must be notified of the arrest or detention of the foreign national regardless of the national's wishes. Consular officials are entitled access to their nationals in detention and are entitled to provide consular assistance. When a foreign national is arrested or detained, an officer must:

- a. Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels.
- b. Determine if the foreign national's country is on the list of mandatory or optional notification countries as determined at - www.travel.state.gov
- c. If the foreign national's country is not on the mandatory notification list offer without delay to notify the foreign national's consular officials of the arrest or detention.
- d. If the foreign national asks that the consular notification be given, notify the nearest consular officials of the foreign national's country without delay.

- e. If the foreign national's country is on the list of mandatory notification countries, notify the foreign national's consular officials without delay of the arrest or detention and tell the foreign national that you are making the notification
- f. If a person claims diplomatic immunity, the officer should include this information in the notification to the United State Department of Homeland Security and the foreign national's consular officials.

JUVENILE ARREST AND CUSTODY GUIDELINES

4.0.0 PURPOSE

The purpose is to provide guidance to officers in making arrests and taking juveniles (youths) into custody in a fashion that provides a reasonable level of safety and security for the officer(s), juvenile offenders and the public.

4.1.0 SUPPORT SERVICES AND RESOURCES

In addition to the following guidelines, officers involved in arrest and custody of juveniles should be aware they have access to the following resources:

- 4.1.1 The county attorney in cases involving offenses that would be felonies if committed by an adult;
- 4.1.2. The juvenile probation officer for lesser offenses;
- 4.1.3 The Department of Public Health and Human Services, (DPHHS) in cases involving dependent or neglected youth or a need for youth shelter services.

4.2.0 POLICY

Juvenile offenders will be dealt with as prescribed by the Montana Youth Court Act, except as provided herein. Officers dealing with juvenile offenders shall employ the least coercive alternatives consistent with preserving public safety, order, and individual liberty.

4.3.0 COURTS OF JURISDICTION

Juveniles cited for traffic, fish and game, alcoholic beverage, tobacco products, and gambling laws violations are subject to justice court, municipal court, or city court jurisdictions

All other violations must be cited into youth court, 41-5-203, Montana Code Annotated, (MCA).

Montana Youth Court has concurrent jurisdiction over offenses involving alcohol, tobacco, and gambling, however, these offenses should initially be cited to justice, city or municipal court.

Juveniles committing traffic offenses under Title 61, MCA, may not be incarcerated but they may;

- a. be fined not to exceed the fine that could be imposed on an adult for the same offense;
- b. have their license suspended or revoked; and
- c. the vehicle used in the offense may be impounded up to 60 days if the court finds the juvenile owns the vehicle or is its only user, 61-8-723, MCA.

4.4.0 DEFINITIONS

As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply as prescribed in 41-5-103, MCA:

- 4.4.1 "Adult" means an individual who is 18 years of age or older.
- 4.4.2 "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.
- 4.4.3 "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.
- 4.4.4 "Commit" means to transfer legal custody of a youth to the department or to the youth court.
- 4.4.5 "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.
- 4.4.6 "Court", when used without further qualification, means the youth court of the district court.

- 4.4.7 "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given but does not include a person who has only physical custody.
- 4.4.8 "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:
- a. who has committed an offense that, if committed by an adult, would constitute a criminal offense; or
 - b. who has been placed on probation as a delinquent youth and who has violated any condition of probation.
- 4.4.9 "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:
- a. the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;
 - b. contempt of court or violation of a valid court order; or
 - c. violation of a youth parole agreement.
- 4.4.10 "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.
- 4.4.11 "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.
- 4.4.12 "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.
- 4.4.13 "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525, MCA.
- 4.4.14 "Formal youth court records" means:

- a. information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and pre-dispositional studies.
 - b. The term does not include information provided by the youth court to the department of public health and human services' management information system.
- 4.4.15 "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.
- 4.4.16 "Guardian" means an adult:
- a. who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and
 - b. whose status is created and defined by law.
- 4.4.17 "Habitual truancy" means recorded absences of 10 days or more of unexcused absences in a semester or absences without prior written approval of a parent or a guardian.
- 4.4.18 "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility. The term does not include a jail.
- 4.4.19 "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers. The term does not include information provided by the youth court to the department of public health and human services' management information system.

- 4.4.20 "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest. The term does not include a co-located juvenile detention facility that complies with 28 Code of Federal Regulations, (CFR), part 31.
- 4.4.21 "Judge", when used without further qualification, means the judge of the youth court.
- 4.4.22 "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in 46-18-10, MCA.
- 4.4.23 "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, MCA, pertaining to a youth covered by this chapter.
- 4.4.24 "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:
- a. have physical custody of the youth;
 - b. determine with whom the youth shall live and for what period;
 - c. protect, train, and discipline the youth; and
 - d. provide the youth with food, shelter, education, and ordinary medical care.
- An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.
- 4.4.25 "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.
- 4.4.26 "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than pre-adjudicatory detention. The term does not include shelter care or emergency placement of less than 45 days.

- 4.4.27 "Parent" means the natural or adoptive parent. The term does not include:
- a. a person whose parental rights have been judicially terminated; or
 - b. the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.
- 4.4.28 "Probable cause hearing" means the hearing provided for in 41-5-332, MCA.
- 4.4.29 "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804, MCA.
- 4.4.30 "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.
- 4.4.31 "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.
- 4.4.32 "Secure detention facility" means a public or private facility that:
- a. is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and
 - b. is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.
- 4.4.33 "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.
- 4.4.34 "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.
- 4.4.35 "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347, MCA.

- 4.4.36 "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.
- 4.4.37 "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.
- 4.4.38 "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.
- 4.4.39 "Victim" means:
- a. a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;
 - b. an adult relative of the victim, as defined in subsection 41-5-103, (44)(a), MCA, if the victim is a minor; and
 - c. an adult relative of a homicide victim.
- 4.4.40 "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.
- 4.4.41 "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203, MCA.
- 4.4.42 "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.
- 4.4.43 "Youth care facility" has the meaning provided in 52-2-602, MCA.

- 4.4.44 "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge, probation officers, and assessment officers.
- 4.4.45 "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:
- a. operated, administered, and staffed separately and independently of a jail; or
 - b. a co-located secure detention facility that complies with 28 CFR, part 31; and
 - c. used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.
- 4.4.46 "Youth In Need of Care" is defined as a youth who has been adjudicated or determined, after a hearing, to be or to have been abused neglected, or abandoned or there is substantial risk of physical or psychological harm to a child giving rise to probable cause that a child will become a "youth in need of care" if that child suffers abuse.
- 4.4.47 "Youth in Need of Intervention" means a youth who is adjudicated as a youth and who:
- a. commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:
 - violates any Montana municipal or state law regarding alcoholic beverages; or
 - continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian,

- or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or
- b. has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention.

4.5.0 RIGHTS, QUESTIONING, AND WAIVERS OF YOUTH TAKEN INTO CUSTODY

- 4.5.1 When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth is either, a delinquent youth or a youth in need of intervention, the following requirements must be met as prescribed in 41-5-331, MCA.
- 4.5.2 The youth must be advised of the youth's right against self-incrimination and the youth's right to counsel and the right to have a parent, guardian or custodian notified as provided in the next paragraph.
- 4.5.3 The investigating officer, probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken into custody, the reasons for taking the youth into custody, and where the youth is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the youth must be notified.
- 4.5.4 A youth may waive the right to remain silent, counsel and notification of a parent, guardian or custodian under the following situations:
 - a. When the youth is 16 years of age or older, the youth may make an effective waiver;
 - b. When the youth is under 16 years of age and the youth and the youth's parent or guardian agree, they may make an effective waiver of the youth's right to silence and counsel; or

- c. When the youth is under 16 years of age and the youth and the youth's parent or guardian do not agree, the youth may make an effective waiver of the youth's right to silence only with advice of counsel.

4.6.0 INVESTIGATION, FINGERPRINTS, AND PHOTOGRAPHS

- 4.6.1 A youth may be fingerprinted or photographed, as prescribed in 41-5-1206, MCA, for criminal identification purposes.
- 4.6.2 If a youth is arrested for conduct alleged to be unlawful that would be a felony if committed by an adult
- 4.6.3 Pursuant to a search warrant, supported by probable cause, issued by a judge, justice of the peace, or magistrate; or
- 4.6.4 Upon the order of the youth court judge, after a petition alleging delinquency has been filed.
- 4.6.5 Fingerprint records and photographs may be used by the department of justice or any law enforcement agency in the judicial district for comparison and identification purposes in any other investigation.

4.7.0 RELEASE FROM CUSTODY, DETENTION OR SHELTER CARE

- 4.7.1 Whenever an officer believes, on reasonable grounds, that a youth can be released to a responsible person, the officer may release the youth to that person upon receiving a written promise from the person to bring the youth before the probation officer at a time and place specified in the written promise, or an officer may release the youth under any other reasonable circumstances.
- 4.7.2 Whenever the officer believes, on reasonable grounds, that the youth must be detained, the officer shall notify the probation officer immediately and shall, as soon as practicable, provide the probation officer with a written report of the officer's reasons for holding the youth in detention. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held

in a place of detention, as provided in 41-5-348, MCA and that is approved by the youth court.

- 4.7.3 If the officer believes that the youth must be sheltered, the officer shall notify the probation officer immediately and shall provide a written report of the officer's reasons for placing the youth in shelter care. If the youth is then held, the youth must be placed in a shelter care facility approved by the youth court.

4.8.0 CUSTODY HEARING FOR PROBABLE CAUSE

- 4.8.1 When a youth is taken into custody for questioning, a hearing to determine whether there is probable cause to believe the youth is a delinquent youth or a youth in need of intervention must be held within 24 hours, excluding weekends and legal holidays. A hearing is not required if the youth is released prior to the time of the required hearing.
- 4.8.2 The probable cause hearing required under subsection (1) may be held by the youth court, a justice of the peace, a municipal or city judge, or a magistrate having jurisdiction in the case as provided in 41-5-203, MCA.
- 4.8.3 A probable cause hearing may be conducted by telephone or videoconference if other means of conducting the hearing are impractical.
- 4.8.4 A probable cause hearing is not required for a youth placed in detention for an alleged parole violation.

4.9.0 CRITERIA FOR PLACEMENT OF YOUTH IN SECURE DETENTION FACILITY

- 4.9.1 A youth may be placed in a secure detention facility ~~only~~ if the youth has allegedly committed an act that if committed by an adult would constitute a criminal offense and the alleged offense is one specified in 41-5-206, MCA.
- 4.9.2 A youth may be placed in a secure detention facility ~~only~~ if the youth is alleged to be a delinquent youth and:
- a. has escaped from a correctional facility or secure detention facility;
 - b. has violated a valid court order or a parole agreement;

- c. the youth's detention is required to protect persons or property;
- d. the youth has pending court or administrative action or is awaiting a transfer to another jurisdiction and may abscond or be removed from the jurisdiction of the court;
- e. there are not adequate assurances that the youth will appear for court when required; or
- f. the youth meets additional criteria for secure detention established by the youth court in the judicial district that has current jurisdiction over the youth; or
- g. has been adjudicated a delinquent and is awaiting final disposition of the youth's case.

4.9.3 A youth from another state may be placed in a secure detention facility according to the IAW the Interstate Compact for Juveniles.

4.10.0 CRITERIA FOR PLACEMENT OF YOUTH IN SHELTER CARE FACILITY

- 4.10.1 A youth may be placed in a shelter care facility ~~only~~ if the youth and the youth's family need shelter care to address their problematic situation and it is not possible for the youth to remain at home.
- 4.10.2 A youth may be placed in a shelter care facility ~~only~~ if the youth needs to be protected from physical or emotional harm.
- 4.10.3 A youth may be placed in a shelter care facility ~~only~~ if the youth needs to be deterred or prevented from immediate repetition of troubling behavior.
- 4.10.4 A youth may be placed in a shelter care facility ~~only~~ if shelter care is necessary to assess the youth and the youth's environment.
- 4.10.5 A youth may be placed in a shelter care facility ~~only~~ if shelter care is necessary to provide adequate time for case planning and disposition; or shelter care is necessary to intervene in a crisis situation and provide intensive services or attention that might alleviate the problem and reunite the family.

4.11.0 CRITERIA FOR PLACEMENT OF YOUTH IN YOUTH ASSESSMENT CENTER

- 4.11.1 A youth may be placed in a youth assessment center ~~only~~ if the youth meets the requirements for placement in shelter care.
- 4.11.2 A youth may be placed in a youth assessment center ~~only~~ if the youth has not committed an act that would be a felony offense if committed by an adult.
- 4.11.3 A youth may be placed in a youth assessment center ~~only~~ if the youth needs an alternative, staff-secured site for evaluation and assessment of the youth's need for services.
- 4.11.4 A youth may be placed in a youth assessment center ~~only~~ if the youth needs to be held accountable for the youth's actions with structured Programming and the youth meets qualifications as outlined by the placement guidelines that are determined by the department and coordinated with the guidelines used by the youth placement committees.

4.12.0 LIMITATION ON PLACEMENT OF YOUTH IN NEED OF CARE

- 4.12.1 A youth alleged to be a youth in need of care may be placed only by the Department of Public Health and Human Services as prescribed in 41-3-101 et al, and may not be placed in a youth assessment center, youth detention facility, jail, or other facility intended or used for the confinement of adults accused or convicted of criminal offenses.

4.13.0 LIMITATION ON PLACEMENT OF YOUTH IN NEED OF INTERVENTION

- 4.13.1 A youth alleged or found to be a youth in need of intervention may not be placed in a jail, secure detention facility, or correctional facility.

4.14.0 YOUTH NOT TO BE DETAINED IN JAIL, EXCEPTIONS AND TIME LIMITATIONS

- 4.14.1 A youth may not be detained or otherwise placed in a jail or other adult detention facility except as provided in this section.

- 4.14.2 A youth who has allegedly committed an offense that if committed by an adult would constitute a criminal offense may be temporarily detained in a jail or other adult detention facility for a period not to exceed:
- a. 6 hours, but in no case overnight, for the purpose of identification, processing, or transfer of the youth to an appropriate detention facility or shelter care facility if the detaining agency is located in an urban county; or
 - b. 24 hours, excluding weekends and legal holidays, if the youth is awaiting a probable cause hearing and if the detaining agency is located in a rural county.
- 4.14.3 This exception provided applies only if the court having jurisdiction over the youth is outside a metropolitan statistical area.
- 4.14.4 Detention is appropriate only:
- a. if alternative facilities are not available or alternative facilities do not provide adequate security; and
 - b. the youth is kept in an area that provides physical as well as sight and sound separation from adults accused or convicted of criminal offenses.

4.15.0 DETENTION OF YOUTH IN LAW ENFORCEMENT FACILITIES

- 4.15.1 Detention of a youth in a police station or other law enforcement facility that is attached to or part of a jail is acceptable if the following criteria are met:
- a. The area where the youth is held is an unlocked, multipurpose area, such as a lobby, office, interrogation room, or other area that is not designated or used as a secure detention area or that is not part of a secure detention area, or, if part of such an area, that is used only for the purpose of processing, such as a booking room;
 - b. The youth is not secured to a cuffing rail or other stationary object during the period of detention;

- c. The use of the area is limited to ensuring custody of the youth for the purpose of identification, processing, or transfer of the youth to an appropriate detention or shelter care facility;
- d. The area is not designed or intended to be used for residential purposes; and
- e. The youth is under continuous visual supervision by a law enforcement officer or by facility staff during the period of time that the youth is held in detention.

4.16.0 YOUTH RIGHTS WAIVER FOR YOUTHS 16 AND 17 YEAR OF AGE

AS A YOUTH 16 OR 17 YEARS OF AGE, YOUR RIGHTS ARE:

PLACE: _____

DATE: _____ TIME: _____

IN/DR#: _____

PARENTAL NOTIFICATION:

DATE: _____ TIME: _____

PERSON NOTIFIED: _____

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to an attorney.
4. If you cannot afford to hire an attorney, one will be appointed to represent you.
5. You can decide at any time to exercise your rights and not answer any questions or make any statements.
6. You have the right to have your parent or guardian or another responsible person notified that you are in custody for questioning. Your parent or guardian will be notified unless you decide that you do not want notice to be given before you answer questions.

YOUTH WAIVER

I have read and understand my rights as shown above. I am willing to answer questions and make a statement. I know what I am doing. I do not want an attorney at this time. No promises or threats have been made to me and no pressure of any kind has been used against me.

SIGNATURE: _____

DATE: _____ TIME: _____

AGE: _____ DATE OF BIRTH: _____

WITNESS: _____

WAIVER OF RIGHT TO PARENTAL NOTIFICATION

I do not want to have my parent or guardian notified that I am in custody before answering questions.

SIGNATURE: _____

DATE: _____ TIME: _____

WITNESS: _____

4.16.0 YOUTH RIGHTS WAIVER FOR YOUTHS UNDER THE AGE OF 16

YOUTH STATEMENT OF RIGHTS

Before Law Enforcement Officers ask you any questions, you must understand your rights.

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right to talk to a lawyer before we ask you any questions and have them with you while you are being questioned.
4. If you or your parents cannot afford a lawyer, one will be appointed for you.
5. You can decide at any time to exercise your rights and stop talking.

I have been advised of my rights and understand what my rights are.

SIGNED BY THE YOUTH: _____

WAIVER OF RIGHTS

_____ YOUTH IS 16 YEARS OF AGE OR OLDER

_____ YOUTH AND PARENT OR GUARDIAN MAKING WAIVER

Youth is under the age of 16 and parent or guardian - agree.

_____ YOUTH MAKING WAIVER UPON ADVICE OF COUNSEL

Youth is under the age of 16 and parent or guardian - disagree.

_____ The undersigned having been advised of the constitutional and statutory rights of the youth hereby waive said rights and agree to make a statement.

DATE: _____ TIME: _____

AGE: _____ DATE OF BIRTH: _____

WITNESS: _____

PARENT: _____

GUARDIAN: _____

ATTORNEY: _____

TRANSPORTING SUSPECTS IN CUSTODY

P5-2012-V4.0

5.0.0 PURPOSE

The purpose is to establish guidelines for the transporting of suspects (prisoners) in custody.

5.1.0 POLICY

An officer transporting a suspect should always protect the safety and well-being of the officer, the suspect, and the public.

5.2.0 RESTRAINT EQUIPMENT

5.2.1 The use of handcuffs should be the preferred method while transporting suspects. Handcuffs should be applied immediately prior to and during transport, except in circumstances where the arresting officer determines the use of handcuffs would not be appropriate.

5.2.2 Officers should exercise caution in the application of handcuffs to ensure that they are applied correctly, and do not cause injury or unnecessary discomfort. When applying handcuffs, the following method of use should be employed:

- a. The suspect's wrists should be secured behind the back with the preferred application of the back of the hands together.
- b. If the above method is not attainable for suspects whose physical size or limitations prevents their arms from being joined behind their back, then persons may be handcuffed as described:
 - The suspect's hands will be secured in front of them with the back of the hands together.
 - The handcuffs should be secured through the suspect's belt and the belt laced through the pants so that the belt buckle is exposed to their backside.

- Alternate restraint devices or two sets of handcuffs may be employed to secure the suspect's wrists behind them.
- 5.2.3 Suspects whose hands and or wrists are too small for regular handcuffs will be secured with alternative restraint devices.
- 5.2.4 Handcuffs should be double locked to prevent injury to the suspect's hands or wrists.
- 5.2.5 Officer should make a visual inspection of the suspect's wrists, looking to see that the handcuffs are not applied too tightly.
- 5.2.6 Supplemental restraints may be used when the arresting officer has cause to believe that the suspect presents a substantial risk of escape, violent resistance, or injury to themselves or others.
- 5.2.7 Officers will not attach handcuffs to leg restraints behind the back.

5.3.0 TRANSPORT VEHICLE

- 5.3.1 Vehicles used in transporting suspects should have a barrier separating the driver from the suspect.
- 5.3.2 The transport vehicle should be so equipped and or modified to minimize opportunities for the suspect to exit from the rear compartment of the vehicle without the aid of the transporting officer.
- 5.3.3 While transporting suspects, officers should closely monitor the suspect to ensure they have an unobstructed airway and are breathing properly. Officers should be aware of positions which might restrict a person's ability to breathe, or of other medical or physical conditions which might affect the person's well being.
- 5.3.4 The officer should check the transport vehicle for weapons or contraband prior to and after transporting a suspect.

5.4.0 PROCEDURE

- 5.4.1 To maximize the safety of officer(s), the suspect(s) and the public, the following procedures should be used in transporting suspects in custody.
- 5.4.2 A search incident to arrest of the person in custody must be conducted prior to placing them in a law enforcement vehicle. Exceptions should only be considered under the most serious of circumstances. When safe and practical, searches incident to arrest shall be conducted within the view of a police vehicle mounted recording device.
- 5.4.3 Suspects should be placed in the rear seat of the vehicle on the passenger side with the seat belt securely fastened, unless the seat belt cannot be safely fastened without significant risk of injury to the officer.
- 5.4.4 If feasible, female suspects ~~being transported~~ should be transported or accompanied by a female officer or second officer.
- 5.4.5 Whenever a suspect is transported, the starting odometer reading, location, and destination should be reported by radio or cell phone at the initiation and termination of the transport.
- 5.4.6 If a suspect reports or complains of an injury, as a result of the use of handcuffs or during transport, photos of the injury and a written report will be provided with the arrest report. If the suspect requests medical attention, the arresting officer will make every effort to accommodate the request.

5.5.0 EXTENDED TRANSPORTS

- 5.5.1 During normal suspect transports, a rest stop should not be required. Prior to leaving a facility on an extended transport, the officer should allow the suspect to use the rest room.
- 5.5.2 If while at the hospital, court, or on an extended transport the suspect requires use of the rest room, the officer should accompany the suspect to the rest room keeping the suspect in the officers field of vision. Only officers of the same sex as the suspect may accompany suspects to the rest

room to perform these functions.

- 5.5.3 Upon leaving any of the previously noted locations, the officer should search the suspect prior to resuming transport. Whenever the transport vehicle is left unattended, the vehicle should be locked.
- 5.5.4 If an officer is required to perform an extended transport and the suspect requires a rest stop, the officer should use appropriate care and caution in determining the proper place to stop. Isolated gas stations in rural areas involve the least hazard.
- 5.5.5 The officer should never allow the suspect out of sight.
- 5.5.6 Extended transports require an officer of the same sex as the transported suspect.
- 5.5.7 The officer should always be cognizant of other persons who may desire to prevent a successful transport.
- 5.5.8 If a suspect attempts to escape from custody, the officer should summon assistance and subdue the suspect using the force necessary to maintain custody.

5.6.0 PERFORMING LAW ENFORCEMENT SERVICES WHILE IN TRANSPORT

- 5.6.1 An officer should not respond to or engage in other law enforcement activities while transporting a suspect, unless the incident is of such magnitude that an officer or other person is placed in jeopardy of serious bodily harm or death. The officer should be constantly concerned with the safety of the suspect, and should not expose the suspect to unnecessary hazards.

5.7.0 ESCAPE OF A SUSPECT IN TRANSPORT WITHIN JURISDICTION

- 5.7.1 In the event of an escape of a suspect, the officer shall notify dispatch of the escape and the direction of travel. Dispatch will direct additional units to respond to assist in the apprehension.
- 5.7.2 If the officer discovers that a suspect is missing and not in sight, the officer

must decide whether the suspect is within an enclosed area the officer can control. If the suspect is contained, the officer should:

- a. Maintain his/her position blocking the suspect's escape.
- b. Notify Dispatch of his/her location and status.
- c. Await the arrival of assisting officers to aid in the search.

5.7.3 If the officer has reason to believe that the suspect is not within a confined area and is out of sight, the officer should:

- a. Notify Dispatch of the officer's location and status.
- b. Broadcast an appropriate "be on the lookout" message;
 - describing the escapee;
 - providing the last known location of the subject;
 - providing the direction of travel if known;
 - description of the escapee including clothing; and
 - criminal charges pending or convicted of.
- c. Notify the supervisor.

5.7.4 Under no circumstances should the supervision of other suspects be relaxed to pursue an escaping suspect.

5.7.5 A written report of the escape or escape attempt will be completed. The report will include any use of force deployed, circumstances for the use of force, specific events leading up to the escape or escape attempt, and the action of the officer.

5.7.6 If the suspect is injured during the escape or escape attempt or recapture, the officer should transport the suspect to a medical facility. If the injuries are severe enough to preclude transport in a law enforcement vehicle, the suspect will request and transport in an ambulance. Suspects transported in an ambulance will be accompanied by an officer.

5.8.0 ESCAPE OF A SUSPECT IN TRANSPORT OUTSIDE JURISDICTION

5.8.1 If the escape occurs while an officer is conducting transport outside the

department's jurisdiction, the officer should:

- a. Immediately summon assistance by notifying the local law enforcement authority, including:
 - a summary of the situation;
 - description of the escapee including clothing; and
 - the criminal charges pending or convicted of.
- 5.8.2 The officer should then notify his or her supervisor of the incident.
- 5.8.3 The officer should file a report in the jurisdiction where the escape occurred while maintaining a copy to include with their agencies incident report.
- 5.8.4 If the escaped suspect is recaptured by an officer, the suspect should immediately be thoroughly searched for weapons or contraband. The suspect should then be placed in appropriate restraints and transported to the original destination or the agency having jurisdiction where the escape occurred.
- 5.8.5 Under no circumstances should the supervision of other suspects be relaxed to pursue an escaping suspect.
- 5.8.6 A written report of the escape or escape attempt will be completed. The report will include any use of force deployed, circumstances for the use of force, specific events leading up to the escape or escape attempt, and the action of the officer.
- 5.8.7 If the suspect is injured during the escape or escape attempt or recapture, the officer should transport the suspect to a medical facility. If the injuries are severe enough to preclude transport in a law enforcement vehicle, the suspect will request and transport in an ambulance. Suspects transported in an ambulance will be accompanied by an officer.

5.9.0 MEALS DURING EXTENDED TRANSPORTS

- 5.9.1 On extended transports the officer should either make arrangements to have the suspect fed prior to the transport or make arrangements with the

destination facility to feed the suspect within 1 hour of a normally scheduled meal time and or upon arrival.

- 5.9.2 If the transport requires a meal stop before reaching the destination, the officer should plan the route of transport and make arrangements with a local law enforcement agency to feed the suspect at a local detention facility.
- 5.9.3 If the local detention facility cannot feed the suspect but will hold the suspect in custody, the officer may obtain a meal and feed the suspect at a local holding facility. If utensils are required to eat the meal they should be made of plastic. All containers and utensils should be accounted for at the end of a meal.
- 5.9.4 If the local detention facility cannot hold or feed the suspect in custody the officer should obtain the meal at a randomly selected "drive-in" restaurant and conduct the feeding in the patrol vehicle or provide a sack lunch prior to the transportation at a randomly selected site.
- 5.9.5 The suspect should again be searched for weapons or contraband prior to being placed in the transport vehicle.
- 5.9.6 In no case should the officer take the suspect into a public dining room or restaurant.

5.10.0 TRANSPORT TO A MEDICAL FACILITY

- 5.10.1 Suspects requiring medical treatment should be transported to a medical facility. Officers should provide advanced notification to the medical facility that they are transporting a suspect to the facility for treatment. The notification should include the following:
 - a. What medical condition requires treatment;
 - b. What is the expected arrival time;
 - c. What if any, risks does the suspect poses to the medical staff or public.
 - d. What measures will be in place to minimize any such risks.Upon arrival, the officer should maintain close contact with the suspect to

ensure the safety of the medical staff, public, and the officer. The officer should take precautions to restrict the suspect's opportunity to escape.

- 5.10.2 The officer should remain with the suspect at all times during the examination and treatment. The officer should be of the same sex as the suspect.
- 5.10.3 Restraints should not be removed from the suspect unless the medical staff request removal of these restraints. When removing restraints, use utmost caution and only remove those restraints that are necessary for treatment or are requested by the medical staff. In some cases alternative restraints may be appropriate. ~~When handcuffs are removed, use ankle or leg restraints.~~
- 5.10.4 Upon completion of the treatment, place the restraints back on the suspect.
- 5.10.5 If the required medical treatment restricts the officer's access to the suspect or the use of the restraints, the officer should comply with the attending physician's directions after the physician has been advised of safety concerns. If the suspect is a risk to the officer's safety or the safety of the medical staff or may escape, the officer should notify their supervisor and request additional assistance.
- 5.10.6 If the suspect is admitted into the hospital, the officer in control of the suspect will notify their supervisor as soon as practical for a decision as to whether an officer will be assigned as a guard to keep watch over the suspect.
- 5.10.7 The officer should obtain all documents, medical releases and or medications from the hospital when the treatment is completed. If the suspect is to be incarcerated, the transporting officer should ensure all documents, medical releases and or medications are turned over to the receiving officer at the detention facility.
- 5.10.8 If the suspect refuses medical treatment, this should occur in the presence of medical staff. The officer should prepare documentation of the refusal

and include those persons present at the time of refusal in their report. The officer may sign the release form for the arrestee's refusal.

5.10.9 Upon conclusion of medical treatment or refusal of medical treatment the officer shall prepare a written report that should include the following:

- a. A description of the injuries;
- b. A detailed explanation of how the injuries occurred, if unknown, state so and explain. (i.e. suspect had head injuries prior to arrest).
- c. Photos of injuries, if appropriate;
- d. Treatment provided;
- e. Who treated the suspect; and
- f. The place, date and time treatment was provided.

5.11.0 TRANSPORT TO COURT

5.11.1 When a suspect is required to appear in court, the officer should preplan the transport by acquiring the following information:

- a. Suspect's name;
- b. Charges pending;
- c. Any pertinent criminal history;
- d. Any other holds and or warrants;
- e. The courtroom and judge scheduled for the suspect's appearance;
- f. The date and time of the required appearance.

5.11.2 Officers transporting suspects to court should coordinate the appearance of the suspect with the Court Clerk and follow their procedures.

5.11.3 In cases where the escape risk is great or there is a security hazard, the judge should be notified prior to transport. The judge may allow or direct the use of restraining devices in the court room and may request additional security officers.

5.11.4 In escorting the suspect from the vehicle into the court, the following procedures should be adhered to, under normal circumstances:

- a. The officer should walk to the side and slightly to the rear of the

- suspect, keeping their weapon side away from the suspect;
 - b. The officer should not turn their back on the suspect;
 - c. The officer should not allow another person to come between themselves and the suspect;
 - d. The officer should avoid crowded situations where the suspect might have contact with others;
 - e. The officer should not allow the suspect to have contact with other persons.
- 5.11.5 Once in the courtroom, the officer controlling the suspect(s) should, to the extent possible, segregate them from the general public. The officer shall ensure the suspect(s) are sufficiently removed from the public in order to prohibit contact between the suspect and the public.
- 5.11.6 The officer should be aware at all times of the critical security role assigned to them. The officer should be aware that the victim's and suspect's families represent one of the greatest dangers and may be present during the court appearance.

5.12.0 SPECIAL TRANSPORT SITUATIONS

- 5.12.1 Physically and mentally disabled suspects present conditions that dictate special care and attention for transportation.
- 5.12.2. If a suspect declares or the officer observes a disability that would preclude the suspect from being placed in the vehicle, the officer should notify the on-duty supervisor of the problem. The supervisor should evaluate the situation and request an ambulance or other form of transportation device that is suitable for transport.
- 5.12.3 If a suspect becomes sick or injured during transport, the officer shall seek the appropriate level of medical care for the suspect.
- 5.12.4 Juvenile and adult prisoners should not be transported in the same police vehicle unless some exigent circumstance exists.

5.13.0 SUPERVISED TRIP TRANSPORT

- 5.13.1 Unusual circumstances surrounding situations such as funerals and visits to hospitals, or courtroom appearances provide extraordinary opportunities for a suspect to engage in unauthorized personal contact, escape, or the infliction of injury to themselves or others.
- 5.13.2 Maximum supervision should be required when transporting suspects approved for supervised trips.
- 5.13.3 In transport situations where there is doubt whether or not restraint equipment should be used, the decision should be reviewed by the supervisor authorizing such transport prior to departure or in compliance with a court order. The following procedures should be followed prior to conducting a special transport:
 - a. Careful planning made prior to departure to determine any special or significant factors involving possible security hazards;
 - b. The suspect is thoroughly instructed regarding forbidden practices, communications or unauthorized contacts;
 - c. The suspect and officer(s) should be "inseparable companions" and the suspect should be so advised;
 - d. Layovers should be planned so that approved jails or institutions are utilized for temporary holding;
 - e. The return of the suspect to the facility following termination of the visit, funeral or courtroom appearance is by means that provide for the most expeditious return.
 - f. The suspect should be searched and restrained as soon as practical, prior to and during transport.

5.14.0 ARRIVAL AT A DETENTION OR HOLDING FACILITY

- 5.14.1 Upon arrival at the destination, the officer should notify dispatch and follow their protocol.

- 5.14.2 The officer should deliver all the necessary paperwork and required legal documents to the receiving officer at the holding facility.
- 5.14.3 The officer should obtain a receipt from the receiving officer for the suspect and his/her personal property.

5.15.0 COMMUNICATIONS BETWEEN SUSPECT AND CIVILIANS

- 5.15.1 While transporting a suspect, officers should not allow the suspect to have contact with other persons including the suspect's attorney. The lack of control of the physical surroundings by the officer during transport precludes suspect contact with anyone.

5.16.0 DOCUMENTATION

- 5.16.1 Each suspect being transported from a detention facility should be positively identified as the person who is required to be moved.
- 5.16.2 In the case of interstate transports, the officer should have a properly executed governor's warrant or a properly executed waiver of extradition.

PARTNER FAMILY MEMBER ASSAULT

6.0.0 PURPOSE

The purpose is to provide guidance to officers and support personnel with definitions and direction for providing and promoting a consistent, effective response to partner family member assault.

6.1.0 DEFINITIONS

6.1.1 “Partner or Family Member Assault” is defined in 45-5-206, MCA as:

- a. purposely or knowingly causes bodily injury to a partner or family member;
- b. negligently causes bodily injury to a partner or family member with a weapon; or
- c. purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

6.1.2 “Family Member” is defined as:

- a. mothers;
- b. fathers;
- c. children;
- d. brothers;
- e. sisters;
- f. other past or present family members of a household.

These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

6.1.3 “Partners” are defined as:

- a. spouses;
 - b. former spouses;
 - c. persons who have a child in common; and
 - d. persons who have been or are currently in a dating or ongoing intimate relationship.
- 6.1.4 "Peace Officer" is defined as any person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order, and make arrests for offenses while acting within the scope of the person's authority.
- 6.1.5 "Employee" is defined as any person currently employed with this agency.

6.1.0 POLICY

- 6.1.1 Officer(s) will respond to and investigate all reports of partner family member assault.
- 6.1.2 Officer(s) should make an arrest (pursuant to 45-5-206 and 45-5-209 MCA) where probable cause exists that a person has:
- a. purposely or knowingly causes bodily injury to a partner or family member;
 - b. negligently causes bodily injury to a partner or family member with a weapon;
 - c. purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member; or
 - d. violated an order of protection or a no-contact order.
- 6.1.3 Officers are discouraged from making dual arrests in partner family member assault incidents by determining and arresting the predominate aggressor.

6.2.0 PROCEDURE

- 6.2.1 The objectives for intervention by law enforcement in partner family member assault incidents are to:
- a. Restore and maintain order.
 - b. Render emergency assistance and/or aid.
 - c. Make an arrest for the applicable criminal offenses.
 - d. Reduce the incidents and severity of partner/family member assaults.
 - e. Afford maximum protection and support to adult and child victims of domestic violence through coordinated services of law enforcement and victim assistance.
- 6.2.2 To accomplish these objectives, every law enforcement officer shall make an arrest as the preferred response to the incident, when authorized by state law, instead of using mediation, separation or other intervention techniques.
- 6.2.3 Criteria for determining the predominant aggressor are:
- a. Prior history/complaints of partner/family member assault;
 - b. Relative severity of injuries to involved parties;
 - c. Did one party act in self-defense;
 - d. Apparent fear or lack of fear;
 - e. Relative size and or apparent strength of parties; and
 - f. Statements of witnesses.
- 6.2.4 Officer(s) shall treat all acts of partner family member assault as criminal conduct.
- 6.2.5 Officer(s) must Immediately report all known or suspected cases of partner family member assault and abuse, elder abuse or child abuse to the Department of Public Health and Human Services (DPHHS) as required by state law;

- 6.2.6 Document the facts of the incident and the subsequent investigation (arrest or non-arrest). If no arrest is made, the officer shall document the reason(s) for no arrest in a report to the Agency Administrator.
- 6.2.7 Officers are required by law to distribute to victims of partner family member assault, the “Notice of Rights to Victim in Partner or Family Member Assault”.
- 6.2.8 When possible, it is the preferred response to incidents of partner family member assault that the dispatched officer will respond with back up. ~~in~~ ~~teams of two.~~
- 6.2.9 Officers shall seize any weapon used or threatened with use in the alleged assault. Any weapon seized in relation to a partner or family member assault may not be returned to the offender until acquittal or upon issuance of a court order.
 - a. A weapon is any object used or threatened to be used to harm another.
- 6.2.10 Officers should assist or allow (stand by) while a victim and any other member of the household remove necessary personal items and, if practical, transport them to a safe location.
- 6.2.11 Officers will investigate and prepare the appropriate reports pertaining to any and all incidents of partner family member assault.

6.3.0 ENFORCING FOREIGN PROTECTION ORDERS

- 6.3.1 Only the Respondent under an Order of Protection may be cited for violation of that order.
- 6.3.2 The Petitioner may not be cited for violating the order.
- 6.3.3. All foreign protection orders from any other jurisdiction to include Tribal, Territories, and States will be enforced as written including provisions, which grant relief not available in Montana as prescribed in 40-15-404, MCA.

- 6.3.4 All foreign protection orders are presumed valid upon presentation to law enforcement. Foreign protection orders do not have to be entered into the CJIN/NCIC system to be considered valid and enforceable.
- 6.3.5 If the victim does not present a copy of the foreign order, but claims it is valid, there is a presumption of validity of the order until proven otherwise. Immunity from civil action in the matter concerning a foreign protection order is provided under 40-15-406, MCA.

EMPLOYEE INVOLVED PARTNER FAMILY MEMBER ASSAULT

7.0.0 PURPOSE

The purpose is to provide guidelines for investigating, reporting and responding to partner family member assault incidents involving agency employees.

7.1.0 POLICY

7.1.1 Public confidence in law enforcement is important to our ability to maintain public safety. The public must trust that law enforcement employees are held to the standards of the law regarding partner family member assaults.

7.1.2 Therefore the agency should:

- a. Promptly respond to all allegations of partner family member assault by an employee according to this policy and all applicable laws.
- b. Give primary consideration to protection of the victim of partner family member assault and enforcement of the laws.
- c. Respect the due process rights of all employees.
- d. Expeditiously report and conduct thorough investigations into any allegation of an agency employee involved in partner family member assault.
- e. Train employees and seek to educate their families about intimate violence and resources for assistance.

7.2.0 DEFINITIONS

7.2.1 "Partner or Family Member Assault" is defined in 45-5-206, MCA as:

- a. purposely or knowingly causes bodily injury to a partner or family member;

- b. negligently causes bodily injury to a partner or family member with a weapon; or
- c. purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

7.2.2 “Family Member” is defined as:

- a. mothers;
- b. fathers;
- c. children;
- d. brothers;
- e. sisters;
- f. other past or present family members of a household.

These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

7.2.3 “Partners” are defined as:

- a. spouses;
- b. former spouses;
- c. persons who have a child in common; and
- d. persons who have been or are currently in a dating or ongoing intimate relationship.

7.2.4 “Peace Officer” is defined as any person who by virtue of the person’s office or public employment is vested by law with a duty to maintain public order, and make arrests for offenses while acting within the scope of the person’s authority.

7.2.5 “Employee” is defined as any person currently employed with this agency.

7.3.0 POLICY

- 7.3.1 This Agency shall maintain ongoing and meaningful relationships with victim advocacy groups, victim's advocates, and other partner family member assault professionals in the community. Connect victims to these resources, as available and appropriate.
 - a. As able, work with advocacy groups to provide safe a safe location for the victim, track phone to call for assistance or other means of support for a victim in need of assistance.
- 7.3.2 This Agency shall provide education to agency employees on the dynamics of interpersonal violence.
- 7.3.3 This Agency shall provide information on partner family member assault policies to all agency employees, and make it available to their families and the public.
- 7.3.4 This Agency shall provide victims of partner family member assault, committed by agency employees, an agency contact to assist the victim through the investigative process. Consideration should be given to selecting a point of contact at least one rank higher than the perpetrator and ideally someone other than the investigator.
- 7.3.5 This Agency shall provide victims of partner family member assault, committed by agency employees, contact information about public, private, and or not for profit partner family member assault services, and information regarding confidentiality related to the victim's information.
- 7.3.6 This Agency shall consider whether to relieve a sworn employee of agency-issued weapon, equipment, and identification; as well as suspending law enforcement powers pending resolution of an investigation.
- 7.3.7 Provide for an impartial and appropriate criminal investigation of all acts of partner family member assault allegedly committed by a sworn

employee. The criminal investigation may be conducted by an outside agency.

7.4.0 EMPLOYEE RESPONSIBILITIES

- 7.4.1 Employees with knowledge or information about any employee in violation of this policy must immediately report in writing to their supervisor such information or knowledge.
- 7.4.2 Failure to report may subject the employee to disciplinary action.
- 7.4.3 Employees are expected to fully cooperate with the investigation of allegations under this policy as requested by a supervisor, investigator or by court subpoena.

7.5.0 SUPERVISOR RESPONSIBILITIES

- 7.5.1 Supervisors should strive to be aware of behaviors in their subordinates that could be indicative of partner family member assault and properly process and act upon their observations of such behavior.
- 7.5.2 All agency supervisors should ensure that partner family member assault incidents are properly recorded and processed according to this policy and state law.

7.6.0 INCIDENT RESPONSE

- 7.6.1 Notification of an incident of partner family member assault involving any employee requires:
 - a. A prompt response;
 - b. Full investigation;
 - c. A written report by this agency
- 7.6.2 Patrol responses to the scene of partner family member assault involving employees will require on-scene supervisory presence.

- 7.6.3 All incidents of partner family member assault by agency employees require notification through the chain of command to the agency head.
- 7.6.4 The agency head may delegate responsibility for receiving such reports to a specialized person. Anyone so designated should have specialized training regarding the dynamics of violent relationships, victim safety, and the role of advocacy. The assignment should be reviewed each time for potential conflict of interest.
- 7.6.5 In the event of a report of partner family member assault alleged to have been committed by the agency head, prompt notification should be made to the employing entity's chief executive officer, or in the case of an elected Sheriff, the County Prosecutor.

7.7.0 COMMUNICATIONS AND CALL TAKING

- 7.7.1 Communication Center employees receiving partner family member assault calls involving agency employees should enter a call for service, and notify the appropriate supervisor.
- 7.7.2 If no supervisor is available to respond to the scene, communications center employees should notify an on-call supervisor.
- 7.7.3 Prepare and preserve documentation of the facts of the call including any and all recordings such as the 911 recording. Ensure any indications of alcohol/drug use are indicated in the reports. Ensure that the presence of children is also included in the report. Document prior history of assaults, including the existence and/or violation of any orders of protection, no-contact orders, warrants or if the offender is on probation.

7.8.0 PATROL RESPONSE

- 7.8.1 An officer responding to an incident described as partner family member assault involving an employee, whenever possible, shall request a supervisory response to the scene.

7.8.2 Whenever feasible and available, officers should have audio recording (or body camera when/where allowed by policy) on during the entire incident.

7.8.3 Conduct investigation, to include, but not limited to, the following:

- a. Gather photographs of the crime scene, including injuries to all subjects involved (victim and suspect) and photographs of all persons present during the assault;
- b. Gather photographs of injuries in days following the assault;
- c. Obtain statements (audio recorded if possible) from all victims and witnesses, including children;
- d. Obtain copies of all 9-1-1 recordings and related dispatch CAD records;
- e. Obtain statement from reporting party of the assault;
- f. If victim contacted anyone after the assault, obtain statement from that person(s);
- g. Obtain statement (audio recorded if possible) from the suspect, in accordance with Interrogation policy of department;
- h. Obtain medical releases from victim and gather all medical documentation of injuries;
- i. Seize other pertinent evidence of the crime. 7.8.3 The primary officer shall inquire if the victim requests any guns or specific weapons be removed for safekeeping and accommodate removal.

7.8.4 The primary officer should complete the report as soon as possible but prior to the completion of their shift.

7.8.5 Access to the report should be restricted except as mandated by law.

7.8.6 Patrol officers responding to suspicious circumstances, compelling third party accounts of incidents, unexplained property damage, or other troubling event involving agency employees should complete written reports of the incidents.

7.9.0 SUPERVISOR RESPONSE

- 7.9.1 A supervisor shall respond whenever practical to the scene of any partner family member assault incident involving an agency employee.
- 7.9.2 The supervisor shall coordinate the investigation, and ensure command notification.
- 7.9.3 The supervisor should write a report, whether deemed criminal or not and route it through the chain of command.
- 7.9.4 If an agency employee is arrested, the supervisor should contact the agency head who should order the surrender of agency-issued weapon and identification. Inquiries should be made about voluntary surrender of personal weapons that may be secured for safekeeping.
- 7.9.5 The supervisor should endeavor to provide a good faith effort to locate the suspect if there is probable cause for an arrest.
- 7.9.6 The supervisor should explain the process to the victim including the “Notification of Rights of a Victim”, and offer to provide an on-scene advocate.
- 7.9.7 The supervisor should provide the victim with a copy of this policy and contact information and act as the agency contact until an assignment is made.

7.10.0 COMMAND – ADMINISTRATIVE RESPONSE

- 7.10.1 The command officer notified of an incident covered by this policy should see that the agency head is notified promptly of such incident.
- 7.10.2 The command officer should respond to the scene if the involved employee is a sergeant or above, or if the situation demands a command presence.
- 7.10.3 The command officer should make a decision regarding removal of the involved employee’s law enforcement powers, duty weapon and other

agency owned equipment, pending the outcome of the investigation and possible prosecutorial charging decision.

7.10.4 The command officer should issue an administrative order prohibiting contact with the victim if appropriate.

7.10.5 All actions taken and decisions made should be forwarded to the agency head for review and further action.

7.11.0 ADMINISTRATIVE PROCESS

7.11.1 The agency should observe all other appropriate policies and procedures generally applicable to investigation of alleged employee misconduct. The agency should respect rights of the accused employee under applicable collective bargaining agreements and case law.

7.11.2 Administrative investigations should be conducted as designated by policy, or by an outside agency as directed by the agency head.

7.11.3 Where sufficient information exists, the agency should make appropriate restrictions to assignments, law enforcement powers, building and record access, and consider administrative reassignment and/or leave.

7.11.4 In determining the proper course of action, the agency may consider consulting with treatment professionals and reviewing such factors as the employee's past conduct and history of complying with agency rules.

7.11.5 Agency employees may be ordered to undergo fitness for duty evaluation or assessment by a partner family member assault treatment provider prior to any disposition, depending on circumstances and in accordance with administrative policy, and applicable collective bargaining agreements.

SEARCH AND SEIZURE

8.0.0 PURPOSE

The purpose is to provide guidelines to officers regarding searches and seizures and Montana's actual and enhanced right to privacy.

8.1.0 POLICY

8.1.1 This Agency shall conduct searches and seizures in accordance with law contained within Montana Code Annotated (MCA), specifically the following sections:

- a. 44-12-103 MCA - "When Property May be Seized"
- b. 46-5-101 MCA - "Searches and Seizures"
- c. 46-5-102 MCA - "Scope of Search Incident to Arrest"
- d. 46-5-103 MCA - "When Search and Seizure is Not Illegal"

8.1.2 This Agency recognizes that the basic concept of the United States and Montana Constitution is to prohibit searches that are conducted without a warrant, unless certain conditions prevail.

8.2.0 STOP AND FRISK

8.2.1 "Investigative Stop" - In order to obtain or verify an account of the person's presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of the vehicle has committed, is committing, or is about to commit an offense, all as prescribed in 46-5-401, MCA.

8.2.2. "Stop and Frisk - A peace officer who has lawfully stopped a person under "Investigative Stop", (46-5-401, MCA) or this section:

- a. may frisk the person and take other reasonably necessary steps for protection if the officer has reasonable cause to suspect that

the person is armed and presently dangerous to the officer or another person present;

- b. may take possession of any object that is discovered during the course of the frisk if the officer has probable cause to believe the object is a deadly weapon;
- c. may request the name and present address of the person and an explanation of the persons actions;
- d. if the person is the driver of a vehicle, demand the person's drivers license, vehicle registration and proof of insurance; and
- e. shall inform the person, as promptly as possible under the circumstances and in any case before questioning the person, that the officer is a peace officer, that the stop is not an arrest but rather a temporary detention for an investigation, and that upon completion of the investigation, the person will be released if not arrested, all as prescribed in 46-5-402, MCA.

8.2.3 "Duration of Stop" - A stop authorized by an "Investigative Stop", (46-5-401, MCA) or "Assisting an Officer of Another State", (46-6-411, MCA) may not last longer than is necessary to effectuate the purpose of the stop, all as prescribed in 46-5-403, MCA.

8.3.0 SEARCH INCIDENT TO AN ARREST

8.3.1 When officers make a lawful custodial arrest, they may search the person, and the area within the person's immediate control, for the purpose of:

- a. protecting the officer from attack;
- b. preventing the person from escaping;
- c. discovering and seizing the fruits of the crime;
- d. seizing any person, instruments or articles which may have been used in the commission of or which may constitute evidence of the offense if

exigent circumstances exist. The search should be made as soon as reasonably possible after the arrest has been made.

8.3.2 A search incident to a lawful arrest is not rendered illegal simply because it precedes rather than follows the arrest. This rule is subject to three limitations:

- a. the officer must have been able to effect a lawful arrest at the time of making the search;
- b. the actual arrest must be substantially contemporaneously with the search; and
- c. the search must satisfy the permissible scope and purposes of a search incident to a lawful arrest.

8.3.3 Articles found during this search that are generally admissible include weapons, fruits of the crime and instruments of the crime. In the event that contraband or fruits of another crime are discovered that do not relate directly to the crime for which the arrest was made, that discovery must be inadvertent in nature.

8.3.4 The arresting officer may use only the amount of force necessary to reach the objectives of the search.

8.4.0 CONSENT SEARCHES

8.4.1 A person may consent to a search of their person, premises, vehicle or other item within the person's control. This consent to search must be voluntary and officers must advise the person of their right to refuse the search. The consent to search must be free of coercion, duress, and misleading statements. The Miranda Warning is not required as part of the voluntary consent to search notification. Officers should obtain a written consent to search.

8.4.2 Officers will read the Consent to Search form approved for use within its jurisdiction in its entirety and have the person who has the legal right to

give permission for the search sign and date the form to attest to their knowledge of their right to refuse permission to search.

8.4.3 Officers must provide the individual a list of items seized pursuant to the consent to search.

8.5.0 SEARCH WARRANTS

8.5.1 “Authority to Issue Search Warrant” - A Peace Officer, the City or County Attorney, or the Attorney General may apply for a search warrant. A search warrant may be issued by a city or municipal court judge or justice of the peace within the judge's geographical jurisdiction; or a district court judge within this state, all as prescribed in 46-5-220, MCA.

8.5.2 Search warrants should be obtained in cooperation with the City Attorney, County Attorney, or Attorney General. A search conducted under the authority of a warrant has undergone prior review by the court. The court of issuance has established through the review that the standards for probable cause have been met.

8.5.3 Advice concerning the technical aspects of issuing, executing and returning a search warrant may be obtained from the City / County Attorney, or Attorney General.

8.5.4 “Grounds for Search Warrant” - A judge shall issue a search warrant to a person upon application, in writing or by telephone, made under oath or affirmation, that:

- a. states facts sufficient to support probable cause to believe that an offense has been committed;
- b. states facts sufficient to support probable cause to believe that evidence, contraband, or persons connected with the offense may be found;
- c. particularly describes the place, object, or persons to be searched;
and

d. particularly describes who or what is to be seized, all as prescribed in 46-5-221, MCA.

8.5.5 “Search Warrants Issued by Telephone” - Whenever an application for a search warrant is made by telephone, the applicant shall, in addition to the requirements contained in “Grounds for a Search Warrant”, (46-5-221, MCA), state reasons to justify immediate issuance of a search warrant. All testimony given over the telephone that is intended to support an application for a search warrant must be given on oath or affirmation and must identify the person testifying. For the purpose of this section, the judge is authorized to administer an oath or affirmation by telephone. Sworn or affirmed testimony given over the telephone must be electronically recorded by the judge or a peace officer on a recording device in the custody of the judge or a peace officer when the application is made. If the recording is made by the judge the recording must be retained in the court records and must be transcribed verbatim as soon as possible after the application is made. The recording must include the time and date it was recorded. If the recording is made by the peace officer the recording must be transcribed verbatim as soon as possible after the application is made. The recording must contain the time and date when it was recorded. The peace officer making the recording shall, as soon as possible, provide the judge with the original recording and a transcription of the recording so that the judge may expeditiously verify the accuracy of the transcription. The original recording must be retained in the court records. The peace officer making the recording shall secure a copy of the recording and transcription of the recording in the same manner as other evidence is secured. If the judge approves a warrant over the telephone, the peace officer serving the warrant shall sign the search warrant in the officer's own name and in the judge's name. The peace officer signing the judge's

name shall initial the judge's name indicating the signature was authorized by the judge but signed by the officer. Any search warrant issued by telephone must be signed by the issuing judge or the judge's successor as soon as possible after it has been issued, all as prescribed in 46-5-222, MCA.

8.5.6 "To Whom Search Warrant Directed" - A search warrant must be directed to a specific peace officer commanding the officer to search for and seize the evidence, contraband, or person designated in the warrant, all as prescribed in 45-5-223, MCA.

8.5.7 "What May be Seized with Search Warrant" - A warrant may be issued under this section to search for and seize any evidence, contraband, or person for whose arrest there is probable cause, for whom there has been a warrant of arrest issued, or who is unlawfully restrained, all as prescribed in 46-5-221, MCA.

8.5.8 "When Warrant May be Served" - The warrant may be served at any time of the day or night. The warrant must be served within 10 days from the time of issuance. Any warrant not served within 10 days is void and must be returned to the court or the judge issuing the warrant and identified as "not served", all as prescribed within 46-5-225, MCA.

8.5.9 "Service of Search Warrant" - A search warrant must in all cases be served by the peace officer specifically named and by no other person except in aid of the officer when the officer is present and acting in its service, all as prescribed in 46-5-226, MCA.

8.5.10 "Service and Return of search warrant" - Service of a search warrant is made by exhibiting the original warrant or a duplicate original warrant at the place or to the person to be searched. The officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the search warrant and a receipt for the property taken or shall leave the copy and receipt at the place

from which the property was taken. Failure to leave a copy and receipt may not render the property seized inadmissible at trial, all as prescribed in 46-5-227, MCA.

- 8.5.11 “Procedures Assisting in Execution of Service of Search Warrant” - All necessary and reasonable force may be used to serve a search warrant or to effect an entry into any building, property, or object to serve a search warrant. The person serving the search warrant may reasonably detain and search any person on the premises being searched at the time of the search for self-protection or to prevent the disposal or concealment of any evidence, contraband, or persons particularly described in the warrant, all as prescribed in 46-5-228, MCA.
- 8.5.12 Warrant Service – Knocking and announcing the presence of officers and their intent to enter a dwelling or other structure is required and should be usual practice absent exigent circumstances.
- 8.5.13 “Return” - A return must be made promptly and must be accompanied by a written inventory of any evidence or contraband taken, verified by the person serving the warrant. The return must be made before the judge who issued the warrant or, if the judge is absent or unavailable, before the nearest available judge. The judge shall, upon request, deliver a copy of the inventory and the order of custody or disposition to the person from whom or from whose premises the property was taken and to the applicant for the warrant. The judge shall enter an order providing for the custody or appropriate disposition of the evidence or contraband seized pending further proceedings, all as prescribed in 46-5-301, MCA.
- 8.5.14 Articles located that are contraband or the fruits or instruments of any crime may be seized if the article described on the search warrant has not yet been located.
- 8.5.15 When the items named in the warrant are located, the search must stop.

8.6.0 PLAIN VIEW SEARCH

- 8.6.1 Officers may seize evidence, contraband, and persons pursuant to the plain-view doctrine without a warrant under the following circumstances.
- 8.6.2 In order for plain search to occur the officer must be in a lawful position to observe the article and or persons. The article and or persons must be in plain view.
- 8.6.3 The incriminating nature of the article and or persons must be immediately apparent.
- 8.6.4 Evidence seized in a plain view search may provide probable cause for a warrantless vehicle search.
- 8.6.5 Evidence seized in a plain view search may provide probable cause in support of an application for a search warrant vehicle search.

8.7.0 EXIGENT CIRCUMSTANCE SEARCHES

Warrantless entry into private property, including a residence or its land may be made under exigent circumstances. Exigent circumstances exist only when it is not practical to obtain a warrant and when officers must take immediate action to:

- a. preserve evidence that may be damaged or destroyed;
- b. prevent escape of a criminal;
- c. prevent a criminal from committing further criminal acts;
- d. prevent imminent injury or death; or
- d. Render and/or determine the need for emergency medical aid.

8.8.0 OPEN FIELD SEARCHES

- 8.8.1 Officers should carefully consider the circumstances surrounding warrantless entry and searches of open fields. When conditions permit, these decisions should be reviewed in advance with legal counsel.
- 8.8.2 A person may have an expectation of privacy in an area of land beyond the curtilage. When that expectation is evidenced by fencing, signs, or by

other means which indicate entry is not permitted. When there is a reasonable expectation of privacy, entry by law enforcement should be by warrant or consent.

8.8.3 Curtilage is the immediate area around a dwelling house. The residents and/or occupants have the same expectation of privacy in the curtilage as they have in the dwelling, except for areas open to the public. In considering whether the area is part of the curtilage or open fields, the courts examine:

- a. the proximity of the area to the home;
- b. whether the area is included within an enclosure surrounding the home;
- c. the nature of the uses to which the area is put; and
- d. the steps taken by the resident to protect the area from observation by people passing by.

8.8.4 Officers are not precluded from making observations of private land from public property.

8.9.0 ADMINISTRATIVE INVENTORY

8.9.1 Occasionally it becomes necessary for officers to remove motor vehicles from the scene to a location of greater security. This is necessary in cases of abandonment, vehicles involved in traffic accidents (hit and run, etc.) or when certain arrest actions are executed. Officers should refer to their agency's administrative inventory guidelines when conducting an administrative inventory. Once developed, these guidelines should be uniformly administered.

8.9.2 The justification for an inventory, which is to be considered an administrative function, is:

- a. To protect the owner's property when the owner is unable to do so.

b. To protect the officer and the agency against potential civil liability.

8.9.3 During the course of an administrative inventory, when contraband, fruits or instruments of a crime or evidence of a crime are discovered, the officer should halt the inventory and not seize the item or items found. The item should be left in its original location and used as probable cause for a search warrant. Exigent circumstance may arise when the item discovered is of such a nature ~~that's~~ that its immediate seizure is required to prevent the item from being destroyed or the evidence dissipating before a search warrant can be obtained.

8.10.0 CUSTODY AND DISPOSITION OF PROPERTY

8.10.1 Evidence or contraband lawfully seized without a warrant may be retained in the custody of the officer making the seizure for a time sufficient to complete an investigation.

8.10.2 Notice of the seizure and a receipt for the evidence or contraband seized must be given to the person from whose possession the evidence or contraband was taken and to the owner of the evidence or contraband if the owner is reasonably ascertainable. The failure to give a receipt may not render the evidence seized inadmissible at trial.

CRIMINAL JUSTICE INFORMATION AND DISSEMINATION

9.0.0 PURPOSE

The purpose is to provide guidelines to ensure the accuracy of criminal justice information and individual privacy in confidential and non-confidential criminal justice information collection, storage, and dissemination.

9.1.0 POLICY

This Agency will maintain, control and release when necessary, criminal justice information as prescribed by Montana Code Annotated.

9.2.0 DEFINITIONS

9.2.1 "Confidential Criminal Justice Information" means:

- a. criminal investigative information;
- b. criminal intelligence information;
- c. fingerprints and photographs;
- d. criminal justice information or records made confidential by law;
and
- e. any other criminal justice information not clearly defined as public criminal justice information, all as prescribed in 44-5-103, MCA.

9.2.2. "Public Criminal Justice Information" means:

- a. made public by law;
- b. court records and proceedings;
- c. convictions, deferred sentences, and deferred prosecutions;
- d. post-conviction proceedings and status;
- e. originated by a criminal justice agency, including:
 - initial offense reports
 - initial arrest

- information considered necessary by a criminal justice agency to secure public assistance in the apprehension of a suspect; or
- statistical information.

9.2.3 “Initial Offense Reports” means the first record of a criminal justice agency that indicates that a criminal offense may have been committed and includes the initial facts associated with that offense. Initial offense reports should contain the following:

- a. the general nature of the charges against the accused;
- b. the offense location;
- c. the name, age, and residence of the accused;
- d. the name of the victim, unless the offense was a sex crime;
- e. the identity of a witness unless the witnesses identity is otherwise protected by law;

Initial offense reports should not contain:

- a. driver’s license numbers;
- b. social security numbers;
- c. medical records, including but not limited to, mental health records and records relating to drug and alcohol addiction or treatment; and
- d. any information directly or indirectly identifying the victim of the following offenses:
 - Sexual Assault, 45-5-502, MCA;
 - Sexual Intercourse Without Consent, 45-5-503, MCA;
 - Indecent Exposure, 45-5-504, MCA;
 - Incest, 45-5-507, MCA,

unless disclosure is:

- of the location of the crime scene,;

- required by law;
- necessary for law enforcement purposes;
- or is authorized by a district court upon a showing of good cause.

With respect to the victim of any of these offenses, who requests confidentiality, no information may be released that may directly or indirectly disclose the address, telephone number, or place of employment of the victim or a member of the victim's family, unless disclosure is of the crime scene, is required by law, or is authorized by a district court upon a showing of good cause.

9.2.4 "Initial Arrest Records" means the first record made by a criminal justice agency indicating the facts of a particular person's arrest and includes name of the accused, pending charges against the accused, and any available information regarding bail and court appearances, bail records; and daily jail occupancy rosters;

9.3.0 INDIVIDUAL REQUEST TO INSPECT CRIMINAL HISTORY RECORDS

9.3.1 Pursuant to "Inspection or Transfer of Criminal History Records", (44-5-214, MCA), the Agency may release an individual's criminal history information to that individual or their agent. Individuals requesting criminal justice information must be properly identified. If an individual's criminal history record information is maintained in the state repository, copies of the records shall be transferred to the local agency.

9.3.2 An individual may contest the accuracy or completeness, or both, of the information about themselves.

9.4.0 DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE INFORMATION

9.4.1 Pursuant to, "Dissemination of Confidential Criminal Justice Information", (44-5-303, MCA), is restricted to the following:

- a. Criminal justice agencies;
- b. to those authorized by law to receive it;
- c. to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure.

9.4.2 If the prosecutor determines that dissemination of confidential criminal justice information would not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim of the offense by the prosecutor or by the investigating law enforcement agency after consultation with the prosecutor.

9.4.3 Unless otherwise ordered by a court, a person or criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of the information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

9.4.4 The County Attorney or the County Attorney's designee is authorized to receive confidential criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review teams. The County Attorney or the County Attorney's designee may, in that person's discretion, disclose information determined to be necessary to the goals of the review team. The review team and the County Attorney or the designee shall maintain the confidentiality of the information.

9.5.0 DISSEMINATION OF CRIMINAL JUSTICE INFORMATION

9.5.1 If an officer receives a request for Criminal Justice Information, other than set forth by policy, the request should be forwarded to the County

Attorney. The officer should not attempt to determine if the request involves public or confidential criminal justice information. This determination should be left to the County Attorney. This will in no way be construed to be an attempt to restrict the public's right to know.

ACCOMMODATING PERSONS WITH DISABILITIES

10.0.0 PURPOSE

The purpose is to provide guidelines on how to reasonably accommodate citizens who are disabled.

10.1.0 POLICY

It is the policy of this Agency to afford people who have a disability the same rights, dignity, and access to law enforcement services as are provided to all citizens.

10.2.0 DEFINITION

10.2.1 "Disability" means (MCA 49-2-101)

- a. people who have a physical or mental impairment that substantially limits one or more of their life activities, including the ability to communicate, hold a job, or care for themselves;
- b. people who have a record of such impairment; or
- c. people who are regarded as having such impairment.

10.3.0 PROCEDURE

10.3.1 Notification of Disability - An officer who has been notified by an individual of a disability should make a reasonable effort to accommodate the person's disability and any service animals.

10.3.2 Effective Communication - Officers must make a reasonable effort to ensure effective communication with individuals who are disabled. Officers should be aware that some individuals who are disabled may need special accommodations such as communications by written word, signing or lip-reading. Officers should attempt to accommodate an individual's reasonable request to accommodate their disability.

10.3.3 Detention - Officers who have taken a person into custody and are notified of the person's disability should make a reasonable effort to accommodate the person's disability while they are detained. In the event that the person with a disability is to be incarcerated, officers shall clearly communicate the known or suspected disability to Detention Center staff.

CONDUCTED ELECTRICAL WEAPONS

11.0.0 PURPOSE

The purpose is to provide guidelines to officers in the proper deployment, care, and use of Electronic Control Devices, (ECD).

11.1.0 POLICY

Deployment of an Electronic Control Device constitutes an intermediate level of use of force, and officers should use the amount of force which is reasonable and necessary to make an arrest or gain control of a situation. An Electronic Control Device is not a substitute for deadly force.

11.2.0. PROCEDURE

The following procedures provide guidance in the deployment and application of an Electronic Control Device.

11.2.1 Training - Only officers who have successfully completed a recognized training course may carry and or use an Electronic Control Device. To continue to use and carry an Electronic Control Device, ongoing training and familiarization with the deployment and application of an Electronic Control Device is required of every officer.

11.2.2 Issuance of an Electronic Control Device - Officers may only carry and use an agency authorized Electronic Control Device.

11.2.3 A record will be kept of all Electronic Control Devices, their serial numbers, and name of the officer authorized to carry the Electronic Control Device.

11.2.4 A record of all Electronic Control Device cartridge serial numbers will be maintained by the agency.

11.2.5 Alterations or Modifications - No changes, alterations, modifications or substitutions shall be made to the Electronic Control Device or the

cartridges. All repairs to Electronic Control Devices or accessories shall be completed by an Agency authorized armorer or vendor. Electronic Control Device repairs shall be documented and the record shall be maintained by the Agency. Officers should evaluate the ability of the subject to comply and need for continued force

11.3.0 USE HISTORY

11.3.1 A use history of any Electronic Control Device will be downloaded using the data port access and appropriate software. A use history report will be maintained by the agency in accordance with record retention policies. Use history reports will be generated upon the occurrence of the following:

- a. the use of any Electronic Control Device;
- b. claims of excessive force by Electronic Control Device application;
- c. hospitalization of the suspect following an Electronic Control Device application;
- d. a death of a suspect following an Electronic Control Device application;
- e. in the event the Electronic Control Device is repaired or is no longer utilized; or
- f. semi-annually.

11.4.0 DAMAGED ELECTRONIC CONTROL DEVICE OR CARTRIDGE

11.4.1 Officers are responsible for reporting promptly upon learning that the Electronic Control Device and or cartridge are damaged or malfunction.

11.4.2 The Electronic Control Device or cartridge should immediately be taken out of service.

11.4.3 If available, another cartridge and or Electronic Control Device shall be issued to the officer

11.5.0 INSPECTION AND TESTING PRIOR TO SHIFT

11.5.1 Officers carrying an Electronic Control Device shall inspect and test all devices and cartridges pursuant to manufacturers' recommendations.

11.6.0 ELEVATED RISK FACTORS

11.6.1 Officers should be cognizant of the incapacitating effects of an Electronic Control Device and as such the inherent elevation of certain risk factors which may include the following:

- a. Presence of flammable liquids/fumes or explosive environments;
- b. Elevated positions;
- c. Person operating moving vehicle or machinery;
- d. Person running (fleeing);
- e. Pregnancy concerns regarding falls;
- f. Swimming pool or body of water;
- g. Application to sensitive areas;
- h. Repeated applications;
- i. Children and Senior Citizens

11.7.0 USE ON PERSONS IN RESTRAINTS OR IN CUSTODY

11.7.1 In instances where restraint devices deployed upon persons under arrest fail to adequately gain control of the person an Electronic Control Device may be used when justified in accordance with the use of force policy.

11.7.2 An Electronic Control Device may be used against combative, assaultive, and foreseeably violent persons in custody when justified in accordance with the use of force policy.

11.8.0 CARRYING AN ELECTRONIC CONTROL DEVICE

11.8.1 The Electronic Control Device holster will be worn opposite of the firearm in a cross-draw position. Prior to the deployment of an Electronic Control Device the officers have the responsibility to reasonably visually and physically confirm that the tool selected is in fact an Electronic Control Device and not a firearm.

11.9.0 MEDICAL ATTENTION AFTER AN ELECTRONIC CONTROL DEVICE APPLICATION

11.9.1 If upon an application of an Electronic Control Device, the suspect exhibits any sign of medical distress, the officers shall render aid and summon emergency medical care.

11.9.2 If needed, reasonable and appropriate, medical personnel shall be summoned to the scene to assess the suspect. If the assessment or other circumstances dictate the suspect needs further medical treatment, the suspect shall be transported by reasonable means to a suitable medical facility.

11.9.3 Medical treatment will not be refused for anyone who requests it.

11.9.4 If safety circumstances reasonably dictate moving the suspect to another location, officers may arrange to have emergency medical personnel meet the officers and the suspect at another location to assess the suspect and render care.

11.10.0 PROBE REMOVAL

11.10.1 If a subject who has a probe embedded in their body, requests that the probe be removed by medical personnel, then the officers shall arrange for medical personnel to remove the probes.

11.10.2 Medical personnel shall remove probes located in sensitive areas such as the face, neck, groin, or female's breasts.

11.10.3 Removal of probes in non-sensitive area may be done by officers.

Officers, or other trained personnel will provide first-aid following removal of the probes.

11.10.4 Officers should inspect the probes after removal to see that the entire probe and probe barb has been removed. In the event that a probe barb has broken off and is still embedded in a subject's skin, the subject shall be provided appropriate medical attention to facilitate the removal of the object.

11.11.0 PHOTOGRAPHS

11.11.1 When permitted to do so by the subject, photographs should be taken of probe impact sites and any other related injuries as soon as reasonable to do so.

11.12.0 HANDLING OF PROBES AND EXPENDED CARTRIDGES

11.12.1 Probes that have been deployed and strike the subject will be treated as biohazard sharps. They may be placed point down into the expended cartridge bores and secured.

11.12.2 When the circumstances require, the yellow, pink, and clear microdots, known as "Afids" will be collected and with the probes and expended cartridge shall be maintained as evidence appropriately secured and marked as biohazard.

11.13.0 DETENTION NOTIFICATION OF APPLICATION

11.13.1 Detention personnel shall be informed by the transport officer that the subject was controlled by the use of an Electronic Control Device.

11.14.0 USE OF AN ELECTRONIC CONTROL DEVICE ON ANIMALS

11.14.1 An Electronic Control Device may be deployed on an animal when the animal is:

- a. threatening or is attacking a person, including officers, or another animal;
- b. if the animal needs to be controlled for the reason of public peace and safety, preservation of property, or other legitimate purpose; or
- c. the animal poses an active threat to officers in their efforts to perform their duty.

11.15.0 ACCIDENTAL CARTRIDGE DISCHARGE

11.15.1 In the event of an accidental Electronic Control Device cartridge discharge, the officers shall promptly notify their immediate supervisor.

11.16.0 PROHIBITED USES

11.16.1 An Electronic Control Device shall not be used:

- a. Punitively;
- b. In touch-stun mode as a prod or escort device;
- c. To rouse unconscious, impaired, or intoxicated individuals;
- d. For horseplay or clowning around or in an unprofessional manner;
- e. To experiment on a person or allow a person to experience the effects unless authorized by the agency through training or demonstrations.

BIASED BASED LAW ENFORCEMENT

12.0.0 PURPOSE

The purpose is to provide guidelines and to reaffirm the commitment of all employees of this Agency to fair and unbiased provisions of law enforcement services and to assure the public of this commitment.

12.1.0 DEFINITIONS

12.1.1 Racial profiling means the detention, official restraint, or other disparate treatment of an individual based solely on their individual race or ethnicity.

12.1.2 Minority Group is defined as individuals of African American, Hispanic, Native American, Asian, or Middle Eastern descent.

12.2.0 POLICY

12.2.1 Impartial Law Enforcement can be achieved by ensuring that investigative detentions, traffic stops, arrests, searches and property seizures by officers only occur upon meeting the standard of particularized suspicion, or probable cause in accordance with the Fourth (4th) Amendment of the U.S. Constitution and Article II of the Montana Constitution.

12.2.2 Officers must be able to articulate specific facts and circumstances that support particularized suspicion or probable cause for all investigative detentions, traffic stops, arrests, non-consensual searches, and property searches.

12.2.3 Officers shall not consider race or ethnicity in establishing either particularized suspicion or probable cause unless combined with other particularized factors.

12.2.4 Officers shall not consider race or ethnicity in deciding to initiate non-consensual encounters that do not constitute legal detentions or

requests to consensual searches, unless combined with other particularized factors.

12.2.5 Race or ethnicity alone shall never be motivating factors in making law enforcement decisions.

12.2.6 Officers shall advise, prior to or as reasonably practical, their respective communication center of all traffic stops.

12.2.7 Public safety communicators shall document and record each notification of a traffic stop.

12.3.0 OTHER PARTICULARIZED FACTORS

12.3.1 Officers may take into account the reported race or ethnicity of specific suspect(s) based on reliable locally relevant information that links a person of a specific race or ethnicity to a particular unlawful or suspicious incident. Race or ethnicity will never be used as the sole basis for particularized suspicion or probable cause.

12.4.0 PREVENTING PERCEPTIONS OF BIAS

12.4.1 In an effort to prevent inappropriate public perceptions of biased law enforcement, each officer shall:

- a. Be courteous and professional in their contacts with all persons;
- b. In all cases of vehicle stops or personal encounters, introduce themselves to the person and state the reason for their presence, unless providing such information will compromise officer or public safety. ~~Prior to requesting their driver license, registration, and proof of insurance.~~

12.4.2 Ensure that temporary detentions in the field of any person are no longer than is reasonably necessary to take appropriate action based upon the facts known at the time or upon the suspected offense. Take all

reasonable measures to ensure the person being detained clearly understands the circumstances that could result in a reasonable delay.

12.4.3 Answer all reasonable questions the persons may have, including providing them with an explanation of the judicial process, if relevant.

12.4.4 Politely provide the person with their name and badge number on a business card or in writing when such information is requested.

12.4.5 Be sincere and contrite to the person in a prompt and professional manner and provide an explanation for the inconvenience, should the detention be deemed unreasonable or unfounded.

~~12.4.6 When the person being investigated or detained takes an aggressive posture or becomes combative with physical actions, all of which may reasonably be considered a threat to any person present, officers may use all reasonable and necessary force or commands to stabilize the situation.~~

12.5.0 COMPLIANCE

12.5.1 Written complaints of a violation of this policy shall be promptly and fully investigated by the so-named designated officer of this Agency who will work in concert with this Agencies' Human Resource Department.

12.5.2 The so-named designated officer shall make personal contact with the complainant within ten (10) days of receipt of the complaint.

12.5.3 Upon completion of the investigation, the so-named designated officer shall notify the complainant and the Administrator in writing the results of the investigation.

12.5.4 If the complainant is unsatisfied with the results of the internal investigation, the Administrator may make a referral to an appropriate outside agency for investigation.

12.6.0 FIRST LINE SUPERVISOR RESPONSIBILITY

12.6.0 Supervising officers shall ensure that all personnel under their immediate command are familiar with, and understand the contents of this policy. Supervising officers shall take all reasonable measures to ensure and monitor compliance.

12.7.0 TRAINING

12.7.1 All sworn officers shall attend training in regard to biased based law enforcement and racial profiling. The Agencies training officer shall ensure that records of training are current and correct and adequately documented in the officer's training file.

12.7.2 Training courses may include topic matter pertaining to understanding and respect for racial and cultural differences and effective and non-combative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

12.8.0 PRETEXTUAL STOPS OF MINORITIES (MCA 44-2-117)

12.8.1 Officers shall not routinely stop members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law.

12.9.0 DRIVER DOCUMENTATION

12.9.1 Officers shall document the race or ethnicity of the driver for each traffic stop.

12.9.2 Officers shall use their best subjective observational skills to document the race or ethnicity of the driver. Officers shall not ask the race or ethnicity of the driver.

12.10.0 DATA COLLECTION AND PERIODIC REVIEW

12.10.1 The Agency will collect and accumulate data from each traffic stop.

12.10.2 The Agency Administrator or their designee shall periodically review the data to determine whether any officers have a pattern of stopping members of minority groups in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction of the Agency.

12.11.0 CORRECTIVE ACTIONS

12.11.1 The Agency will provide appropriate counseling and training for any officer who is found to be engaged in biased based traffic stops.

12.11.2 Any counseling and training will be implemented within 90 days of the periodic review provided for within 12.10.1.

12.11.3 The Agency may take other disciplinary action the Agency Administrator deems appropriate.

COMPLAINTS AND INTERNAL INVESTIGATIONS

13.0.0 PURPOSE

The purpose is to provide guidelines that recognize that effective law enforcement exists in a community which has established a proper relationship between the agency and public. This relationship must be based on mutual confidence and trust. Whenever the integrity of a law enforcement agency is in question, effective law enforcement breaks down.

13.1.0 COURSE AND SCOPE

- 13.1.1 Officers must act independently with the authority vested in them. The officer must be free to initiate action without fear of reprisal, but must meticulously observe the rights of all people.
- 13.1.2 The responsibility rests with the Agency Administrator to provide a system of disciplinary procedures which not only subjects personnel to corrective action when improper conduct occurs, but also protects them from unwarranted criticism or charges when duties have been properly performed.
- 13.1.3 It is imperative that adequate provisions be made for prompt investigation and disposition of all complaints regarding the conduct of employees of the agency.

13.2.0 POLICY

- 13.2.1 It shall be the policy of the agency to accept and investigate all complaints of alleged misconduct on the part of any agency personnel in order to achieve the basic objectives of personnel investigation:
- a. Responsiveness to the public;
 - b. Protection of the integrity of the agency;
 - c. Protection of individuals against false accusations;

- d. Redress for undesirable conduct.

13.3.0 DEFINITIONS

13.3.1 “Personnel Complaint” – means all complaints involving personnel of the agency that could be defined as an allegation of misconduct reported from any source. This misconduct could be criminal or non-criminal in nature.

13.3.2 “Deposition Classifications” – are defined as:

- a. Unfounded - When the investigation indicates the alleged wrong doing did not occur.
- b. Exonerated - When the investigation indicates that the act occurred, but was justified, lawful and proper.
- c. Not Sustained - When the investigation discloses insufficient evidence to prove or disprove clearly the allegations made.
- d. Sustained - When the investigation discloses the action alleged, did in fact occur.
- e. Sustained with Qualifications - When the investigation discloses the action complained of did in fact occur, but not in the manner or to the degree stated.
- f. Misconduct Not Based on a Complaint - When the investigation of an allegation discloses misconduct that is not part of the original complaint.

13.3.3 “Misconduct” – means a violation of any statute, ordinance, agency policy, rule, regulation, lawful order, or rule of law.

13.3.4 “Complaint Investigator” – means the officer or investigator appointed by the Agency Administrator, in concert with the Human Resources Department, who will conduct the investigation into personnel complaints and or allegations of misconduct.

13.4.0 PROCEDURE FOR ACCEPTING COMPLAINTS

- 13.4.1 A complaint alleging misconduct by personnel of the agency may be made by any person, at any time, to any member of this agency.
- 13.4.2 When a member of the Agency receives information of a complaint or a person requests they be allowed to file a complaint, the information or person should be referred to the supervisor on duty.
- 13.4.3 This complaint shall be received in writing signed and notarized. The names of all persons involved in the incident or witness to the allegation, shall be included in the report. A signature of the complainant is desired, but not mandatory.
- 13.4.4 If it is not possible to obtain in writing the substance of the complaint, from the complainant, the officer receiving the complaint verbally, shall reduce it to writing with whatever information obtained, and forward it to the supervisor. The officer shall state specific allegations and the best information available.
- 13.4.5 The supervisor will inform the Agency Administrator of the complaint. This will be done during normal business hours unless the nature of the complaint requires immediate notification.
- 13.4.6 When a complaint is registered against a supervisor, the Agency Administrator will initiate, or may appoint another command level officer to conduct, the investigation.

13.5.0 INVESTIGATION OF COMPLAINTS

- 13.5.1 The officer or investigator appointed to investigate the complaint shall conduct an appropriate investigation, and forward the results to the Agency Administrator and if available, the Agencies' Human Resource Officer.

13.5.2 If the alleged misconduct amounts to a criminal law violation, the City Attorney or County Attorney's Office will be notified of all alleged or suspected criminal violations.

13.5.3 Upon completion of any investigations, the completed report is to be provided to the Agency Administrator and if available, the Agencies' Human Resource Officer along with all findings, and conclusions.

13.6.0 PERSONAL INVOLVEMENT WITH INVESTIGATION OF COMPLAINT

13.6.1 At no time, under any circumstances, shall an officer against whom a complaint has been registered, investigate the complaint.

13.7.0 DISPOSITION OF INVESTIGATED COMPLAINTS

13.7.1 All reasonable efforts shall be made to notify all complainants of the results of the investigation.

13.7.2 A permanent record of each internal investigation will be kept by the Agency Administrator and if available, the Agencies' Human Resource Officer.

13.7.3 If the complainant is dissatisfied with the internal investigation, the Agency Administrator in consultation with the Agencies' Human Resource Officer shall refer the investigation and findings to an appropriate outside agency for further review and any additional investigation deemed necessary in order to make reasonable assurances of non-bias to the public.

SPECIAL TACTICAL SITUATIONS

14.0.0 PURPOSE

The purpose is to provide guidelines that establish general procedures for handling special tactical situations that may be comprised of unusual operational activities and problems including, hostage incidents, armed barricaded persons, sniper incidents, aggravated suicide attempts, and other tactical problems.

14.1.0 POLICY

It is the policy of this Agency to respond to special tactical situations incidents in a manner that will promote resolve to the particular situation that includes the minimization of injuries and the preservation of life of all persons involved, all in an effort to apprehend those persons responsible for criminal conduct.

14.2.0 DEFINITIONS

14.2.1 "Inner Perimeter" – means a containment area immediately surrounding the situation location that minimizes and controls movement of a suspect within that area. The inner perimeter should be sufficiently large to present no immediate danger to persons within the area but should be as small as possible to ensure that control and management can be maintained.

14.2.2 "Outer perimeter" – mean a large containment area that completely surrounds the inner perimeter and prohibits unauthorized vehicular and pedestrian traffic from reaching the inner perimeter. The outer perimeter should be positioned in a manner to afford protection and safety to anyone outside the outer perimeter boundaries.

14.2.3 "Control Zone" – mean the space between the outer perimeter and the inner perimeter. Officers manning the outer perimeter will allow authorized persons into the control zone for restricted purposes as designated by the officer in charge. Depending upon the specific

geographic circumstances, unauthorized persons should be evacuated from or secured within the control zone including, bystanders, residents, merchants, and others.

14.2.4 “Traffic Control Points” – means key intersections or other locations that restrict all unauthorized vehicular traffic from reaching the boundaries of the outer perimeter.

14.2.5 “Field Command Post” – means a temporary location used as the on-scene command center to coordinate the activities of all operational personnel. The field command post will be placed outside the inner perimeter, preferably inside the control zone, and will include the actual command post facility and a controlled area utilized for assembly and parking. Either a vehicle or another suitable structure may be used as a field command post. Telephone service is mandatory except in very unusual circumstances.

14.2.6 “Administrative Command Post” – means a temporary location used as an assembly point for the on-scene commander and others designated by the on-scene commander for the purpose of administrative control of the situation. Telephone service is mandatory.

14.3.0 RESPONSE TO TACTICAL SITUATIONS

14.3.1 Procedural guidelines are designed to prevent or minimize confusion in assuming command and initiating control procedures.

14.3.2 When possible these variables should be considered when confronted with a complex tactical and/or life-threatening situation such as a hostage or barricaded suspect incident, including:

- a. The mental state of the suspect;
- b. The physical condition of the hostage;
- c. The suspects stated objectives and motivations;
- d. The involvement and proximity of bystanders;

e. Location.

14.3.3 This Agency will not grant immunity or pay ransom to neutralize a hostage situation.

14.3.4 When a suspect has barricaded himself and does not hold a hostage, the Agency should attempt all reasonable measures to affect capture by use of non-lethal means consistent with the offense and the safety of Agency personnel and by-standers.

14.4.0 DEPLOYMENT OF FORCE

14.4.1 Time is a benefit and shall be made to work to the advantage of this Agency. Thoughtful coordinated response is essential.

14.4.2 Officers should adhere to the Agency's policy on the Use of Force.

14.4.3 Personnel should maintain strict firearm discipline. Should an individual officer come under attack by the suspect, or if the suspect attacks or attempts to attack the hostage with force, it is not required that an officer wait for instruction to protect themselves or the hostage.

14.4.4 Only those specifically qualified should employ specialized weapons and equipment.

14.5.0 OFFICER RESPONSIBILITY

14.5.1 For the effective coordination of responding forces, it is essential that our personnel not engage in individual action unless forced to do so.

14.5.2 Strict compliance with the directions of the on-scene commander regarding reporting locations, deployment, response routes, traffic and pedestrian controls, and other appropriate instructions must be adhered to by all person involved with these situations.

14.6.0 COMMAND AND CONTROL

- 14.6.1 The senior officer in the first unit on the scene will have command and control of the situation until relieved by an officer of higher rank.
- 14.6.2 The on-duty supervisor should deploy arriving officers promptly and efficiently to effect containment as soon as possible.
- 14.6.3 Command and control should not automatically be relinquished to a superior, nor should the superior assume control until each is certain that all available information relating to the incident is thoroughly explained and understood, and to the maximum extent possible, all personnel understand that command and control is being transferred and to whom.

14.7.0 FIELD COMMAND OPERATIONS

- 14.7.1 The officer with command and control should implement the following steps:
 - a. Establish an inner perimeter to contain the suspect. This may be accomplished by making certain the units at the scene are in the best positions possible to effectively contain the site. These officers may serve as an arrest team should the suspect surrender or exit unexpectedly;
 - b. Establish an outer perimeter and traffic control points to control vehicular and pedestrian traffic;
 - c. Locate and establish, or determine a location for a Command Post away from the objective structure;
 - d. Locate and establish a staging area for responding personnel and supporting agencies away from the command post but within the outer perimeter;
 - e. Establish a communications network and request frequency restriction for continuous communication with deployed personnel;

- f. Attempt to secure maps, aerial photos, assignment sheets and related materials. This material should be brought to the CP for strategic planning.

14.8.0 NOTIFICATIONS

14.8.1 When any officer of the Agency becomes aware of the existence of a special tactical situation the officer should:

- a. Request sufficient personnel to contain the effected area;
- b. Notify the on-duty supervisor at the earliest possible opportunity;
- c. Periodically update the supervisor.

14.8.2 The on-duty supervisor should ensure notification of the Tactical Commander and the Agency Administrator.

14.8.3 Notification for stand-by or call-out of team members should be determined by the Tactical Commander.

14.9.0 COMMUNICATIONS WITH SUSPECTS

14.8.1 The on-duty supervisor should attempt to establish communication with any and all suspects until Negotiators arrive, whereupon they may delegate the task.

14.10.0 EVACUATIONS

14.10.1 Outer containment personnel should be assigned to evacuate affected residences or bystanders.

14.10.2 A log should be kept of the residences evacuated as well as those who refuse to evacuate.

14.10.3 Injured victims should be evacuated when appropriate protective measures can be taken to protect the rescuers should they come under further attack.

IMPAIRED PERSONS

15.0.0 PURPOSE

The purpose is to provide guidelines on how to assist persons who appear to be intoxicated in public.

15.1.0 POLICY

15.1.1 It is the policy of this agency to attempt to assist persons who have not committed a criminal offense, but who appear to be intoxicated in public when and only if they appear to be a risk to themselves or others.

15.2.0 DEFINITIONS

15.2.1 “Approved Private Treatment Facility” – means a private agency that has as its function the treatment, rehabilitation, and prevention of chemical dependency, that meets the standards as prescribed in 53-24-208(1), MCA, and that is approved as prescribed in 53-24-208, MCA.

15.2.2 “Intoxicated Person” – means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

15.3.0 PROCEDURES

15.3.1 A person who appears to be intoxicated in public and in need of help does not commit a criminal offense solely by reason of being in an intoxicated condition.

15.3.2 If a person who appears to be intoxicated in a public place and to be in need of help, an officer may proceed as follows:

- a. Assist the intoxicated person to the person’s home; or
- b. Assist the person to an approved private treatment facility; or
- c. Assist the person to another health care facility.

- 15.3.3 If none of the above options are available and they are a risk to themselves or others, the person may be detained until the person is no longer a risk to self or others.
- 15.3.4 If the person is detained no record or entry may be made to indicate the person was arrested or charged with a crime.
- 15.3.5 An officer may take reasonable steps for the officer's own protection during the intervention of these incidents.
- 15.3.6 An officer shall make every reasonable effort to protect the person's health and safety.
- 15.3.7 An officer who takes any action under this policy will document the action taken in a written report.

NEWS MEDIA RELATIONS

16.0.0 PURPOSE

The purpose is to provide guidelines on establishing an effective means to convey information to the public through the use of television, radio, and newspapers, while minimizing the disruption of service to the public.

16.1.0 POLICY

- 16.1.1 The following guidelines will assist Agency personnel in providing clear and uniform response to inquiries received.
- 16.1.2 Members of this Agency shall be courteous and diplomatic in dealing with the news media.
- 16.1.3 Members are authorized to release to the media information in the following categories:
- 16.1.4 Law Enforcement Personnel are encouraged to release public criminal justice information pursuant to the policy, "Criminal Justice Information and Dissemination".
- 16.1.5 The Agency Administrator or his designee will approve, coordinate, and or release information concerning confidential agency investigations, operations, and crisis situations.
- 16.1.6 Information concerning significant incidents, arrests, investigations or operations shall be submitted to the Agency Administrator for approval prior to release.
- 16.1.7 The Administrator or his designee should consult with the City Attorney or County Attorney and appropriate incident advisors when preparing news releases on major cases, special events, catastrophes, or other critical issues.
- 16.1.8 The Administrator or his designee should consult with the City Attorney or County Attorney regarding the release of confidential criminal justice

information pursuant to the policy, "Criminal Justice Information and Dissemination".

16.2.0 CONSIDERATIONS AND LIMITATIONS ON RELEASING INFORMATION

16.2.1 Members should not release for publication or in a manner likely to result in publication, any of the following, except when released as part of a record open to public inspection.

- a. Information that may jeopardize the successful conclusion of an investigation (address to crime scenes may be restricted for this reason).
- b. The identity of any suspect prior to arrest or the results of any investigative procedures except to the extent necessary to aid the investigation, to assist in the apprehension of the suspect, or to warn the public of danger.
- c. Any opinion as to the guilt or innocence of the accused or as to the merits of the case or evidence of the case.
- d. Prior arrest record, statements, or information regarding the character or reputation of the accused.
- e. The existence or contents of admissions or confessions made by individuals, or the refusal or failure of the accused to make any statement.
- f. The performance of any examination or test or the refusal or failure of the accused to submit to an examination or test.
- g. The identity, testimony or credibility of any prospective witness.
- h. The possibility of a plea of guilty to the offense charged or to a lesser offense.
- i. The construction, content and mechanism of any explosive or incendiary device.
- j. Photographs, except as provided in previous sections.

- k. Information furnished by members of the department to promote publicity for them.
- l. Evidence that may inhibit prosecution of the case.

16.3.0 ARREST INFORMATION

16.3.1 Following an arrest, issuance of an Arrest Warrant, issuance of a Notice to Appear and Complaint, or the filing of information, it is permissible to release the following information:

- a. The name, address, age, and date of birth of the accused;
- b. The date, time, and place of arrest, whether the arrest was with or without incident, the initial charges, and whether weapons or other contraband was seized;
- c. The names of the officers who initiated the arrest, unless the arrest was made by an officer whose primary assignment included covert operations;
- d. The amount of bond, scheduled court appearance and location of incarceration.

16.3.2 Following arrest or the filing of formal charges, but prior to adjudication, the following types of information shall not be released:

- a. Prior criminal history of the defendant, victim, or witnesses;
- b. Prior record of character or reputation of the defendant, victim, or witnesses;
- c. Identity, statements, or expected testimony of the defendant, victim, or witnesses;
- d. Any opinion about the guilt or innocence of the defendant or merits of the case;
- e. Any opinion, knowledge, or criticism in regards to plea-bargains, negotiations with counsel, or other pre-trial activity.

16.4.0 SPECIAL CONSIDERATIONS FOR MEDIA

16.4.1 All members of the Agency shall extend reasonable courtesy to the news media representatives at the scenes of crimes or other crisis situations.

With approval of the on-scene commander this may include:

- a. Closer access of personnel and equipment than would be available to the general public to the degree that it does not interfere with the scope and mission of the department or the investigation;
- b. Closer access of personnel and equipment than available to the general public to the degree it does not create unnecessary risk of harm or unsafe circumstances or interfere with movement of traffic;

16.4.2 Access shall be denied to all news media representatives at the scenes of a crime or other crisis situations when:

- a. There is a risk of injury to the news media representative or any other person as a result of closer access being granted;
- b. The possibility is created that evidence could be damaged, altered, or destroyed, or otherwise prejudiced by the broadcast or publication of its existence;
- c. Access is sought to enter upon, film, photograph, or videotape upon the premises or property of a private person, without the explicit consent of said person;
- d. Requests are made to pose or make special arrangements to photograph, film, videotape, audio record, or interview suspects in custody;
- e. The incident or crisis situation includes hostages and/or other dangerous persons or obstacles.

16.4.3 At the scene of significant accidents, man-made or natural catastrophes, the principals of news media cooperation shall be maintained to the

degree that they do not interfere with the mission and scope of the emergency operations.

16.4.4 Media access to move within fire lines shall be controlled by the fire service officer in-charge.

16.4.5 The fire service commander and this agency's on-scene commander will establish an observation point from which the news media may observe, photograph, videotape, or broadcast the events of the incident.

16.5.0 COMMUNICATION CENTERS AND DISPATCHERS

16.5.1 The following guidelines will be adhered to when answering telephone inquiries from the news media:

- a. If the incident involves a police matter, refer the call to a Supervising Officer, if possible.
- b. If the incident involves the fire department, refer the call to the fire department public information officer, if possible.
- c. In the absence of that above, the on-duty dispatcher may release the following information, if known:
 - Either confirm or deny that the incident occurred or is occurring;
 - When and where the incident occurred or is occurring;
 - Define the type of call to the media;
 - Provide the call type, i.e., burglary, robbery, etc;
 - The name of the ranking police or fire official at the scene;
 - Name of the Supervising Officer or Fire Chief on duty;
 - If additional information is requested, the media will be referred to the Supervising Officer or fire department commander.

- d. It is understood that on some occasions the dispatchers are too busy to give the requested information. If this occurs, the caller should be advised of the problem and told to call at a later time.

PERSONS WITH MENTAL DISORDERS

17.0.0 PURPOSE

To provide guidance and options to officers when responding to persons who appear to have a mental disorder.

17.1.0 POLICY

17.1.1 It is the policy of this Agency to strive to interact with persons who appear to have a mental disorder in a compassionate and safe manner in order to protect the individual, the public, family members and officers.

17.2.0 DEFINITIONS

17.2.1 “Mental Disorder” – Any organic, mental or emotional impairment that has substantial adverse effects on an individual’s cognitive or volitional functions as prescribed in 53-21-102(9)(a) MCA.

17.2.2 “Emergency Situation” – means any situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment as prescribed in 53-21-102 (7) MCA.

17.2.3 “Professional Person” – means a Medical doctor, an advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing as prescribed in 37-8-202, MCA,, or a person who has been certified by the Department of Public Health and Human Services, or a licensed psychologist as prescribed in 53-21-106, MCA.

17.3.0 PROCEDURES

17.3.1 Recognition - Officers should recognize behaviors that are potentially destructive and or dangerous to self or others. These behaviors may

indicate the presence of a mental disorder. Officers should evaluate the behaviors in the total context of the situation.

17.3.2 Signs and symptoms – Persons with mental disorders may exhibit some or all of the following signs or symptoms:

- a. unrelenting fear;
- b. extremely inappropriate behavior given the situation;
- c. extremely rigid or inflexible behavior;
- d. abnormal memory loss;
- e. delusions;
- f. hallucinations of any of the five senses;
- g. extreme fright or depression;
- h. extreme paranoia;
- i. manic behavior;
- j. disorganized speech;
- k. nonsensical speech;
- l. disorientation.

17.4.0 RESPONSE

17.4.1 When responding to incidents involving persons with a suspected mental disorder, officers should assess the scene and situation. Upon contact with the person or witnesses, officers should attempt to determine if the person presents a danger of death or bodily harm to self or others.

17.4.2 Factor to consider in making a determination of danger of death or bodily harm to self or others may include some or all of the following:

- a. threats made by the person;
- b. access to weapons;
- c. witness statements;
- d. knowledge of the person's history;
- e. lack of emotional control;

- f. likelihood of harm to someone if officer is not present;
- g. prior suicide attempts;
- h. violent behavior;
- i. substance abuse;
- j. intoxication;
- k. physical condition.

17.4.3 Suggestions for interacting with persons with a suspected mental illness

include the following;

- a. manage your own emotions;
- b. be respectful of the person;
- c. take steps to calm the situation;
- d. move slowly;
- e. communicate with the person by talking slowly, listening, repeating information and explain what you are going to do before you do it;
- f. be understanding about their present condition;
- g. don't try to change the person's beliefs;
- h. stay positive;
- i. be aware of your body language;
- j. do not threaten the person with arrest;
- j. ask about medications and current care.

17.5.0 PROTECTIVE CUSTODY

17.5.1 If an officer believes the person is in imminent danger of death or bodily harm to self or others take the person into protective custody in the least restrictive environment available, pending an evaluation by a professional person. Least restrictive environment does not include a jail or correctional facility as prescribed in 53-21-120 (3) MCA.

17.5.2 The person shall remain in protective custody until evaluated by a professional person or transported to a Medical Facility or Mental Health Facility.

17.6.0 PERSONS WITH MENTAL DISORDERS WHO ARE ARRESTED

17.6.1 Persons with a suspected mental disorder may be arrested for a criminal offense when probable cause has been established.

17.6.2 When a person with a suspected mental disorder is arrested, the arresting officer will brief the booking officer as to the charges, and advise the booking officer about the suspected mental disorder and whether the person is in imminent danger of death or bodily harm to self or others.

17.7.0 PERSONS NOT TAKEN INTO PROTECTIVE CUSTODY.

17.7.1 Officers who encounter persons with suspected mental disorders and deem them to not be at risk of imminent danger of death or bodily harm to self or others should assist the person in obtaining medical or mental health care. This may include attempting to contact the person's mental health provider and or contacting relatives or friends who can assist the person.

CRITICAL INCIDENT STRESS MANAGEMENT

18.0.0 PURPOSE

The purpose is to provide guidelines to promote a safe mental health environment for Agency members.

18.1.0 POLICY

This agency will take reasonably necessary measures to provide resources intended to protect the mental health of all Agency members who are exposed to critical incidents.

18.2.0 DEFINITIONS

- 18.2.1 "Emergency service provider" or "emergency service personnel" means a law enforcement officer, firefighter, emergency medical service provider, dispatcher, rescue service provider, or other personnel who provide emergency response services.
- 18.2.2 "Critical incident" means an event that results in acute or cumulative psychological stress or trauma to an emergency service provider as a result of response to the incident.
- 18.2.3 "Critical incident stress management and response services" means consultation, counseling, debriefing, defusing, intervention services, management, prevention, and referral provided by a critical incident stress management team member to emergency service personnel.
- 18.2.4 "Critical incident stress management" means a process of crisis intervention designed to assist emergency service personnel in coping with the psychological trauma resulting from response to a critical incident.
- 18.2.5 "Critical incident stress management" means a process of crisis intervention designed to assist emergency service personnel in coping with the psychological trauma resulting from response to a critical incident.
- 18.2.6 "Debriefing" means a private meeting between individual(s) involved in a critical incident and members of a Critical Incident Stress Management team to allow individual(s) a chance to express their emotional reactions regarding the incident and to make them aware of appropriate stress management techniques.
- 18.2.7 "Critical incident stress management team" means the group of one or more trained volunteers or paid professionals who offer critical incident stress management and response services following a critical incident.
- 18.2.8 "Critical incident stress management team member" or "team member" means an individual specially trained to provide critical incident stress management and response services as a member of an organized team or emergency services provider agency.

18.3.0 PROCEDURE

Agency members upon hire and periodically thereafter will receive orientation on self recognition of signs and symptoms of stress and common strategies for managing stress.

18.4.0 RESOURCES

In addition to an orientation the Agency will provide Agency members with available resources for dealing with job stress which may include but not limited to:

- a. Employee Assistance Program (EAP)
- b. Professional services
- c. Chaplaincy program
- d. CISM (individual and/or family)
- e. Pre/post CISM training (individual and/or family)
- f. Peer support

The Montana CISM Network may be contacted through Disaster and Emergency Services duty phone at (406) 841-3911.

18.5.0 RECOGNITION

All Agency members are responsible for identifying and recognizing critical incidents that may require assistance. Anyone can request available resources or recommend a referral to the Administration for further psychological counseling. The Administrator or designee will determine the resources needed to provide assistance to the Agency member(s).

18.6.0 CRITICAL INCIDENT STRESS MANAGEMENT SESSIONS

The Administrator or designee is responsible to schedule or have scheduled a CISM session if requested. Agencies in need of a CISM team may contact the Montana CISM Network.

18.7.0 CLOSED MEETINGS AND CONFIDENTIALITY

Montana Codes Annotated 39-74-105 dictates that all Critical incident meetings are closed and the information shared is deemed confidential. This law specifically states that in order to protect the privacy rights of an emergency service provider in receiving critical incident stress management and response services, critical incident stress management debriefing meetings and other critical incident stress management and response services meetings are closed to the general public and may be closed to anyone who was not directly involved in the critical incident that is the subject of the meeting.

Any information divulged to the team during the provision of critical incident stress management and response services must be kept confidential and may not be disclosed to a third party or in a criminal, civil, or administrative

proceeding unless the merits of disclosure exceed the demands of an individual's privacy. Records kept by critical incident stress management team members are not subject to subpoena, discovery, or introduction into evidence in a criminal, civil, or administrative action.

The confidentiality privilege provided in this law does not apply:

- a. for the appropriate referral to or consultation with other critical incident stress management team members or related qualified professionals;
- b. if the emergency service provider conveys that the provider is an imminent threat to the provider or anyone else or if the provider appears to be an imminent threat to the provider or anyone else;
- c. if the emergency services provider divulges information regarding a past, present, or future criminal act that does not involve the critical incident;
- d. if the emergency service provider or the provider's legal guardian gives consent;
- e. if the emergency service provider is deceased; or
- f. to the facts divulged by the emergency service provider concerning a person injured in a critical incident and the services and care provided to or withheld from that person by an emergency service provider.

In order to have a free and open discussion of the feelings of those involved in a Critical Incident Stress Management Session, those individuals participating in a CISM Session should be informed of their right to keep the discussions private. Individuals have a clear and distinct right of privacy in participating in the session, and the involved individual has an absolute right to invoke their right to privacy to protect the discussions occurring during a Session.

18.7.0 OTHER PROFESSIONAL SERVICES

If, after the CISM session, an Agency member feels the need for further counseling, or a CISM team member recommends further counseling, the Administrator or designee will provide an offer of assistance to the Agency member. The Administrator or designee may recommend a licensed professional counselor or psychologist. All expenses associated with the offer of assistance will be paid by the Agency. The employee will be provided Administrative leave with pay to attend sessions with a counselor or psychologist.

18.8.0 FITNESS FOR DUTY DETERMINATION

The Administrator or designee may require a "fitness for duty" evaluation of the Agency member(s) to determine if the member is free from any mental condition that might adversely affect performance of the member's duties.

HIRING SWORN PERSONNEL

19.0.0 PURPOSE

The purpose of this guideline is to define and outline the selection process to ensure the best qualified candidates are selected for employment as peace officers, and that the selection process is valid, job related, and nondiscriminatory.

19.1.0 POLICY

It is the policy of this Agency to select the best qualified candidates for the position of peace officer in accordance with Montana law and other applicable regulations. Applicants who fail to meet the minimum standards set forth by the Agency or by law will not move on to the next phase of the hiring process.

19.2.0 PROCEDURE

The procedure used for selection of successful applicants shall be comprised of the following:

- a. Application
- b. Minimum Qualifications
- c. Criminal History Check
- d. Written Test
- e. Physical Fitness Test
- f. Ranking of Applicants
- g. Initial Oral Interview
- h. Conditional Offer of Employment
- i. Personal History Packet
- j. Background Investigation
- k. Personal Interview
- l. Medical Examination
- m. Psychological Examination
- n. Final Oral Interview

19.3.0 APPLICATION

All persons interested pursuing employment for the position of peace officer must submit a formal application.

19.4.0 MINIMUM QUALIFICATIONS

All applicants shall meet all qualifications as outlined in 7-32-303, MCA.

19.5.0 CRIMINAL HISTORY CHECK

The Agency shall complete a criminal history check on all applicants.

19.6.0 WRITTEN TESTING

- 19.6.1 All applicants shall be required to submit to a written examination selected by the Agency. Applicants must receive a passing score as determined by the Agency.
- 19.5.2 Applicants will be notified of time and location for which the written test will be administered.
- 19.5.3 Applicants who receive a passing grade on the written test will proceed to the physical ability test.

19.7.0 PHYSICAL ABILITY TEST

All applicants will be required to participate in the Montana Law Enforcement Academy (MLEA) physical ability test to determine that the applicant has met the minimum requirements for acceptance and successful completion of the Law Enforcement Officer Basic Course.

19.8.0 RANKING OF APPLICANTS

Applicants will be ranked based on total points achieved from the written test and the physical ability test. Preference points allowed by Montana statute Title 39, Chapters 29 and 30 will be awarded.

19.9.0 INITIAL ORAL INTERVIEW

Successful applicants will be scheduled for an initial interview with an interview panel appointed by the Agency Administrator.

19.10.0 CONDITIONAL OFFER OF EMPLOYMENT

Applicants who successfully completed all preceding phases of the above-mentioned procedure shall be provided a Conditional Offer of Employment (COE), and required to complete a Personal History Packet.

19.11.0 PERSONAL HISTORY PACKETS

Applicants will be required to provide all information as requested for in the Personal History Packet, including a notarized waiver granting access to any and all documents and information sought by the Agency.

19.12.0 BACKGROUND INVESTIGATION

The Agency Administrator will appoint a person from within the Agency to complete a comprehensive background investigation using information provided in the Personal History Packet and other resources available to the investigator

19.13.0 PERSONAL INTERVIEW

The Agency Administrator will appoint a person to conduct an oral interview with the applicants regarding the provided responses contained within the Personal History Packet.

19.14.0 EXAMINATIONS

Applicants will be required to have a medical examination to include overall health, including blood work, drug screen, hearing test, and eye exam.

19.15.0 PSYCHOLOGICAL EXAMINATION

Applicants will be required to undergo a psychological examination to be conducted by a licensed psychologist.

19.16.0 ORAL INTERVIEW – FINAL INTERVIEW

Applicants will be interviewed by the Agency Administrator or designee, and/or an interview panel appointed by the Agency Administrator.

19.17.0 SELECTION

The selection for employment of the best qualified candidates will be based on all of the information accumulated from the preceding procedures. The Agency Administrator will make the final selection for employment as a peace officer.

VEHICULAR PURSUITS

20.0.0 PURPOSE

The purpose is to provide guidelines for making decisions with regard to vehicular pursuits.

20.1.0 POLICY

Vehicular pursuit of fleeing suspects can present a danger to the lives of the public, officers, and suspects involved in the pursuit. It is the responsibility of the agency to assist officers in the safe performance of their duties. To fulfill these obligations, it will be the policy of this agency to regulate the manner in which vehicular pursuits are undertaken and performed. All vehicular pursuits will be guided by this policy and in accordance with the applicable portions of 61-8-107, Montana Code Annotated (MCA) "Police vehicles and authorized emergency vehicles."

20.2.0 DEFINITIONS

20.2.1 Vehicular Pursuit: The active attempt by an officer in an authorized emergency vehicle to apprehend a fleeing suspect vehicle who is actively attempting to elude police.

20.2.2 Authorized emergency vehicle: A vehicle of this agency equipped with operable emergency equipment as designated by state law.

20.2.3 Primary unit: The police unit, that initiates a pursuit or any unit, assumes control of the pursuit.

20.2.4 Secondary unit: Any police vehicle, which becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.

20.3.0 PROCEDURES

20.3.1 Types of Vehicular Pursuits:

- a. Basic Pursuit: Fleeing vehicle is obeying all traffic control devices and speed limits yet not stopping for marked police vehicle with emergency lights and sirens activated. This type of pursuit may be a medical situation and may require intervention.
- b. Compelling Need Pursuit: Fleeing vehicle is disobeying traffic control devices, exceeding speed limits, and driving in such a manner as to disregard public safety.

20.3.2 Decision to Pursue:

- a. The decision to initiate a pursuit must be based on the pursuing officer's conclusion that a compelling need is established; and that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.
- b. A compelling need to initiate a pursuit exists when an objective evaluation of the totality of the known facts and circumstances leads an officer to reasonably conclude the need for immediate apprehension of a suspect is greater than the possible risk to public and officer safety posed by the pursuit. Compelling need exists whenever an officer reasonably believes that the suspect or the actions of the suspect pose an imminent and identifiable risk of serious bodily injury or death to the public or officer.
- c. Compelling need does not include:
 - The mere act of fleeing, even if reckless
 - Traffic and licensing infractions including DUI and attempted vehicular assault
 - Property crimes including auto theft and joy riding
- d. Evaluating the Circumstances: When deciding whether to initiate a pursuit the officer should consider the following factors:
 - Seriousness of the offense;
 - Probability of apprehension;
 - Can the identity of the suspect and or occupants be established to the point where a later apprehension is possible;
 - Degree of risk created by the pursuit in relation to the risk created by the suspect and or occupants remaining at large or escaping;
 - Volume, type, speed, and direction of all traffic;
 - Geographical factors such as residential, commercial, school zone, open highway, etc.;
 - Presence of pedestrian traffic in and around the roadway;
 - Environmental factors such as weather and darkness;
 - Road conditions, construction, curves, wet, ice, etc.
- f. Officers are prohibited from pursuits under the following circumstances, unless authorized by a supervisor:
 - When the pursuit is in the opposite direction of the flow of traffic on a one-way street or divided roadway;

- When a passenger in the police vehicle is not an officer;
- When the officer is not the primary or secondary pursuit vehicle.

20.3.3 Mandatory Termination of Pursuits:

- a. When in the opinion of the officer(s) involved or the supervisor, the level of danger created by the pursuit outweighs the necessity of immediate apprehension.
- b. When the officer(s) involved and the supervisor cannot maintain clear radio communications.
- c. When the suspect's identity has been established and there is no need for immediate apprehension.
- d. When the pursued vehicle's location is no longer known.
- e. All officers and supervisors will be held accountable for continuing pursuits when circumstances indicate it should have been discontinued.
- f. Officers and supervisors will not be criticized or disciplined when their decision is to terminate, rather than continue a pursuit.

20.3.4 Initiating Officer's Responsibilities:

- a. As soon as practical the officer should notify the communications center that a pursuit is in progress and provide the following information:
 - Officer and or Unit radio identifier;
 - Location, speed, and direction of the pursuit;
 - Vehicle description, including license plate number – whole or in part;
 - Reason for pursuit – specifying alleged criminal act;
 - Number of possible occupants;
 - Traffic, road, and weather conditions;
 - Any radio frequency change.
- b. The pursuing officer shall utilize emergency lights and siren as outlined in MCA 61-8-107. If available the officers should also activate the video tape (VCR or ICOP) during the pursuit. Use of the air horn does not fulfill the siren requirement, but may be used in addition to the lights and siren.
- c. The initiating primary officer will have operational responsibility for the pursuit, unless relieved by a supervisor.

20.3.5 Supervisor Responsibilities:

- a. The Supervisor in charge should be notified of the pursuit, and should monitor the progress of pursuits. A supervisor may order the termination of the pursuit for any reason, and may coordinate any

pursuit actions or tactics. Supervisors should consider termination of the pursuit when the risk to the safety of the public exceeds the risk created by the suspect and or occupants remaining at large or escaping.

20.3.6 Assisting Patrol Vehicles Responsibilities:

- a. A pursuit should consist of a primary and secondary or backup unit. Request for additional units may be determined by clear and articulated facts that would warrant the need for additional units.
- b. The secondary unit will provide cover for the primary unit, but in the event that the primary unit is disabled or unable to continue the pursuit, the secondary unit should assume the responsibilities of the primary unit.
- c. Authorization for additional units to be involved in a pursuit should be obtained from a supervisor.
- d. Supervisors should minimize the number of patrol vehicles that will actually be engaged in the pursuit to that number that is necessary for the safety of all officers involved and the safe apprehension of the suspect(s).
- e. All additional units will maintain a safe distance behind the primary unit, but close enough to provide assistance if required.

20.3.7 Pursuit Intervention Consideration:

Any intervention tactic must take into consideration all of the factors surrounding the incident. Safety is always the foremost factor to be considered. Intervention tactics are discouraged without prior approval by a supervisor and will always be guided by the agency's Use of Force Policy.

20.3.8 Methods of Pursuit Intervention:

a. Intentional Contact

Intentional contact with a fleeing vehicle is a high-risk maneuver that should be used only if the officer has concluded that this type of contact would be of less risk than allowing the suspect to continue.

Whenever practical, officers should obtain supervisory approval prior to initiating contact with a fleeing vehicle. This policy and the agency's Use of Force Policy should guide officers making these requests and the decision to approve the use of this tactic.

b. Vehicle Disabling Devices

Fabricated tire deflating devices are acceptable methods of terminating a pursuit. When practical, officers should obtain supervisory approval prior to deployment of these types of devices.

Supervisors and officers considering deploying a fabricated tire deflating device should do so only after giving considerations to all the principles of this policy, and the degree of risk created by the pursuit and the use of these types of devices in relation to the risk created by the suspect and or occupants remaining at large or escaping.

All officers involved in the pursuit must be aware of the exact location of the deployed fabricated tire deflating device so they can reduce speeds in time to allow removal of the device.

Fabricated tire deflating devices will not be used when a pursuit involves motorcycles, three wheeled vehicles ~~or all-terrain vehicles.~~

20.3.9 Roadblocks:

a. The use of a roadblock is authorized under Montana Code Annotated, 46-5-502, which says in part that any law enforcement agency of this state is authorized to establish, within its jurisdiction, temporary roadblocks on the highways of this state for the purpose of apprehending persons wanted for violation of the laws of this state, of any other state, or of the United States who are using the highways of this state.

b. The following factors should be considered when establishing a roadblock:

- The site selected will provide sufficient visibility to all oncoming traffic, as well as permit safe off-road parking for patrol vehicles and processed vehicles.
- Time of day. The hours of darkness should be avoided unless the suspect poses an extreme risk to the safety and or welfare of the public.
- A minimum of two officers is needed to adequately process civilian operated vehicles.
- The only vehicles that may be used to blockade any portion of the roadway will be marked, unoccupied law enforcement vehicles, except in a use of force situation.
- Vehicles used as stationary blockades will be placed at an angle that reveals emblems and or markings to oncoming traffic. Emergency lights will be activated.

- The emergency roadblock will be constructed in such a manner as to leave a route through the area. The design should be such that it would be necessary to navigate slowly through the roadblock. A roadway should not be completely blocked by vehicles, except in a situation where the suspect presents an imminent threat of death or serious bodily harm to officers or other members of the public.
- In a situation where the suspect presents an imminent threat of death or serious bodily injury to the officers or innocent members of the public, a complete roadblock may be used. A roadway that is completely blocked may result in an intentional seizure using force. The officer must be able to clearly articulate specific facts and circumstances as to the immediate need for the seizure, and the use of force during the seizure. A vehicle other than a law enforcement vehicle may be used to completely block the roadway.
- Officers will always place themselves in a position of safety. They should never expose themselves to a risk for the sake of stopping a suspect or diverting traffic. If the emergency roadblock is established for the purpose of apprehending a fugitive or fleeing suspect, officers should position themselves to be able to make apprehension of the suspect if they so choose to terminate their flight at the roadblock.
- If a patrol vehicle is not being used as part of the roadblock, it should be off the roadway in a safe position to initiate a pursuit should it become necessary. The emergency lights will be activated while in the parked position.

20.3.10 Use of Firearms during Pursuits:

The use of a firearm as a method of intervention constitutes the deployment of deadly force and therefore must meet and fall within the acceptable standards contained and imposed by a Use of Force Policy.

20.3.12 Notification:

The Administrator and designated members of the command staff will be notified as soon as reasonably possible when any intervention action results in injury or death.

20.3.13 Inter-Jurisdictionnel Pursuit:

- a. When a pursuit initiated by this agency enters another jurisdiction, the primary officer should notify the local law enforcement agency of the pursuit. The notification message should include as much as the following information as possible:
 - Officer and or Unit radio identifier;

- Location, speed, and direction of the pursuit;
 - Vehicle description, including license plate number – whole or in part;
 - Reason for pursuit – specifying alleged criminal act;
 - Number of possible occupants;
 - Traffic, road, and weather conditions;
 - Any radio frequency change.
- b. The primary officer should clearly indicate if they are requesting assistance from the law enforcement agency or merely providing notification of the pursuit being conducted.
 - c. Officers of this agency will not become involved in pursuits initiated by another agency without a request for assistance.
 - d. Officers may continue pursuits across a state line only if the person being pursued is believed to be a felon.
 - e. A supervisor must be notified immediately when it becomes apparent that a pursuit will cross a state line.
 - f. Pursuits are not allowed into Canada.
 - g. In pursuit cases where the criminal act is not a felony, officers will not cross a state line except where the degree of risk created by the suspect and or occupants remaining at large or escaping exceeds the risk of the pursuit or where such authority has been specifically granted by mutual aid agreement by the authority of the jurisdiction to which the pursuit is entering.
 - h. When a pursuit crosses into another state, that state's highway patrol, state police agency, county sheriff's office or other local law enforcement will be contacted immediately and advised of the circumstances of the pursuit.
 - i. Pursuits may or may not be permitted on tribal lands. Agencies and their officers must be cognizant of the right of tribal authorities, as sovereign nations, to terminate or prohibit pursuits upon their lands.
 - j. If a fleeing suspect is subsequently apprehended by a law enforcement agency in a neighboring state, the officer may, with supervisor approval, go to the termination point.

20.4.0 CRITICAL INCIDENT REVIEW PROCESS

20.4.1 The primary pursuing officer will prepare a detailed written report that should include the following information:

- Officer and or Unit radio identifier;
- Location, speed, and direction of the pursuit;
- Vehicle description, including license plate number if known;
- Reason for pursuit – specifying alleged criminal act;
- Number of possible occupants;
- Traffic, road, and weather conditions;

- Any radio frequency change.
- 20.4.2 If applicable, all officers involved in the pursuit will download the data from their in-car camera or turn in the video tape from their respective vehicles and preserve these recordings for a period of time that is sufficient to allow all judicial proceedings to commence and conclude. The written report will be submitted to the officer's supervisor as soon as practical and possible. The reports will be made available to a Critical Incident Review Board. The Board may consist of:
- a. Command Level Officer designated by the Agency Administrator, (board chairman)
 - b. The Agency training coordinator
 - c. A member of the command staff
 - d. The immediate supervisor of the officer involved in the pursuit
 - e. An agency member of the same rank as the officer involved in the pursuit.
- 20.4.3 The Critical Incident Review Board evaluates, in explicit and fact-finding fashion, each aspect of a vehicular pursuit. Such evaluation should include:
- a. A thorough review of the officer's report.
 - b. A thorough review of any additional reports or documents, such as those submitted to the agency's insurance carrier as a result of accident or injury sustained by any person during the course of the pursuit.
 - c. Hearing of direct statements, if necessary, from officers and witnesses.
- 20.4.4 The Critical Incident Review Board shall develop findings and the chairman shall prepare a report making recommendations to the Agency Administrator in the following areas:
- a. Whether the pursuit was within policy.
 - b. Tactical considerations
 - c. Training considerations
 - d. Quality of supervision during the event
 - e. Any corrective action, if required
 - f. The quality of the post pursuit investigative processes
- 20.4.5 The officer who is the subject of the Critical Incident Review Board shall be present during all phases of the board's action with the exception of deliberation. They shall have the right to listen to the presentation of all information and evidence and shall be allowed to speak in their own behalf, if they so choose.
- 20.4.6 The Critical Incident Review Board's report will be submitted to the Agency Administrator as soon as reasonably possible following the incident.

20.5.0 ESCORTS:

20.5.1 Escorts of private vehicles with the use of patrol vehicles are not authorized. Officers will not authorize the driver of any private vehicle to exceed the speed limit or to ignore traffic regulations, signs or devices. Officers will not lead or otherwise escort ambulances. If an ambulance requires traffic control assistance, officers may attempt to clear intersections along the route of the emergency response.

20.6.0 VEHICULAR PURSUIT OVERVIEW

20.6.1 Officers should continually assess all factors and risks during a vehicular pursuit. Safety of the public, and the officers should be the overriding consideration on whether to initiate or continue a vehicular pursuit.

ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

21.0.0 PURPOSE

The purpose of this policy is to provide guidelines for the electronic recording of suspect's statement in custodial interrogations and the associated use, management, storage, and retrieval of such recordings. These guidelines are compilation of best practices and follow Montana law that all custodial interrogations in felony cases shall be electronically recorded (Reference MCA 46-4-408).

21.1.0 POLICY

The use of electronic recordings during custodial interrogations is intended to enhance the investigative process, assist the prosecution of criminal cases, and provide a level of integrity to the interview and interrogation process. The recording of custodial interrogations will assist the agency in demonstrating the interview process, preserving the statements of the accused, and defending against claims such as a deprivation of the right to counsel, and the right of self-incrimination.

21.2.0 DEFINITIONS (Reference MCA 46-4-407)

21.2.1 Custodial interrogation: An interview conducted by a peace officer in a place of detention for the purpose of investigating a felony or, in the case of a youth, an offense that would be a felony if committed by an adult if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense.

21.2.2 Electronic recording or electronically recorded: An audio recording, visual recording, or audiovisual recording, if available, that is an authentic, unaltered record of a custodial interrogation.

21.1.3 Place of detention: A jail, police or sheriff's station, holding cell, correctional or detention facility, office, or other structure in this state where persons are held in connection with criminal charges or juvenile delinquency proceedings.

21.1.4 Statement: An oral, written, sign language, or nonverbal communication.

21.3.0 PROCEDURES

21.3.1 General Requirements:

- a. Electronic recording of custodial interrogations is intended to:

- Provide the best evidence of the communication that occurred during the interrogation;
 - Prevent disputes about an officer's conduct or treatment of the suspect during the course of the interrogation;
 - Prevent a defendant from lying about the account of the events originally provided to law enforcement by the defendant;
 - Spare judges and jurors the time necessary and the need to assess which account of an interrogation to believe;
 - Enhance public confidence in the criminal process.
- b. Officers shall electronically audio or audio/visually record custodial interrogations in felony cases. For the purpose of these guidelines a suspect is considered to be in custody if, under similar circumstances, a reasonable person in the suspect's position would feel that his/her liberty to move about freely or leave was being restrained in any way.
- c. Officers should, whenever practicable electronically audio or audio/visually record interrogations of all suspects.
- d. The following exceptions to the recording requirement are authorized by statute (MCA 46-4-409). However, the officer must clearly describe and justify the reason the interrogation wasn't electronically audio or audio/visually recorded in their investigative report.
- The questions put forth by law enforcement personnel and the person's responsive statements were part of the routine processing or booking of the person;
 - Before or during a custodial interrogation, the person unambiguously declared that the person would respond to the law enforcement officer's questions only if the person's statements were not electronically audio or audio/visually recorded;
 - The failure to electronically audio or audio/visually record an interrogation in its entirety was the result of unforeseeable equipment failure and obtaining replacement equipment was not practicable;
 - Exigent circumstances prevented the making of an electronic audio or audio/visually recording of the custodial interrogation;
 - The person's statements were surreptitiously recorded by or under the direction of law enforcement personnel;

- The person's statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state; or
- The person's statement was made spontaneously and not in response to a question.

21.3.2 Recording Protocols and Operation of Equipment

- a. Officers should not bring other electronic devices (e.g. cell phones, radios, pagers) into the interview room that may interfere with the recordings;
- b. Ensure that recording equipment is functioning properly;
- c. If using a device that requires tapes or DVD's, use new media if possible rather than re-use old media;
- d. When ready to begin custodial questioning, turn the recording on at the beginning, without asking for the suspect's permission. If the suspect then refuses to talk, while being recorded, the refusal will be recorded. The recording shall continue without interruption until questioning ends.
- e. Before beginning a recording, consider giving a notice of recording (per your agency's policy). Officers do not have to inform the person being interviewed that they are being recorded. Lack of consent to a recording does not affect the admissibility of a recorded statement. However, giving notice of a recording can foster public trust in law enforcement. If the suspect asks if the interrogation is being recorded, the officer should answer truthfully and continue the interrogation.
- f. Upon commencing the interview, the primary officer shall announce the names of the officer(s); date, time, and location of the interrogation; the name, address, telephone number and date of birth of the suspect; and if applicable names of others present.
- g. Officers shall provide Miranda warnings, and ensure the rights are waived by the suspect.
- h. Officers should try to ensure the suspect statements will be audible and comprehensible on playback. If the person is speaking in a soft voice or does not enunciate clearly, ask for the response to be repeated.
- i. The recording equipment shall remain running during comfort breaks, recesses or other legitimate purposes. If the interrogation is interrupted,

the interviewer shall announce the date and time the interrogation resumes.

- j. At the conclusion of the interrogation, the primary officer should state that the interview has ended and again note the names of those persons present at the interview, the date, and time of termination.
- k. As Montana law seems to indicate that a visual only recording is an acceptable means of recording, this type of recording will not be sufficient to validate and properly memorialize the actual content of the interrogation. Therefore a visual only recording is not recommended as a legitimate means of preserving the interrogation process.

21.3.3 Recording Device Malfunctions

If the recording device malfunctions, the officer conducting the interrogation must decide on whether or how to continue.

- a. If a recording device can be restarted or replaced immediately, the officer should state on the record that the device malfunctioned, how long the device was not working, and whether or not the suspect made any statements that were not recorded.
- b. If the recording device cannot be restarted or replaced immediately, the officer should include in his interview or case report the fact that the device malfunctioned and whether or not the suspect made any statements that were not recorded. The officer should also ask the suspect if they wish to continue the interrogation without a recording device or suspend it until such time as a recording device is available. If the suspect consents to continue, the interrogation should be documented by obtaining a written statement from the suspect. If the suspect refuses to provide a written statement, the documentation of the interrogation can be done in the officer's investigative report.

21.3.4 Copying and Storing of Original Recordings

All electronically audio or audio/visually recorded interrogations shall be stored in accordance with state law and local policy. As soon as practical, an officer who records the statements of a suspect should create at least one exact copy of the original recording. The copy should be clearly labeled as a copy. Once made, the copy should be used to create additional copies, for investigative review, to prepare transcripts and to comply with discovery requests.

21.3.5 Documentation

- a. Officers shall continue to prepare written summaries (investigative reports) and continue to obtain written statements from suspects.
- b. Electronic audio or audio/visually recording should not be relied upon as a sole substitute for traditional methods of memorializing interviews. Written statements from suspect(s) may provide a means of memorializing the officer's version of what occurred during the interview. This in turn may provide a means to resolve criminal cases based upon the written reports and statements alone thereby minimizing the costs of additional copying or transcribing of recordings.
- c. Written statements when used in conjunction with an electronic audio or audio/visually recording are important because they can provide clear and concise evidence of guilt or innocence. Written statements also tend to demonstrate that incriminating or exculpatory statements were made voluntarily. It is not necessary for written statements to include all the details of an interview, as the electronic audio or audio/visually recording will suffice.
- d. To help ensure the accuracy and consistency of the accounts of the interrogation or interview, officers should review the recordings when preparing the written reports of the events.

FOOT PURSUITS

22.0.0 Purpose

The purpose is to provide guidelines on foot pursuits that will establish a balance between protecting the safety of law enforcement personnel and the public while at the same time facilitating the apprehension of suspects.

22.1.0 Policy

Whenever an officer decides to engage in a foot pursuit a quick and continuous risk assessment must take place. It shall be the policy of this Agency that officer safety and the safety of the public shall be the overriding consideration in determining whether or not a foot pursuit will be initiated. This policy is intended as a general guideline when deciding if such pursuits are warranted and how they should be conducted.

22.2.0 Definitions

- 22.2.1 Foot Pursuit: A situation in which an officer, on foot, chases a suspect in an effort to detain or arrest that individual which he or she has reasonable suspicion to believe is about to commit, is committing, or has committed a crime and who is resisting apprehension by fleeing from the officer.
- 22.2.2 Suspect: Includes any individual who an officer reasonably believes is about to commit, is committing, or has committed an offense or poses an imminent threat to the safety of the public, other officers, or themselves.

22.3.0 Procedures

22.3.1 Deciding to Pursue

An officer has the authority to stop any person suspected of committing any criminal offense, violation, or traffic infraction. While it is the officer's decision to initiate the stop, it is the violator who initiates the cause for the pursuit by fleeing. The officer's decision to pursue should always be undertaken with an awareness of the degree of risk to themselves or others. Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion of the individuals' involvement in criminal activity.

22.3.2 Alternatives to Foot Pursuit

Depending on available resources, officers should consider the following alternatives to foot pursuit:

- a. Surveillance until additional resources become available

- b. Containment of the area
- c. Saturation of the area with patrol personnel
- d. Canine search
- e. Aerial support

22.3.3 Risk Factors:

In deciding whether to initiate or continue a foot pursuit, officers should also consider the following risk factors:

- a. Whether the suspect is armed
- b. Severity of suspect's offense (i.e. do they pose a serious threat to the community if allowed to escape.)
- c. Officer is acting alone
- d. Backup is not available in a timely manner
- e. Officer's physical condition is not adequate to conduct a foot pursuit
- f. Location - Type of area- (i.e. residential, commercial, highway) which impacts the safety of any individuals that may be affected by the foot pursuit;
- g. Pursuing in inclement weather, terrain, darkness, or reduced visibility conditions;
- h. Area of pursuit is unfamiliar or hostile to law enforcement.
- i. Ability to apprehend the subject at a later time (i.e. identity is known)
- j. Ability to establish and maintain contact with the communications center
- k. Illumination, (daylight, street lights, yard lights, flashlight only, no light)

22.3.4 Initiating Officer's Responsibilities:

- a. Officers initiating foot pursuits should be in field command and should bear operational responsibility for the foot pursuit unless circumstances dictate otherwise or until relieved by a supervisor. Pursuing officers are reminded that voice transmissions while running and in other field tactical situations may be difficult to understand and may have to be repeated.
- b. The officer initiating a foot pursuit should, as soon as practical, provide the following information to the Communications Center:
 - Unit identifier
 - Officer location and direction of pursuit
 - Number of suspects and description
 - Whether or not the suspect is armed
 - Reason for the foot pursuit
- c. The initiating officer should maintain sufficient tactical gap between himself and the suspect to allow time for maintaining cover and allow for the arrival of backup officers.
- d. Coordinate with secondary officers to establish a perimeter in the area to contain the suspect.
- e. Assisting officers shall immediately attempt to contain the pursued suspect.

- f. When two or more officers are in pursuit, they should attempt to remain in sight of each other and maintain communication.

22.3.5 Supervisor's responsibility:

If a supervisor is on duty, the supervisor should:

- a. Decide as soon as possible whether pursuit should continue. The supervisor should order termination of the foot pursuit if the pursuit violates provisions of this or related department policy, procedures, or training;
- b. The supervisor should terminate a foot pursuit at any time he or she concludes that the danger to pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect;
- c. Monitor the pursuit and direct available resources to assist in the apprehension of the suspect;
- d. Consider the use of specialized units/personnel to aid in the apprehension of the suspect.

22.3.6 Guidelines and Restrictions

The pursuing officer shall terminate a pursuit if so instructed by a supervisor.

Officers are discouraged from engaging or continuing a foot pursuit under the following conditions:

- a. The officer believes the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension;
- b. Into buildings, structures, confined spaces, or into wooded or otherwise isolated areas without sufficient backup and containment of the area;
- c. If the officer loses possession of his firearm;
- d. The suspect's identity is established or other information exists that allows for the suspect's probable apprehension at a later time and there is no immediate threat to the public or police officers;
- e. If the suspect's location is no longer known;
- f. The officer loses communication;
- g. If an officer or third party is injured during the pursuit who requires immediate assistance and there are no other police or medical personnel able to render assistance;
- h. If the officer loses visual contact with the suspect;
- i. If the officer is unsure of his own location or direction of travel.
- j. If the officer loses other essential equipment.

22.4.0 Termination

When the officer terminates the pursuit, they should notify their communications center with their location and request any assistance deemed necessary.

OFF-DUTY ENFORCEMENT ACTION

P23

23.0.0 Purpose

This purpose of this policy is to provide guidance and direction to off-duty officers in regards to taking law enforcement action while in an off-duty capacity.

23.1.0 Policy

Off-duty officers are often confronted with situations where they are faced with criminal activity that they are neither equipped nor prepared to handle in the same manner if they were on duty. The decision to become directly involved in a law enforcement action when off-duty can place an officer as well as others at greater risk, and should be done with careful consideration. However, an officer who becomes aware of an incident that poses a threat of serious bodily harm or death to the officer or others shall take reasonable and necessary action to minimize the risks associated with the incident. Action under this provision is fulfilled by immediately reporting the incident to the nearest and most accessible law enforcement agency. Action does not require the officer to place him or herself in a position of peril. The circumstances and risks associated with each incident may dictate the appropriate level of response by the off-duty officer.

23.2.0 Definitions

23.2.1 Off-Duty: When a member is not in an on-duty status, such as working a department assigned shift, overtime or paid detail.

23.2.2 Personally involved: An officer is deemed personally involved, when in an off-duty capacity the officer, a family member, or a friend becomes engaged in a dispute or incident that would normally require the summoning or intervention of on-duty law enforcement officers. This does not apply to situations where the officer is a victim of the crime.

22.3.0 Procedures

22.3.1 The following procedures are intended to define when off-duty, non-uniformed, enforcement action is authorized and how it should be conducted in order to reduce the potential of officer-on-officer conflicts and related injuries.

22.3.2 Off-Duty Responsibilities

While off-duty, it is the responsibility of the officer to immediately report any suspected or observed criminal activities to on-duty authorities. Except as allowed by this policy, off-duty officers should not attempt to initiate any enforcement action when

witnessing minor violations such as traffic infractions, harassment, disorderly conduct, or other nuisance type offenses.

An off-duty officer shall take reasonable and necessary action when witnessing an incident that poses a threat of serious bodily harm or death to the officer or others. Action under this provision is fulfilled by immediately reporting the incident to the nearest and most accessible law enforcement agency. Action does not require the officer to place him or herself in a position of peril. The circumstances and risks associated with each incident may dictate the appropriate level of response by the off-duty officer. When public safety requires immediate action, officers should first consider reporting and monitoring the activity and resort to any enforcement action as a last resort.

22.3.3 Decision to Intervene

When officers encounter a situation off-duty that seems to require a law enforcement response, they should consciously evaluate whether involvement is necessary and or desirable, given the circumstances and determine how important and urgent the need for intervention is. An officer's intervention may actually spark an escalation of violence. Sometimes, the officer's best plan of action may be to simply gather accurate intelligence as a good witness until uniformed, on-duty officers arrive. Before deciding to intervene the officer should take the following factors into consideration:

- a. Whether the officer is alone, with family members or other non-police personnel;
- b. Do they have the necessary and needed equipment, such as handcuffs, chemical agents or baton;
- c. The ability or inability to communicate with responding units;
- d. The fact that there may be multiple or unknown suspects;
- e. Lack of proper cover and or concealment;
- f. The potential increased risk to bystanders;
- g. Unfamiliarity with the location or surroundings;
- h. The potential for the off-duty officer to be misidentified by other law enforcement officers or members of the public.

22.3.4 Intervention Procedure:

If direct law enforcement action is reasonably necessary the officer should:

- a. Attempt to call or have someone else call 9-1-1 to request immediate assistance.

The operator should be provided with the following information:

- That an off-duty officer is at the scene;
 - Whether the off-duty officer is armed;
 - The off-duty officer's name, employing agency and description including clothing.
- b. Whenever practicable the officer should loudly and repeatedly identify himself / herself as a police officer.
 - c. If possible, the off-duty officer's badge and identification should be out, displayed and visible.
 - d. If the off-duty officer's weapon is involved in the incident, be cognizant that responding officers will immediately see it as a threat. Minimize exposure to risk with this consideration in mind; if you have a gun in your hand, never turn toward an on-duty officer.
 - e. Verbally identify yourself as a peace officer and continue to repeat this until acknowledged. Tell the responding officers where your badge and credentials are in order that they may be viewed and even retrieved by the responding officers.
 - f. When commands are issued by the responding officers, follow all orders and commands promptly and completely. This includes surrendering your firearm and assuming surrender positions such as lying prone or kneeling. Be cognizant that until the situation is rendered safe and you have been properly identified as a law enforcement officer you will likely be treated a suspect. Be cooperative and patient.

23.3.5 Discouraged Off-Duty Arrests:

Officers shall avoid making arrests when:

- a. The officer is personally involved in the incident underlying the arrest;
- b. The officer's ability or judgment to use a firearm or take a person into custody has been impaired by the uses of alcohol, prescription drugs, or other medication or by a physical ailment or injury;
- c. The arrest is made solely as enforcement of a minor traffic infraction;
- d. A uniformed officer is readily available to deal with the incident;
- e. Nothing in this policy is to be interpreted as preventing or prohibiting an officer from defending himself or herself or others from assaults or threats of death or serious bodily harm regardless of the officer's duty status.

23.3.6 Reporting

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, should notify their agency administrator or supervisor as soon as practicable. The off-duty officer should document and report the incident per their agency policy. The officer shall also cooperate fully with the law enforcement agency having jurisdiction by surrendering any items of which may have value as evidence and providing statements or reports as requested.

PRESERVATION OF BIOLOGICAL EVIDENCE

24.0.0 PURPOSE

The purpose is to provide guidelines for the preservation of biological evidence. Biological evidence for human identification by DNA analysis has played an increasing role in proving the guilt or innocence of individuals in the past decade.

24.1.0 POLICY

Biological evidence including DNA constitutes highly valuable evidence in criminal investigations and prosecutions, and should be preserved in accordance with state law.

24.2.0 PROCEDURES

24.2.1 A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained.

24.2.2 According to MCA 46-12-111, "A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained for a minimum of 3 years after the conviction in the case becomes final, or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final."

For purposes of Title 46, Chapter 21, a conviction becomes final when:

(a) the time for appeal to the Montana Supreme Court expires;

(b) if an appeal is taken to the Montana supreme court, the time for petitioning the United States supreme court for review expires; or

(c) if review is sought in the United States Supreme Court, on the date that that court issues its final order in the case.

MCA 46-21-102.

In addition, evidence that could contain DNA material may qualify as part of "case files" as described in the Local Government Records Committee; County Sheriff Records Schedule (attached) which sets forth specific retention periods for evidence in some crimes.

Evidence that could contain DNA material may also qualify as “case files” and/or “criminal investigative records” as described in the Local Government Records Committee Municipal Records Schedules (attached).

We therefore recommend that at a minimum, to comply with State laws described above follow the time period set forth in MCA 46-21-102. In addition we recommend consulting with legal counsel to determine if evidence that could contain DNA material is covered under the Records Schedules mentioned above. In capitol or life imprisonment cases, the evidence will be kept until the person becomes deceased.

- 24.2.3 An agency should develop a system for tracking the disposition of cases to help determine how long to preserve evidence, and when to dispose of evidence in accordance with state law.
- 24.2.4 An agency may propose to dispose of biological evidence before the 3-year requirement has been met. To do so, they should consult with the city/county attorney to comply with the following statutory requirements:
- a. Notify the convicted person, the attorney of record for the convicted person, and the Montana chief public defender;
 - b. The notification must include a description of the biological evidence, a statement that the agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed;
 - c. If an objection to the disposition of the evidence is not filed within the 120-day period, the agency may dispose of the evidence;
 - d. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system;
 - e. If a party objects to the disposition of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the evidence should be disposed of.

24.3.0 DEFINITIONS

24.3.1 **BIOLOGICAL EVIDENCE:** Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, including the contents of a sexual assault examination kit, that is collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate any person of an offense.

21.3.2 **DNA:** "DNA" means deoxyribonucleic acid as referenced in 46-21-111 MCA.

PHOTOGRAPHIC LINEUPS / SHOW-UPS

25.0.0 PURPOSE

The purpose of this policy is to establish procedures for eyewitness identification of suspects in photographic lineups and show ups.

25.1.0 POLICY

Eyewitness identifications are a significant component in some criminal investigations. Photographic lineups and show-ups must be carefully administered to minimize the likelihood of misidentifications. Officers must strictly adhere to the procedures set forth below in order to maximize the reliability of identifications, protect innocent persons, and to establish evidence that is reliable and conforms to established legal requirements.

Properly prepared and properly presented photographic lineups are the preferred method of obtaining identification over a show-up. Sequential and simultaneous presentation of photographs both are accepted methods of photographic lineups. Sequential photographic lineups shall be used instead of a simultaneous photographic lineup when the investigating officer conducts the procedure instead of an Independent Administrator. Some departments also prefer sequential lineup, because many studies have found they help to reduce misidentification by eyewitnesses. Sequential photographic lineups may also be conducted by an Independent Administrator.

25.2.0 DEFINITIONS

25.2.1 Simultaneous Photographic Lineup: An identification procedure in which a group of photographs are displayed all at once to the victim or witness rather than one-at-a-time (sequential).

25.2.2 Sequential Photographic Lineup: An identification procedure in which photographs in the photo group are displayed one-at-a-time to the victim or witness.

25.2.3 Independent Administrator: A person administering the photo lineup, who has no knowledge of the suspect's identity.

25.2.4 Functional Equivalent Procedures (FEP): Procedures utilized when an Independent Administrator is not utilized, permitting the investigator to conduct a sequential photo lineup in a manner that precludes him or her from knowing when the suspect is presented to the witness.

- 25.2.5 Filler Photos: Photographs of persons other than the suspect, used to complete a photo lineup.
- 25.2.6 Blank photo: A sheet of paper the same size as the photos utilized in the photo lineup that is blank, with no photo showing. (Blank photos are utilized in sequential photo lineups.)
- 25.2.7 Photo Array: The group of photographs utilized in a photo lineup. A photo array may be presented to the witness simultaneously or sequentially.
- 25.2.8 Show-up: An identification procedure in which a single suspect is shown to a victim or witness soon after the commission of a crime for the purpose of identifying or eliminating the suspect as the perpetrator.

25.3.0 PHOTO LINEUPS

- 25.3.1 A Simultaneous Photo Lineup will consist of six individual photographs in a photo array that is shown to the witness at once or simultaneous.
- 25.3.2 If a simultaneous photo lineup is used, it should be conducted by another officer, investigator, or employee (Independent Administrator), who is not directly involved in the investigation, and is not aware of which photograph is the suspect.
- 25.3.3 By utilizing this practice the Independent Administrator would not be aware of which member of the photo lineup is the suspect, and would eliminate the possibility of influencing the witness' selection.
- 25.3.4 If it is not feasible to have an Independent Administrator, the officer shall use the sequential photographic lineup method with Functional Equivalent Procedure (FEP). The sequential photo lineup is a good alternative to the simultaneous lineup and can be conducted by either the investigating officer or an Independent Administrator.
- 25.3.5 A Sequential Photo Lineup will consist of ten folders identical in appearance, size and color. Six folders will contain one photograph each of either the suspect photo or the five filler photos. Four folders will be empty. Each folder will be shown to the witness one at a time or sequentially.

25.4.0 COMPOSING THE LINEUP

- 25.4.1 The following procedures will result in the composition of a photo lineup in which a suspect does not unduly stand out. An identification obtained through a lineup

composed in this manner should minimize any risk of misidentification and have stronger evidentiary value than one obtained without these procedures.

25.4.2 In composing either a simultaneous or sequential photo lineup, the investigator should:

- a. Include only one suspect in each identification procedure;
- b. Select fillers (non-suspects) who generally fit the witness' description of the perpetrator. When there is limited or inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features;
- c. Select a photo that resembles the suspect's description or appearance at the time of the incident if multiple photos of the subject are available to the investigator;
- d. Include a minimum of five fillers (non-suspects) for both the simultaneous photo lineup and sequential photo lineup;
- e. Use photos that are the same size, comparable background, and profile. Do not mix color and black/white photos;
- f. Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature (e.g., scars, tattoos) used to describe the perpetrator by concealing that feature;
- g. A filler photo will be used as the lead photo position in either simultaneous photo lineup and the sequential lineup;
- h. Place suspects in different positions in each lineup when conducting more than one lineup due to multiple witnesses in the same case. Position the suspect randomly in the lineup;
- i. Never use an officer or employee photograph for the sole purpose of providing a filler photograph;
- j. Ensure that no writings or information concerning previous arrest(s) will be visible to the witness;
- k. View the array, once completed to ensure that the suspect does not unduly stand out;
- l. Preserve the presentation order of the photo lineup. In addition, the photos themselves should be preserved in their original condition.

25.4.3 The following additional procedures should be used when composing a Sequential Photo Lineup:

- a. Select ten folders identical in appearance size and color. Obtain one suspect photo and five filler photographs that closely match the description of the perpetrator. The remaining four folders will not contain any photos and will serve as 'dummy folders.'
- b. Place one each of the five filler photos and the one suspect photo in their own folder (total six folders.)
- c. Make one of the filler photos your lead position folder;

- d. Take the remaining five folders (containing four filler photos and the suspect photo) and shuffle them, so the position of the suspect photo is not known to the person administering the lineup. (Functional Equivalent Procedure);
- e. Place the lead position folder with known filler on top of the shuffled group of five folders;
- f. Each of your four remaining folders will remain empty or you can place a blank piece of paper in the folder. Place the empty folders underneath the shuffled folders. This is done so the witness does not anticipate viewing the last photo in the sequence.
- g. The folders should not be numbered until after the sequence has been presented to the witness.

25.5.0 INSTRUCTIONS TO THE WITNESS PRIOR TO VIEWING A LINEUP

25.5.1 Prior to presenting the lineup, the investigator shall provide the following instructions to ensure the witness understands the purpose of the identification procedure is to exculpate the innocent as well as identify the actual perpetrator:

- a. Instruct the witness that he/she will be asked to view a set of photographs;
- b. Instruct the witness that it is just as important to clear the innocent persons from suspicion as to identify guilty parties;
- c. Instruct the witness that individuals present in the lineup may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change;
- d. Instruct the witness that the person who committed the crime may or may not be present in the set of photographs being presented, and therefore, they should not feel compelled to make an identification;
- e. Assure the witness that regardless of whether an identification is made; the police will continue to investigate the incident;
- f. Instruct the witness that the procedure requires the investigator to ask the witness, to state in his/her own words, how certain he/she is of any identification.

25.6.0 CONDUCTING THE PHOTO LINEUP

25.6.1 The investigator shall conduct the lineup in a manner conducive to obtaining accurate identification and non-identification decisions.

25.6.2 Simultaneous Photo Lineup: When conducting a simultaneous photo lineup the Independent Administrator should:

- a. Provide instructions to the witness as outline in section 25.5.0 "Instructions to the Witness Prior to Viewing a Lineup".
- b. Confirm the witness understands the nature of the lineup procedure;

- c. Instruct the witness that they do not know whether the person being investigated is included in the photo lineup that is to be viewed.
- d. Instruct the witness that photos shown to them are simultaneous and not in any particular order. They should take as much time as needed to examine them;
- e. Avoid any verbal or nonverbal feedback to the witness that may influence the witness' selection;
- f. If an identification is made, avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty.
- g. Record any identification results and witness' statement of certainty as outlined in 25.7.0 "Documenting the Lineup."
- h. Instruct the witness not to discuss the identification procedure or its results with other witness involved in the case, and discourage contact with the media.

25.6.3 Sequential Photo Lineup: When presenting the sequential photo lineup, the investigator or independent administrator should:

- a. Provide instructions to the witness as outline in section 25.5.0 "Instructions to the Witness Prior to Viewing a Lineup".
- b. Position themselves away from the witness, so they cannot see the inside of the folders as they are being viewed by the witness.
- c. Provide the following additional viewing instructions to the witness:
 - Individual photographs will be viewed one at a time;
 - The photos are not in any particular order;
 - Take as much time as needed to examine each photo;
 - There are some blank photos in the series. This is part of the normal process;
 - If you make an identification, I will continue to show you the remaining photos in the series
 - If you do identify someone, I will have you designate the photo of the person you identified;
 - If an Independent Administrator, instruct the witness that they do not know whether the person being investigated is included in the photo lineup that is to be viewed.
 - If an Investigator, instruct the witness that they do not know the order of the photos.
- d. Confirm the witness understands the nature of the lineup procedure;
- e. Avoid any verbal or nonverbal feedback to the witness that may influence the witness' selection;
- f. If an identification is made, avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty;

- g. Only if the witness makes the request, the entire photo lineup may be repeated once but must be in the same sequence as originally presented. The entire sequence will be presented even if the witness only requests to see one or a few photos;
- h. Record any identification results and witness' statement of certainty as outlined in 25.7.0 "Documenting the Lineup";
- i. Instruct the witness not to discuss the identification procedure or its results with other witness involved in the case, and discourage contact with the media.

25.7.0 DOCUMENTING THE LINEUP

25.7.1 The investigator shall document in writing the lineup procedure used including:

- a. Identification information and sources of all photos used;
- b. The date and time the lineup was conducted;
- c. Names of persons present at the photo lineup;

25.7.2 The investigator shall document in the witness's own words the level of certainty expressed by the witness and any comment made by the witness during the entire lineup process.

25.7.3 The investigator should note any non-verbal communications (e.g. crying upon viewing of a photo) of the witness;

25.7.4 All results of presentations of photo lineups shall be documented in a written report. The photo array used must be preserved regardless of whether identification was made.

25.7.5 Whenever practicable, the presentation of the photo lineup shall be recorded by audio or audio/ video recording.

25.8.0 SHOW-UPS

25.8.1 Many courts have suppressed identification evidence based on the use of show-ups or field identifications because of the inherent suggestiveness of the practice. Therefore, the use of show-ups should be avoided whenever possible in preference of the photo lineup. However, a show-up may be used when the following circumstances exist:

- a. The suspect is detained within a reasonably short time frame following the offense and in close proximity to where the offense occurred. Although this is dependent on the individual circumstances of each case, courts have generally held that two hours is a reasonable amount of time to conduct the show-up.
- b. The victim or witness had an opportunity to view the suspect during the crime.

- c. A photographic lineup cannot be promptly arranged.
 - d. There is an immediate need to arrest the suspect and there is insufficient independent probable cause.
- 25.8.2 When the above circumstances require the prompt display of a single suspect to the witness, challenges to the inherent suggestiveness of the encounter can be minimized through the use of the following procedures:
- a. Whenever practicable, the show-up will be recorded by audio and/or video recording.
 - b. A complete description of the suspect should be obtained from the witness prior to conducting the show-up.
 - c. Whenever possible, the witness should be transported to the location of the suspect rather than bringing the suspect to the witness.
- 25.8.3 Officers should take the following steps to avoid any suggestiveness of the show-up:
- a. Ensure the suspect is removed from any patrol car, prior to being seen by the victim or witness.
 - b. If safe to do so, remove handcuffs from the suspect.
 - c. Do not require the suspect to put on any discarded clothing worn during the commission of the crime.
 - d. Do not require the suspect to make any statements made in the commission of the crime.
 - e. Do not require the suspect to perform any actions or movements done in the commission of the crime.
- 25.8.4 Before having the witness view the suspect, they should be advised that:
- a. It is just as important to clear innocent persons from suspicion as to identify guilty parties.
 - b. The person you're viewing may not be the offender.
 - c. You do not have to identify anyone.
 - d. Regardless of whether you identify the offender we will continue to investigate the incident.
- 25.8.8 If there are multiple suspects, they should be separated and subjected to separate field identifications.
- 25.8.9 If there are multiple witnesses to the offense, only one should participate in the field identification process. If a positive ID is made, the other witnesses should be shown a photo lineup.
- 25.8.10 Officers must avoid making any actions or comments that could possibly influence victims or witnesses as they view the suspect.

25.9.0 Documenting the Show-up

25.9.1 When conducting a show-up, the officer should preserve the outcome of the procedure by:

- a. Documenting the time and location of the procedure;
- b. Record any identification or non-identification obtained from the witness.
- c. Record in the witness' own words their certainty if a positive identification is made.

SOCIAL MEDIA

26.0.0 PURPOSE

The purpose of this policy is to provide guidelines concerning the personal use of social media when it references the Ennis Police Department. This policy is not meant 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 prohibit and will not be interpreted or enforced in a manner which could interfere with, restrain, or coerce employees from engaging in activities protected by the National Labor Relations Act, including concerted activities, discussion of wages, benefits, and other terms and conditions of employment.

26.1.0 POLICY

Personnel shall not use any form of social media or social networking in any way that discredits themselves or their departments, or otherwise impairs their ability or that of other officers or the Department to provide fair, impartial and unbiased law enforcement services to the community. An officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement in general. Officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public. Any online activity that has the effect of diminishing the public's trust and/or confidence in this department will hinder the efforts of the department to fulfill its mission. Law enforcement officers, by virtue of their position, are held to a higher standard than the general members of the public, and their online activities should reflect such professional expectations and standards. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by department personnel.

26.2.0 DEFINITIONS

- 26.2.1 Social Media: A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to social networking sites (Facebook, MySpace), micro-blogging sites (Twitter, Nixle), photo and video sharing sites (Flickr, YouTube), wikis (Wikipedia) blogs, and new sites (Digg, Reddit).
- 26.2.2 Social Networks: Online platforms where users can create profiles, share information, and socialize with others using a range of technologies.

26.3.0 PROCEDURES

- 26.3.1 Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this department for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the department.
- 26.3.2 Employees are expected to exercise good judgment and demonstrate personal accountability when choosing to participate on social-networking sites.
- 26.3.3 Employees should not represent themselves in a public forum in any manner that reflects a lack of good moral character, post any material on the Internet that brings discredit to, or may adversely affect the efficiency or integrity of the department.
- 26.3.4. As public employees, department personnel are cautioned that speech on- or off-duty, made pursuant to their official duties—that is, that owes its existence to the employee’s professional duties and responsibilities—is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the department. Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this department.
- 26.3.5 Employees should not post, transmit, or otherwise disseminate any confidential criminal justice information or any other information to which they have access as a result of their employment without the express written consent of the chief executive or his or her designee.
- 26.3.6 For safety and security reasons, department personnel are cautioned not to disclose their employment with this department nor shall they post information pertaining to any other member of the department without their permission. As such, department personnel are cautioned not to do the following:
- a. Display department logos, uniforms, or similar identifying items on personal web pages.
 - b. Post personal photographs or provide similar means of personal recognition that may cause them to be identified as a peace officer of this agency. Officers who are, or who may reasonably be expected to work in undercover operations, shall not post any form of visual or personal identification.

26.3.7 When using social media, department personnel should be mindful that their speech becomes part of the worldwide electronic domain. Therefore, adherence to the department's code of conduct is required in the personal use of social media. In particular, department personnel are prohibited from the following:

- a. Speech containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.
- b. Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless or irresponsible.

26.3.8 Engaging in prohibited speech noted herein, may provide grounds for undermining or impeaching an officer's testimony in criminal proceedings. Department personnel thus sanctioned are subject to discipline up to and including termination of office.

26.3.9 Department personnel may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of this department without express authorization.

26.3.10 Department personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.

26.3.11 Department personnel should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the department at any time without prior notice.

BODY-WORN CAMERAS

27.0.0 PURPOSE

The purpose of this model policy is to provide guidelines for the effective operation and recording of body-worn cameras (BWC) by police and sheriff's office employees in the state of Montana.

27.1.0 POLICY

The policy of this agency is properly train and monitor the appropriate and legal use of BWC by department employees and to establish guidelines for that use and the recording and storage of video captured by these devices.

27.2.0 BODY-WORN CAMERAS

27.2.1 ADMINISTRATION

This agency has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

- A. BWCs allow for additional documentation of police-public contacts, arrests, and critical incidents. They also may serve to enhance the accuracy of officer reports and testimony in court.
- B. Audio and video recordings enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
- C. The BWC may also be useful in documenting crime and crash scenes or other events that include the confiscation and documentation of evidence or contraband.

27.2.2 WHEN AND HOW TO USE BODY-WORN CAMERAS

- A. Officers should activate the BWC to record all investigation, and enforcement contacts with citizens in the performance of official law enforcement duties.
 - I. If a subject asks an officer whether an event is being recorded, the officer is to answer truthfully, but is not bound by this procedure to volunteer the information if the subject does not ask.
 - II. It is the policy of this department to allow its officers to continue recordings even at the request of individuals to cease the recording.
 - III. Exceptions to activating the BWC would include the following:

- a. Officer or citizen safety would be jeopardized by activating the BWC, or
 - b. An equipment failure with the BWC
- B. The BWC shall remain activated until the contact is completed in order to ensure the integrity of the recording.
- C. If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
- D. No one other than the officer and supervisory staff shall be allowed to review the recordings except through the process of a court order.

27.2.3 PROCEDURES FOR BWC USE

- A. BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
- B. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency. No personally owned BWC's will be worn by members of the department.
- C. Law enforcement personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
- D. BWC equipment is the responsibility of individual officer and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
- E. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
- F. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the chief of police/sheriff or his or her designee.

- G. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- H. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

27.2.4 RESTRICTIONS ON USING THE BWC

- A. BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:
 - I. Non-official communications with other police personnel outside the scope of official duties without the permission of the chief of police/sheriff;
 - II. Encounters with undercover officers or confidential informants; or
 - III. When on break or otherwise engaged in personal activities

27.2.5 STORAGE

- A. All files shall be securely downloaded as frequently as possible. Each file shall contain information related to the date, BWC identifier, and assigned officer.
- B. All images and sounds recorded by the BWC are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- C. All access to BWC data (images, sounds, and metadata) must be specifically authorized by the Police Chief/Sheriff or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
- D. Files should be securely stored in accordance with state records retention laws.

27.2.6 SUPERVISORY RESPONSIBILITY

- A. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein, and that the equipment is operating properly.

27.2.7 VIEWING OF BODY CAMERA

A. Pursuant to best practices in any event the officer shall have the ability to review the Body camera footage and car video footage prior to giving any written or verbal statement.

B. 2 Complete sleep cycles shall be permitted before any officer makes any written report on any significant use of force and review of all camera footage shall be permitted prior to completing the written report.

EMPLOYEE AND FAMILY WELLNESS

28.0.0 INTRODUCTION

The stressful nature of public safety work can negatively impact a peace officers' physical or mental health. Researchers estimate that approximately 10 to 17 percent of peace officers in the United States demonstrate symptoms of PTSD. More importantly, peace officers identify interpersonal or organizational conflict as the most significant source of stress. Organizational stress can stem from ineffective communication with supervisors, poor management practices, and higher workloads due to shrinking budgets or workforce vacancies. It should be noted that both sworn and non-sworn employees are affected by workplace stress and should be included in wellness policies.

28.1.0 PURPOSE

The purpose of this policy is to provide a menu of options for agencies seeking officer wellness information. In its broadest definition, wellness programs are meant to address officer's physical, emotional and even financial health as they relate to the duties they perform and, ultimately, on the organization itself. Resilient individuals are essential to the resiliency of an organization.

28.2.0 DEVELOPING A PROACTIVE WELLNESS PROGRAM

Proactive wellness programs focus on cardiovascular fitness, chronic disease prevention, nutrition, stress management, and resilience to trauma. Most departments currently provide mental health services through employee assistance programs (EAP).

Physical Wellness – Shift work plays a role in sleep disorders and associated physical and psychological ailments. In studies of shift length, researchers have found that compared to a schedule of five eight-hour shifts per week, a schedule of four 10-hour shifts resulted in workers getting significantly more sleep, experiencing less fatigue at the beginning of work shifts, and reducing overtime. In addition, a schedule of four 10-hour shifts is associated with lower fatigue and higher alertness than a schedule of three 12-hour shifts. Using permanent schedules rather than rotating schedules can improve officers' sleep and psychological well-being while reducing absentee rates. There is also evidence that incentives and education programs promoting physical fitness can improve officer health outcomes and reduce costs to agencies. Physical fitness is associated with fewer sick days, lower rates of disability, and fewer injuries. Even marginal gains in physical fitness can reduce costs associated with in-service heart attacks or other poor health induced events.

Mental Wellness – Training programs associated with reducing stress and promoting officer resilience have been shown to be effective. Officers who have received criticism management and stress inoculation training report less job stress and fewer health complaints. Resilience programs that effectively decrease cortisol (an indicator of stress) have proven successful among

newer officers. Comprehensive mental wellness programs have also been linked to increased officer participation in mental health services.

28.3.0 INDIVIDUAL RESPONSIBILITIES

It is the responsibility of each member of the organization to maintain an appropriate level of physical fitness to meet job performance tasks for his/her position and to schedule regular check-ups with a physician. During work hours, all members are required to be alert, attentive and capable of performing their assigned responsibilities.

Any member who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that a member feels a co-worker is unable to perform their duties, such observations shall be promptly reported to a supervisor.

28.4.0 SUPERVISORY RESPONSIBILITIES

It is the responsibility of every supervisor to promote a culture of well-being within their organizations. Incentive programs, periodic roll call training, policies that promote holistic health and regularly checking in with their employees to see how they are doing are important. Supervisors should also closely monitor work loads of individuals and ensure they use vacation or other compensatory time.

Each supervisor should be alert to any indication that an employee may be unable to safely perform his/her duties due to some underlying physical or psychological impairment or condition.

Examples may include:

- a. An abrupt or negative change in the employee's normal behavior.
- b. A pattern of irrational conduct, hostility, or oppositional behavior.
- c. Personal expressions of instability.
- d. Inappropriate use of alcohol or other substances, including prescribed medications.
- e. A pattern of questionable judgement, impulsive behavior, or the inability to manage emotions.
- f. Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or condition requiring intervention.

A supervisor observing an employee, or receiving a report by another employee, who is perceived to be unable to perform his/her duties safely or effectively shall promptly document all objective information and/or observations. The supervisor shall meet with the identified employee to inquire about the conduct or behavior giving rise to the concerns. If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document his/her observations and actions in a written report and notify the next ranking member in the chain of command or their designee.

In conjunction with the appropriate chain of command personnel, the supervisor should make a preliminary determination regarding the employee's fit for duty status. If a determination is made that the employee can safely and effectively perform the essential functions of his/her job, they should be returned to duty and arrangements made for appropriate follow-up. If a preliminary determination is made that the employee's conduct or behavior represents an inability to safely and effectively perform the essential functions of his/her job, the supervisor or their designee should immediately relieve the employee of duty pending further evaluation. Employees relieved of duty shall comply with any relevant administrative leave policies. The agency administrator or their designee shall be promptly notified in the event that any employee is relieved of duty.

28.5.0 FITNESS FOR DUTY EVALUATIONS

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that an employee is either physically or mentally unfit for duty. Fitness-for-duty evaluations will be scheduled for officer-involved shooting or death-in-custody incidents. The agency administrator or designee, in cooperation with their Department of Human Resources, may order the employee to undergo a fitness-for-duty evaluation.

The examining practitioner will provide the agency administrator or designee with a report indicating whether the employee is fit for duty. If the employee is not fit for duty, the practitioner will include the existing restrictions or conditions in the report. In order to facilitate the evaluation of any employee, the agency will provide all appropriate documents and available information. All reports and evaluations submitted by the examining practitioner shall be part of the employee's confidential medical file.

Any employee ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such an order and any failure to cooperate with the practitioner may be deemed insubordination and shall subject the employee to discipline up to and including termination. Determinations regarding duty status of employees who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with the Department of Human Resources.

28.5.1 APPEALS

Employees disputing the application or interpretation of a fit-for duty examination or administrative decisions made as a result of the findings may submit a grievance as outlined in the agency's Grievances Policy.

28.6.0 LIMITATIONS ON HOURS WORKED

Absent emergency operations, employees should not work more than:

- a. 16 hours in a one-day (24 hours) period
- b. 30 hours in any two-day (48 hours) period
- c. 90 hours in any seven-day (168 hours) period

Except in unusual circumstances, employees should have a minimum of eight hours off between shifts. Supervisors should consider reasonable rest periods and are authorized to deny overtime or relieve any employee who has exceeded the above guidelines to off-duty status. Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime, and any other work assignments.

28.7.0 PEER SUPPORT

Peer Support Programs are an essential part of an agencies overall stress management program. The Peer Support Program, otherwise known as Peer to Peer (P2P) is a select group of trained agency members, overseen by a P2P Coordinator, and should be under the command and control of the agencies support services commander. The program is designed as an intermediary for employees who are needing assistance in any form before treatment or other more drastic measures must be taken. The P2P Program spans most ranks and involves both sworn and non-sworn employees.

Peer to Peer Advocate-The P2P Advocate is selected through the process approved by Administration and serves at the will of the Administration. They are responsible for checking on their peers and making contacts in the department, being responsive to their needs, knowing and assisting members in getting the needed resources, and other needed matters as directed by the P2P Coordinator. The advocate must be aware that the program is centered around confidentiality and must not violate that confidentiality unless this policy permits disclosure.

Peer to Peer Coordinator-The P2P Coordinator is selected by the Administration and serves at the will of the Administration. They are responsible for overseeing the program, collecting statistics, directing resources, coordinating training, and ensuring the program operates within the bounds of this policy. The Coordinator also has the responsibility of being an Advocate themselves.

Confidentiality-The backbone of the P2P Program is the confidential nature of the program. Advocates are trained and must adhere to the trust placed in them by the Administration and their peers. Advocates will not divulge knowledge they have unless it has an operational effect on department activities, the affected member had committed a crime, or is a danger to themselves or others. The Advocate will not be required to disclose violations of policy or procedure unless it meets the above criteria.

A substantial part of the project is the proactive nature of the advocates. They are expected to check on their peers and report their contacts to the P2P Coordinator. The coordinator will maintain statistics and report those as needed to the Administration. Due to the volunteer nature of the program, general contacts are not compensated by the Agency, and should be done on duty whenever possible. If an advocate is “called out” by the P2P Coordinator or Administration due to a major event, compensation will fall under their respective collective bargaining agreement.

28.8.0 STRESS MANAGEMENT AND INTERVENTION

Employees encounter situations which expose them to potential emotional or psychological trauma. Traumatic stress disorders may be precipitated by events which occur suddenly or unexpectedly, and may involve elements of personal threat, loss, helplessness, and value disruption.

These are referred to as critical incidents and have the potential to interfere with an individual's ability to function at the scene or later. Symptoms of traumatic stress disorder may include issues surrounding marital, relationship, health, family, financial, employment, substance abuse, or other personal issues. These may result from a single incident or cumulative stress syndrome from multiple incidents over a period of time.

Agency leaders should be dedicated to assisting their employees in understanding the impact of such incidents. Non-professional peer support services and referral information for professional counseling may accelerate recovery from those events before harmful stress reactions can damage employees' performance, careers, health, and families.

Traumatic stress is a response to critical incidents which could cause severe physical or mental injury, usually due to an external agent, such as:

- a. Assault on an employee involving a deadly weapon or the use of deadly force
- b. Hostage situation where an employee is victim
- c. Severe injury or illness of an employee or family member
- d. Assisting family members with an employee's death
- e. Catastrophic incidents such as an airplane crash, flood, fatal crash, major disaster, or mass casualty
- f. Investigations involving death under particularly tragic or gruesome conditions
- g. Serious injury, death, or suicide of emergency services personnel
- h. Serious injury or death of a civilian resulting from emergency service operations, including a shooting by a police officer, or caused by the crash of emergency units responding to a fire or EMS call
- i. Any case charged with profound emotion such as severe injury, violence, death, or SIDS to a child under particularly tragic conditions
- j. Loss of life following an unusual or extremely prolonged rescue attempt
- k. Giving critical aid on a victim who is a relative, friend, or coworker

- I. Any unusual incident which produces a high level of emotional response

Critical Incident Stress Management (CISM) is a confidential, non-evaluative one-on-one and or group discussion of individual involvement, thoughts, reactions, and feelings resulting from a critical incident. CISM does not serve as a tactical or operational review; rather, CISM serves to mitigate the stress impacts resulting from exposure to the critical incident through ventilation of thoughts and feelings, along with educational, informational, and appropriate referral components. CISM produces a therapeutic effect by assisting participants to understand the stress response and CISM generally accelerates the standard recovery process in average person's suffering normal affects after an encounter with an abnormal situation.

Examples include but are not limited to;

- a. Pre-incident education
- b. "Significant Other" support services
- c. One-to-one peer or therapist support
- d. Specialty debriefings for citizen groups when necessary
- e. On-scene support services
- f. Disaster intervention services
- g. Defusing and debriefings
- h. Follow-up services after critical incident intervention
- i. Support for personnel involved in informal debriefings
- j. Research, development, and on-going education

CISM team members may be activated or consulted with anytime Department officers are involved in incidents involving abnormal stresses. Depending on the form of intervention deemed appropriate by the CISM team member, CISM activities may occur immediately, may occur 24-72 hours following the incident, and or may take place several days after the incident based on the CISM team member's assessment of the circumstances. Activities may range from one-on-one support up to formal debriefing and referral. Examples include:

On-Scene Debriefing - For major or prolonged incidents, CISM Team members will respond to the scene upon request and will function as observers and advisors to watch for the development of acute stress reactions in emergency personnel. They will offer encouragement and support, check on the well-being of personnel, and allow for ventilation of feelings and reactions when needed.

Initial Defusing - A shortened version of a debriefing, usually lasting less than 45 minutes (introduction phase, fact phase, and teaching phase). It occurs within 8 hours and may be provided by peers, chaplains, mental health professions, team members, at times when there is no designated leader. It may be quite spontaneous and informal; however, it must be supportive, positive, and based on care and concern for members without a critique of the incident.

Formal Debriefing - A qualified mental health practitioner leads this debriefing 24 to 72 hours after the conclusion of the incident, using the seven-step process endorsed by the American Critical Incident Stress Foundation. It usually lasts from 1-3 hours and is designed to reduce the impact of an event and accelerate the recovery of the personnel. It may be a joint debriefing between police, fire and EMS personnel. The tone must be positive, supportive and understanding. Members involved in a debriefing will follow the main rule of not criticizing another. It is critical to listen to what is being said by others, in order to learn and understand other's perspectives. The debriefing is not a critique of the incident or the performance of any individual or agency; such discussions are not permitted during the process.

Follow-up Debriefing - May be performed several weeks or even months after a critical incident, when needed. The main purpose of a follow-up debriefing is to resolve issues or problems which were not resolved in earlier sessions. It may be performed with the entire original group or a portion of that group.

Individual Consultation - The department may require one-to-one counseling sessions with a mental health professional to establish an officer's fitness for duty.

If CISM is activated, all officers with operational involvement in a critical incident, irrespective of rank, will attend a debriefing, unless physically or mentally incapable. Additional debriefings or individual meetings with the mental health professional will be offered on an optional basis. Individual consultation may be required by the agency Administrator prior to return to full duty. A minimum of two debriefings should be scheduled in the case of line of duty deaths.

EMS personnel, department command officers, and medical control authorities are responsible for recognizing significant incidents which may require debriefing. However, anyone can request team activation for a debriefing or recommend a referral for further psychological counseling.

All information and contacts between the employee and CISM team members or any psychological unit are strictly confidential. No record is made of anything said at a debriefing, and no information goes into personnel files.

Exceptions to these confidentiality rules are mandated by MCA and are paraphrased as follows:

- a. Referral to or consultation with other critical incident stress management team members or related qualified professionals
- b. The individual is a danger to themselves or others
- c. The individual divulges information regarding a past, present, or future criminal act that does not involve the critical incident
- d. The individual or his legal guardian gives consent
- e. The individual is deceased
- f. An emergency service provider divulges facts concerning services and care provided to or withheld from a person injured in a critical incident

Discussions during a debriefing are confidential and will not be repeated by participants outside the debriefing. Debriefing are neither recorded nor documented. Only personnel directly involved in the operation of the incident shall take part in the debriefing session. Those not involved including Commanders are required to excuse him or herself from the room and area. For incidents involving serious injury to or death of a Department officer, a separate, additional debriefing may be conducted with affected coworkers that were not directly involved in the incident. During the debriefing, all participants will be treated equally regardless of rank by both the participants and the CISM team members. The CISM team members are in charge during the debriefing regardless of rank.

Personnel involved in potentially traumatic incidents may be placed on administrative leave with pay or light duty assignments at the discretion of the agency Administrator and will be required to speak with the department approved psychologist prior to being released to full duty. Follow-up visits will be determined by the department psychologist.

28.8.1 PRESS RELEASES

The agency administrator or designee should be the only authorized persons to issue press releases related to the CISM Team.

28.9.0 EMPLOYEE COUNSELING AND REFERRAL SERVICES

28.9.1 EMPLOYEE ASSISTANCE PROGRAM (EAP)

Best practices involve agencies contracting with a comprehensive EAP provider to provide a variety of resources to employees enabling them to recognize and resolve unfavorable reactions to emotion or stress. Issues may consist of domestic, financial, health, job related difficulties, or other personal problems. Referral and contact information should be available from supervisors and Human Resources. Referrals should not disciplinary actions and are confidential.

28.9.2 VICTIM WITNESS ASSISTANCE SERVICES (VWAS)

Victim/Witness Advocates, if available, should be trained to respond to personnel or immediate family who need emotional support.

28.9.3 PROFESSIONAL COUNSELING

Under certain circumstances, administrators may direct an employee to contact the agency psychologist for professional counseling, and to decide of the officer's fitness for duty. The agency should recognize the sensitivity and confidential nature of this service. These costs are incurred by the employer and not the individual.

28.9.4 MENTAL HEALTH ASSISTANCE

Circumstances may be such that an employee feels he/she needs an outside professional's assistance to deal with problems, stressors, or other personal matters. Agencies may make arrangements with a local licensed psychologist to provide such services. The employee should make an appointment with the psychologist and identify the agency affiliation, ensuring a timely appointment. All contacts with the psychologist are confidential; no record will be made available to the agency unless the individual wishes contact made with the department. Additionally, MCA mandates exceptions to confidentiality, including if the officer is a danger to himself or others.

At times, employees may wish to consult licensed professional workers other than the agency psychologist. In these cases, the fees are the responsibility of the employee and his/her insurer, unless authorized by the agency administrator/designee in consultation with Human Resources staff.

28.10.0 PERSONNEL EARLY INTERVENTION SYSTEM (PEIS)

Agencies should strive to identify and assist employees who show symptoms of stress, which may result in performance problems or misconduct. It is important that certain criteria be reviewed routinely as possible indicators of behavioral patterns. The PEIS has been established to provide a systematic review of indicators, and to highlight tendencies which may otherwise be overlooked.

No subordinate disciplinary action may be imposed as a result of a review under the PEIS. If the review reveals the supervisor failed to take appropriate action prior to the PEIS review, the supervisor may face disciplinary action.

Risk Indicators to be considered when evaluating the need for a PEIS review:

- a. Disciplinary actions
- b. Complaints by the public
- c. Complaints by other officers
- d. Use of Force reports
- e. Pursuit reports
- f. Civil litigation
- g. Vehicle accidents involving departmental vehicles
- h. Sudden change in positive or negative performance appraisals
- i. Excessive sick leave usage
- j. Excessive tardiness
- k. Workers Compensation claims
- l. Adverse personality changes and other personal issues

28.10.1 PEIS REVIEW AND CONFERENCE - SUPERVISORY RESPONSIBILITY

Any member who observes an employee with specific risk indicators, shall contact the appropriate supervisor, who may complete a PEIS form. The PEIS form shall not draw any conclusions concerning job stress or performance problems. This information is intended to assist supervisory personnel in evaluating and guiding the employee. The form will then be referred to the employee's immediate supervisor, who shall ensure that a fair and meaningful review is conducted, consisting of an evaluation of available data, and a conference with the employee. Each form will contain the appropriate personnel information, a brief description of pertinent incidents and their dispositions.

The review and conference with the employee should be conducted by the employee's immediate supervisor as soon as possible to avoid the escalation of more serious problems and to assist the employee in resolving the situation in a timely manner.

A final determination may result in one or more of the following:

- a. Assessment that no problem exists, document with no further action
- b. Counseling by the immediate supervisor
- c. Remedial training
- d. Referrals to: Employee Assistance Program for counseling or support; or drug testing, if reasonable suspicion exists; or psychological or medical fitness for duty examinations

The PEIS form with a summary of the supervisory review and recommendations should be maintained in the employee's personnel file, to include: relevant criteria discovered through the review process, information obtained through the employee conference, and remedial action. This summary shall include an outline of duration and periodic review to resolve the issue(s).

28.10.2 PEIS ANNUAL EVALUATION

It will be the responsibility of the appointed supervisor to advise the agency administrator of all employees identified under the PEIS and will maintain all reports. PEIS reports older than two years will be purged annually. The employee will be notified when a PEIS report is purged.

28.11.0 CHAPLAIN PROGRAMS

Both sworn and non-sworn personnel are often confronted with situations that demoralize and create emotional, mental and spiritual burdens. These burdens affect the employees who dealt with the incidents, their families as well as the citizens involved. Additionally, both sworn and non-sworn employees often need to express their frustration and problems to someone who fully understands the circumstances surrounding their duties, without fear of repercussions. Law enforcement chaplains are in a unique position to listen to an employee's problems with empathy and offer advice, counseling, and assistance when appropriate. When functioning in the performance of counseling duties, the communications between the chaplain and the

counseled should be considered privileged, and the chaplain may not be compelled to disclose the issues discussed. Employees then have the assurance that the details of their conversations with the chaplain will not be reported to anyone.

The goal of a volunteer chaplain program is to provide 24 hours a day response and assistance to the agency and its employees. A chaplain may be called to respond whenever there is an incident involving trauma to a sworn or non-sworn employee or others in order to bring comfort and consolation to the emotionally distraught.

28.11.1 DEFINING THE ROLE OF DEPARTMENTAL CHAPLAIN

It is essential to realize that the role of departmental chaplain must be defined as chaplain to all, with preferential treatment to none. The staff chaplain must see beyond rank, personality and personal preference to effectively be available to all employees without bias. Most agencies have a policy and procedure manual already in place but may not include the role of the chaplain. In these instances, the chaplain should appoint a time with the appropriate administration member to define that role. The chaplain should have his/her own policies and/or practices in writing, even if the chaplain is a volunteer.

28.11.2 CHAPLAIN'S DUTIES

A chaplain has many different duties. Most departments are a diverse mix of culture, race, ethnicity, and personalities. One of the most essential duties to many departments is the chaplain's ability to moderate between management, staff and volunteers. In the course of day-to-day interaction with staff, the chaplain will be exposed to a great deal of personal information and hearsay. As chaplain, confidentiality in these matters is required. Sometimes, however, there may be exceptions to a policy of absolute confidentiality. Exposing confidential information often may be difficult. Chaplains policy and procedure manuals should include under what circumstances confidential information should/shall be communicated to agency administrators. Examples would include, but are not limited to; illegal activity, homicidal or suicidal behaviors.

Persons willing to share their personal issues are not looking to be judged or criticized. For the chaplain, a lifestyle or some activities of others may contradict personal beliefs. Offering guidance and support when requested and without condemnation should be the guiding principle of the chaplain. Be prepared to make referrals when needed. Chaplains are not therapists, and even though what they provide is very therapeutic, they usually are not qualified to make assessments in other fields. This can bring legal liabilities also. For example, if an individual confides in the chaplain, he/she feels suicidal, the chaplain should do everything within their field of expertise to help that individual, including advising him/her to seek professional help immediately. Should that individual act out his/her threats, it is likely that someone may want to know the last person in which he/she confided.

A staff chaplain best serves the organization when they are visible to all employees. Many chaplains work their shift, so they can ride along in cruisers, as well as visit officers and staff responsible for jail and courthouse operations. Be sure to work out a flexible plan that suits agency needs.

28.11.3 CHAPLAIN NOTIFICATIONS AND CALL OUTS

The Volunteer Chaplain Program is established and directed by the agency administrator or a designee. Upon request of any employee of the agency, a chaplain may be contacted to assist with the needs of that employee or their family. Any Chaplain may be contacted in a variety of ways, including but not limited to:

- a. Directly by any employee
- b. Through the Public Safety Communicator (dispatch) system who maintain a current list of all Chaplains
- c. A supervisor

Services offered by agency Chaplains may include:

- a. Making death notifications - Assisting Department employees in making notification to families of officers or citizens who have received serious injury, or upon death.
- b. Visiting or otherwise maintaining contact with sick or injured police personnel or their families.
- c. Providing counseling services for law enforcement officers, their families and other department personnel if requested.
- d. Providing sources of emotional and spiritual encouragement, which may include devotionals, classes on marriage, parenting, finances, etc.
- e. Assisting Department employees as a referral source in handling domestic situations, family disputes, etc.
- f. Assisting Department employees in the development and implementation of programs to address problems or needs in the community.
- g. Conducting and/or participating in religious services for deceased Department employees when requested by the family.
- h. Attending funerals of deceased Department employees.
- i. Serving as a mediator between citizens and the Department or its various components and units.
- j. Attending and providing invocations/benedictions at department functions such as award ceremonies, graduations, etc.
- k. Representing the Department before official gatherings.
- l. Serving as part of the Department's Crisis Response Team.
- m. Furnishing expert responses to religious questions.
- n. Being on call during any major disturbance, event or demonstration.
- o. Providing a liaison for the city with other religious leaders in the community.
- p. Making presentations for the Police Academy's, community groups etc.
- q. Providing other services as requested such as baptisms, weddings and funerals.

28.12.0 FAMILY SUPPORT PROGRAMS

It is common knowledge that stress plays a destructive role in our lives. In some individuals, it can even lead to chronic conditions, such as high blood pressure, heart disease, and diabetes. Every person involved with the law enforcement officer's life will be tested at a certain point. Being able to recognize when a family member is showing signs of stress is important. High blood pressure, depression, skin problems, headaches, back pain, insomnia, digestive disorders, heart disease and stroke are some of the physical manifestations related to extended periods of stress. Chronic stress can have devastating effects physically, emotionally and mentally.

Sometimes peace officers tend to leave their work behind when they go home in order to keep peace with their families. If an officer goes home and pretends he or she is not thinking about work, and the spouse does not inquire about work either, the family may be setting itself up for repression, which, eventually, will surface in one way or another. Law enforcement professionals should share the day's events - without wallowing in them - with loved ones. After all, our loved ones should be our best support system.

28.12.1 SUPPORT GROUPS FOR SPOUSES

Agencies should provide space for employee (and possibly a community) bulletin boards. With permission post any events in the community which may help the law enforcement family. Workshops, clinics, childcare providers, stress management classes, family workshops at local churches, etc. are all potential community resources. Having knowledge of what is available in your community can be helpful when making referral. Some communities offer referral guides. Ask your local department of human services for copies to have on hand. Support can consist of regular quarterly meetings for spouses, an informational newsletter, e-mail exchanges, etc. Try enlisting the help of law enforcement spouses to help identifying needs and concerns. This will also help give the chaplain more of an understanding what life is like being married to a law enforcement professional.

28.13.0 EMPLOYEE ANNUAL TRAINING AND WELLNESS SURVEYS

Agency annual training requirements should include a review of all policies relevant to established wellness programs. Wellness surveys, like the *Office of Crime Victim's Vicarious Trauma Toolkit Organizational Readiness Guide*, are important tools for agency administrators in evaluating the health of their employees and organizations. Agencies should consider the value of offering annual or semi-annual mental health check-ups for their sworn staff as a preventative measure. Agency human resources staff, collective bargaining representatives and affected employees should be consulted before offering any mental health check-ups.

28.14.0 PRE-EMPLOYMENT SCREENING AND THE PROBATIONARY EMPLOYMENT PERIOD

The value of pre-employment screening to determine suitability for work as a peace officer cannot be understated. In addition, 7-32-303 MCA requires public safety agencies screening peace officer applicants have them undergo a mental health evaluation performed by a licensed physician or a mental health professional, who is not the applicants physician or licensed mental health professional, to determine if the applicant is free of any mental condition that might adversely affect performance of the duties of a peace officer. It's not uncommon for us to personally know people who we think would be good additions to our agencies, only later to find out they lack the resiliency required to process the mental and emotional aspects of the job. Mental health evaluations are meant to identify personality traits that are not conducive to law enforcement and protects both the individual and agency from future unnecessary trauma or litigation.

Post law enforcement basic academy Field Training Officer (FTO) programs are designed to continually evaluate to probationary peace officer's suitability for employment. Agencies should strive to have a well-defined FTO program that includes monthly evaluations with a supervisor for the balance of a peace officers probationary employment period. These evaluations should include a wellness component.

28.15.0 ACCOUNTABILITY PLANS

Accountability plans can be used as a non-punitive agreement between an agency and employee when the employee voluntarily seeks and completes inpatient alcohol treatment and returns to duty in some capacity while continuing outpatient treatment. The purpose is to ensure accountability of the employee in completing all necessary steps toward recovery while remaining on the job and serves as notice to the employee that the agency is willing to work with them toward a successful outcome that ensures the employees continued employment.

Appendix A offers one example of an Accountability Plan that can be drafted on agency letterhead. Additional steps may be added to address agency specific requirements not covered. Items in red are to be completed at the time the plan is created.

28.16.0 RESOURCES AVAILABLE TO MONTANA PUBLIC SAFETY AGENCIES

Transformations Treatment Center (888) 531-8449

<https://www.transformationtreatment.center/>

Brattleboro Retreat (802) 258-3700

<https://www.brattlebororetreat.org/>

28.17.0 REFERENCES

National Sheriffs' Association Reference Guide

IACP Employee Mental Health Services Model Policy

Billings Police Critical Incident Stress Management Team Policy

Lewis and Clark County Sheriff's Office Fitness for Duty Policy

Great Falls Police Department Peer Support Policy

Great Falls Police Department Stress Management Policy

Office of Crime Victim's Vicarious Trauma Toolkit Organizational Readiness Guide

(VTT-ORG)

COPS – US DOJ Building and Sustaining an Officer Wellness Program *Lessons from the San Diego Police Department*

Special thanks to the following for their participation;

Chief Rich St. John, Billings PD

Chief Chris Nichols, Thompson Falls PD

Sheriff Keith Van Sletten, Teton CO SO

Sheriff Wynn Meehan, Broadwater CO SO

Captain John Schaffer, Great Falls PD

Captain Brent Colbert, Lewis & Clark CO SO

APPENDIX A

CONFIDENTIAL OFFICER ACCOUNTABILITY PLAN

FOR: Employee Name

This Accountability Plan was activated as a result of the Administration's receipt of information concerning employee name voluntarily seeking alcohol treatment at treatment center name. Employee name sought in-patient treatment for a period of about number of days in which the department assigned another employee to fill his/her post as a job description at location. The purpose of this plan is to aid employee name and his/her family's well-being as employee name continues outpatient services. Currently this Accountability Plan is **NOT** disciplinary in any way. It is being provided to assist employee name with stressors in his/her work/home life and continued recovery.

The plan will consist of the following actions;

1. Establish and attend outpatient treatment as directed by treatment providers.
2. Sign and provide copies of waivers to release information from treatment providers to name/names of identified supervisors monitoring the plan.
3. Provide a written synopsis of the treatment plan and results on or about select periodic dates (monthly etc.) when updates would be provided. The synopsis should include the dates, times and providers seen. A determination will be made one year from today to determine if the plan should be continued or terminated based on the input from all involved.
4. Adhere and follow all department drug testing policies and procedures.

This Accountability Plan will consist of the following steps to be taken by employee name's immediate supervisor immediate supervisor's name;

1. Contact the appropriate treatment provider to ensure all forms and waivers are complete.
2. Orally brief identified administrative supervisor (Captain/Undersheriff etc.) monthly on employee name progress.
3. Facilitate any additional services employee name may need.
4. Adhere to and implement, if needed, the department's drug testing policy and procedures.

This plan will be reviewed monthly by identified administrative supervisor (Captain / Undersheriff etc.) and immediate supervisor's name in order to make the necessary adjustments as needed to provide the best possible environment for success. Employee name will remain on duty status so long as all conditions of the Accountability Plan are followed. Failure to follow the conditions of the plan will result in an administrative assessment of employee name continued fitness for duty and employment with the agency. A copy of this plan is provided to employee name, immediate supervisor's name and identified administrative supervisor (Captain/Undersheriff etc.) to be placed in the medical file.

BUILDING COMMUNITY ENGAGEMENT

29.0.0 PURPOSE

The purpose of this policy is to increase agency/community interaction and engagement through increased communication and training.

29.1.0 POLICY

It is the policy of this organization to ensure the rights of all persons in our community are recognized and protected in keeping with the United States Constitution and the enhanced rights provided to all in the Montana State Constitution.

The integrity of this organization and the profession of law enforcement throughout the nation is paramount in building positive and meaningful community engagement.

29.1.1 COMMUNICATION

To ensure meaningful communication with everyone in the community, open communication that recognizes the opinions of all will be reinforced in each contact with the community. This will ensure the community is valued and their opinions and feelings are validated.

29.1.2 TRANSPARENCY AND ACCOUNTABILITY

This organization will be held accountable to the community and each other within the organization. When ever possible and without violating the rights of others or the integrity of any investigation, this organization will take the time to explain to the community any processes involved in any call for service and will take the time to explain the reasons why specific actions were taken by members of the organization.

This should be considered an opportunity to educate the public in law enforcement responses and the need for actions taken by law enforcement to protect the public and the individual officer. To that end, specific emphasis should be placed on the definitions of specific elements of the use of force and the right and authority of law enforcement to protect themselves as well as the public they serve.

29.2.0 PROCEDURES

Whenever a real or perceived controversial action is taken by law enforcement, this organization will take the time to explain the process of the investigation while making the public aware of the rights to due process possessed by all those involved in the incident.

If an incident involving members of this organization is deemed too sensitive by the public to be investigated impartially, this organization may defer the investigation of the

entire incident to a neighboring jurisdiction of capable ability or to the Division of Criminal Investigation under the Montana Department of Justice.

Every effort will be made to conduct any investigation into misconduct in a transparent and accountable manner.

29.3.0 TRAINING

This organization will engage all employees (both sworn and civilian) in community engagement techniques and communication skills improvement on an annual basis.

29.4.0 ADMINISTRATION

Supervisors in this organization will implement and promote public engagement by all law enforcement and civilian staff in this organization.

Attendance at public events and involvement by all employees in charitable work or community organizations with positive messages is encouraged and will be supported by this organization whenever possible.

All annual training regarding community engagement techniques and communication skills will be recorded by this organization.

P30 Uniforms and Equipment

Uniforms –

1. Work uniforms (including duty belts and equipment) shall be provided for paid staff. Any additional items not provided must be approved by the Chief.
2. Reserve Officers shall provide their own equipment including uniforms. All Uniforms and Equipment shall be approved by the Chief.
3. All uniforms shall be in good condition and shall be kept in good presentable condition.

Firearms –

1. Any Chief approved firearm may be used with at least a level II retention duty holster. The employee must qualify per state law with the firearm(s) they wish to carry on duty and off duty.
 - a. Caliber of duty weapon shall be 9mm or greater
 - b. Caliber of off-duty/backup weapon shall be .38 special or .380 Auto or greater
2. All employees are encouraged to carry a qualified firearm when off duty.
3. When operating a Police Department vehicle or while in plain cloths/soft uniform while representing the Ennis Police Department the employee shall have a duty firearm, at least one reload, badge, and handcuffs.
4. When attending training the officer shall have a duty firearm, at least one reload, badge, and handcuffs unless the training specifically prohibits firearms due to the nature of training.
5. If an employee is involved in a deadly force situation and the employee is using a department approved but personally owned firearm and the firearm is seized for evidence, the department within reason will replace the basic weapon.
6. Employees shall not make custom modifications other than sights and grips to a department approved weapon without written authorization of the Chief.
7. The Department shall provide approved duty ammunition.
8. No employee shall have a fixed blade knife affixed in a manor it is visible from any angle. Fixed blades may be carried concealed.

BODY Armor

1. PURPOSE

The purpose of this policy is to specify agency, leadership, and officer responsibilities related to body armor.

2. POLICY

It is the policy of this law enforcement agency 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.

3. DEFINITIONS

Body Armor: An item of personal protective equipment intended to protect the wearer from threats that may include ballistic threats,¹ stabbing, fragmentation, or blunt impact.² Body armor generally consists of two armor panel or plates, a front and a back, placed in a carrier.

Carrier: A garment whose primary purpose is to retain the armor panel(s) or plate(s) and to provide a means of supporting and securing the armor panel(s) or plate(s) to the wearer.³

Field Activities: Duty assignments and/or tasks that place or could reasonably be expected to place officers in situations where they would be required to act in enforcement rather than administrative or support roles.

4. PROCEDURES

a. Selection of Body Armor Protection Level

The agency shall assess the ballistic threats of concern to officers, including their service weapons, and select an appropriate level of protection.⁴

b. Issuance and Replacement of Body Armor

- i. Every officer shall be issued agency-approved body armor that complies with the appropriate protective and related requirements.⁵
- ii. The agency shall specify requirements for the carrier that is part of the agency-approved body armor.
- iii. Every officer shall be individually measured and fitted for body armor.⁶
- iv. Body armor that is damaged shall be replaced in accordance with established guidelines and protocols.⁷
- v. Body armor that has reached the end of its warranty period should be replaced in accordance with established guidelines and protocols.

c. Use of Body Armor

- i. Every officer shall perform a personal armor fit assessment upon receipt of body armor and shall report any issues to his or her supervisor and other designated agency individuals, as applicable.⁸
- ii. Officers shall wear only agency-approved body armor and shall wear both panels in an agency-approved carrier.
- iii. Recruit officers shall wear body armor during both classroom, range activities, and field training.
- iv. Officers assigned to a uniformed function and non-uniformed sworn officers shall wear body armor while engaged in field activities both on duty and during off-duty employment unless the officer is involved in undercover or plainclothes

¹ Ballistic threats refer to dangers from projectiles, such as bullets.

² ASTM E3005, *Standard Terminology for Body Armor* (West Conshohocken, PA: ASTM International, 2015), www.astm.org.

³ ASTM E3005, *Standard Terminology for Body Armor*.

⁴ U.S.-based readers, please refer to the current National Institute of Justice (NIJ) standard at www.policearmor.org.

⁵ For example, see those requirements prescribed by the National Institute of Justice Body Armor Compliance Testing Program at <https://www.nij.gov/topics/technology/body-armor/Pages/testing.aspx>.

⁶ For an example of sample requirements, please see those specified in ASTM E3003, *Practice for Body Armor Wearer Measurement and Fitting of Armor*.

⁷ See www.policearmor.org for more information.

⁸ See ASTM E3003, *Practice for Body Armor Wearer Measurement and Fitting of Armor*.

work that his or her supervisor determines could be compromised by wearing body armor.

- v. Officers not engaged in field activities shall have their body armor available at the location of their principal assignment.

d. Inspection of Body Armor

- i. Every officer shall routinely inspect personal body armor for signs of damage and for general cleanliness.
- ii. Annual inspections of body armor shall be conducted for fit, cleanliness, and signs of damage.
- iii. Each officer shall be responsible for reporting damage or excessive wear to the ballistic panels or carrier to his or her supervisor and the individual responsible for the uniform supply function.

e. Care and Maintenance of Body Armor

Officers are responsible for the proper storage, maintenance, cleaning, and care of body armor ballistic panels and carriers in accordance with manufacturer's instructions.

f. Supervision

Supervisors shall ensure that all officers comply with this policy, including ensuring that body armor is worn and maintained as required by this policy through routine observation and periodic documented inspections.

g. Training

- i. Each officer shall receive initial training on body armor.⁹
- ii. The training officer or other agency-designated individual shall be responsible for
 - 1. ensuring officers are properly trained on body armor fit and coverage, use, care, and maintenance;

SERVICE YEAR Markings:

- a. HASHMARKS - Only Department issued service hashmarks will be worn. They will be affixed to the lower left sleeve of all long sleeve uniform shirts, and will be awarded at the rate of one (1) stripe per five (5) years of service with any civilian law enforcement agency. Hashmarks are authorized for wear by all personnel. The hashmarks will be gold on navy blue.
 - a. Service stripe to be located 4 inches above the lower end of cuff and abutting main cuff pleat.
 - b. Star Pins - Only Department issued service star pins will be worn. They will be affixed to the left chest above the name tags or above citation bars, and will be awarded at the rate of one (1) star per five (5) years of service with any civilian law enforcement agency. Service star pins are authorized for wear by all personnel. The service star pins will be gold.
-

P31 Physical Fitness

Physical fitness is important in Law Enforcement. All employees should be able to pass the Montana MPAT on at least an annual basis.

If an employee chooses to workout at the local fitness center the Department will pay for that membership as long as the employee attends regularly.

P32 Medical Care

All Ennis Police Department (EPD) Personnel shall be trained to the minimum CPR/First Aid level and at the very minimum provide care to the First Aid / CPR level.

Any EPD personnel with advanced EMS/EMT training may operate to the level of care as permitted by state law. If the EPD personnel is a member of the Ennis Ambulance the personnel may provide care under Ennis Ambulance as permitted by Ennis Ambulance EMS Protocols.

P32: Ennis Police Department Naloxone Law Enforcement Officer Policy

1.0 Purpose.

To establish guidelines and regulations governing utilization of naloxone (Narcan) used by Ennis Police Department. The objective is to treat and reduce the injury and fatality from opiate overdoses.

2.0 Policy.

It is the policy of the Ennis Police Department that all officers are required to be initially trained in the use of naloxone by a trained healthcare provider to include but not limited to EMT-A, Paramedic, Physician Assistant, MD, Nurse Practitioner or anyone else approved by the State of Montana to provide training.

3.0 Training.

a) Initial Training

3.a.1 All participating officers will receive initial training that will include, at minimum, an overview of House Bill 333 that permits law enforcement use of naloxone, patient assessment (e.g., signs/symptoms of overdose), universal precautions, rescue breathing, seeking medical attention, and the use of intra-nasal naloxone.

b) Continuing Education

3.b.1 Officers participating in the Ennis Police Departments naloxone training should receive refreshers every two years as part of the first aid refresher or other EMS refresher.

4.0 Naloxone Deployment.

The Ennis Department will deploy its naloxone kits in the following primary locations:

- Ennis Police Department sworn personnel

4.1 Naloxone Use.

When deploying the naloxone kit officers will: (1) maintain universal precautions; (2) perform patient assessment; and (3) determine unresponsiveness, absence of breathing and/or pulselessness; and (4) update the dispatcher that the patient is in potential overdose state. The dispatcher will then update the ambulance service if not already done to arrange transport to Emergency Department. Officers shall follow the protocol as outlined in the naloxone training in accordance with the Montana guidelines. Current Montana Medical Providers may follow approved EMS guidelines for naloxone administration.

4.2 Maintenance/Replacement

- First Line Maintenance

a) An inspection of the naloxone kit shall be the responsibility of the personnel assigned the equipment and will be done each shift.

b) Missing or damaged naloxone kits will be reported to the department naloxone coordinator.

c) Where any condition necessitates the naloxone kit shall be taken off line and be submitted for replacement to the department naloxone coordinator.

d) Upon administering naloxone

5.0 Documentation/Naloxone report:

Upon completing the medical assist, the officer will submit a report detailing the nature of the incident, the care the patient received and the fact that the naloxone was deployed.

Protocol to Administer Naloxone

Administration Warning Note: *Along with administration of Naloxone (Narcan), as approved it is important that Basic Life Support (BLS) management of airway, breathing and circulation be assessed and maintained, initially, during and following the administration of Narcan.*

Narcan (naloxone)

ACTION:

1. Naloxone displaces the opioid from the opioid receptor in the nervous system and blocks the actions of the opioid.
2. A single dose's effects can last as short as 30 minutes. Multiple doses may be required.

INDICATIONS:

1. Known opioid overdose; including Codeine, Fentanyl, hydrocodone, hydromorphone, methadone, morphine, oxycodone, lorcet, Lortab, norco, vicoden, Percocet, Percodan, opium and heroin.
2. Patients that have been prescribed an opioid and show symptoms of toxicity including; Miosis (pinpoint pupils)
Respiratory depression
Decreased mental status

CONTRAINDICATIONS:

1. Known allergy or hypersensitivity to naloxone

PRECAUTIONS:

1. The administration of naloxone may result in the rapid onset of the signs and symptoms of opioid withdrawal including but not limited to: Agitation, Tachycardia, Pulmonary edema, Nausea, Vomiting, and Seizures
2. Prior to the administration of naloxone all patients should receive the appropriate medical treatment to provide support of their airway, breathing and circulation (ABC's).
3. Prior to the administration of naloxone all patients should be assessed for other causes of altered mental status and/or respiratory depression such as hypoxia, hypoglycemia, head injury, shock and stroke.
4. The adverse effects following naloxone administration, especially in chronic opioid users may place the patient, bystanders and EMS personnel at risk of injury.
5. Due to the potential adverse effects of naloxone administration, you may consider limiting its use to patients with known or suspected opioid overdoses with impending cardiopulmonary arrest, severe respiratory depression and shock.

ADMINISTRATION:

0.4-2mg intranasal every 2-3 minute as needed

SPECIAL NOTES:

1. All patients who receive naloxone must be transported to an ED.
2. All patients who receive naloxone must be monitored closely for recurrent symptoms, including altered mental status, respiratory depression and shock.

P32: Ennis Police Department Educational Reimbursement Policy

EPD Reimbursement:

Montana Law requires Montana Police Officers to have continuing education to maintain their certifications. This policy will remain in effect for the length of time that the Montana Public Safety Officer Standards and Training Council (POST) recognize college credits for POST credits.

Upon successful completion of any accredited college level course to further the officer's education the Department shall reimburse the officer up to \$500.00 (maximum) per Fiscal Year. This policy shall apply to full-time and part-time employees. This policy will apply to reserve officers working an average of 30 hours or more per month and after a year of service.

To qualify for the reimbursement:

1. The class must be a college level or higher
2. The school must be accredited
3. The officer must attend the class outside of work hours
4. The officer must pass the class with a 80% (or equivalent) or higher
5. The officer must provide proof of the class cost
6. The officer must provide proof of successful completion

Upon providing the proper documentation and pending funds availability the reimbursement shall be submitted with the monthly bills for payment.

Scholarship Reimbursement:

From time to time monies from the community may become available for College Courses. The following will apply pending the availability of monies:

1. The class must be a college level or higher
2. The school must be accredited
3. The officer must attend the class outside of work hours
4. The officer must provide proof of the class cost

Scholarship reimbursement monies are available on a first come, first serve basis with preference given to already enrolled students, based on availability. In order to be reimbursed the officer must provide proof of the class cost and will only be reimbursed up to the full tuition of the class. The officer may also request book and/or supply reimbursement from the scholarship fund if monies are available providing proof of cost.

Scholarship monies are available to all employees of the Ennis Police Department. In order to prevent any bias or possible views of favoritism the scholarship monies shall be handled by the Town of Ennis Clerk and shall remain anonymous to the recipient with only the amount available being provided to the Chief of Police.

Upon providing the proper documentation and pending funds availability the reimbursement shall be submitted with the monthly bills for payment.

SCHOOL LIASON POLICY

35.0.0

I. PURPOSE

It is the purpose of this policy to provide guidance for officers responding to calls for service and dealing with incidents on school property during school hours or during school-sanctioned events.

II. POLICY

Responding to calls for service or conducting investigations on school property requires understanding the limitations and requirements placed on law enforcement officers by law and the responsibility of school authorities for supervision of children under their care. It is the policy of this law enforcement agency to conduct investigations and related police business on school property in conformance with accepted legal practices and in recognition of the authority and responsibility of school officials to manage the school environment.

III. PROCEDURES

A. General

1. This policy pertains to dealings with juveniles on school property during school hours or during school-sanctioned events. It does not pertain to juveniles using school facilities legally after school hours or juveniles trespassing or committing offenses on school property after school hours.
2. Officers serving in security and related capacities for schools while in extra-duty assignments are subject to these policies and procedures.

B. Interviewing/Interrogating Students

1. Except in exigent circumstances or in arrest situations as outlined in this policy, officers who wish to detain or question youths on school property shall first contact the school principal or his/her designate. To the degree possible, officers shall explain the nature of their business and the need to meet with the youth(s) in question.
2. Generally, students should not be publicly contacted by officers in the school setting for purposes of questioning unless an arrest is anticipated or reasonably possible. Youths should be summoned by school officials to a private interview room or other appropriate area for purposes of questioning.
3. School officials may be present as observers during interviews or questioning of students if they request.
4. Officers shall not enlist school officials or employees to conduct interviews, inquiries, or similar fact-finding activities regarding students as part of an investigation.
 - a. School officials who act at the direction of or on behalf of the interests of the police constructively become police officers, and, in so doing, must abide by the legal provisions pertaining to a police officer.
 - b. Police officers are not precluded from questioning school officials with regard to their knowledge of youths in their charge, their activities, and similar matters.

C. Arrest/Removal of Students

1. Students shall not be removed from school property without notifying the school principal or his/her designate. Officers are responsible for ensuring that the youth's parent(s), guardian(s), or a responsible adult is notified of the youth's removal irrespective of the responsibility of school officials to make such notification.
2. Officers should notify the principal or his/her designate before making an arrest of a student during class hours on school property unless exigent circumstances exist or such notification would potentially jeopardize the ability of officers to safely and effectively make the arrest.
3. Officers should avoid making arrests on school grounds when they may be made effectively elsewhere.
4. Where possible, officers should not arrest juveniles on school grounds if the use of force is a reasonable possibility.
5. Officers should use handcuffs or other restraining devices when making arrests in schools whenever deemed necessary to ensure the security of juvenile arrestees and the safety of the officers and others.
6. Arrest of students on school property should, to the degree possible, be conducted so as to minimize embarrassment to the student and disruption of school activities and functions.

D. Searching Students and Property

1. Police searches of students and their property on school premises are generally subject to the same legal requirements for a search warrant and probable cause as other searches.
2. Exceptions to the search warrant requirement (e.g., consent to search, emergency situations) that apply to non-school searches also apply to school searches.
3. School officials may conduct searches of students and their property without a warrant but with reasonable suspicion.
 - a. Searches conducted by school officials upon the request of, or with the active participation of the police, require a search warrant.
 - b. Officers may only accompany school officials who are conducting a search without a search warrant, but may not participate with school officials in the search either directly or indirectly.

P36 Exposure Protocol

ENNIS POLICE DEPARTMENT

INFECTIOUS DISEASES

EFFECTIVE: 01/25/2012

I. POLICY: The Ennis Police Department has established guidelines for Department members who are subject to exposure to minimize the risk of contracting and/or spreading any form of communicable disease. Because of the nature of our work, certain members are more likely to have contact with persons who carry and/or suffer from many common diseases. The concept of universal precautions and body substance isolation requires that all members have a level of awareness and education in the risks associated with infectious diseases, as this will be the initial step in controlling significant exposure to infectious disease. All members subject to exposure need to take precautions when warranted and feasibly possible.

II. DEFINITIONS:

A. Acquired Immune Deficiency Syndrome (AIDS) - An acquired defect in the immune system function which reduces the affected person's resistance to certain types of infections and cancers. It is believed to be transmitted through intimate sexual contact or exposure to infected blood, blood products and/or bodily fluids.

B. Carrier - Any person or animal who, without current symptoms of contagious disease, harbors and disseminates a specific microorganism.

C. Blood borne pathogens- Pathogenic microorganisms that are present in human blood and can infect and cause disease in persons who are exposed to blood containing these pathogens. These pathogens include but are not limited to all forms of Hepatitis, AIDS and HIV.

D. Exposure Incident- A specific eye, mouth, other mucous membrane, non-intact skin, or contact with blood or other potentially infectious materials that results from the performance of an employee's duties. Examples:

1. The handling of bloody or wet items where scratches, cuts or open sores are noticed on the area of contact,
2. Direct contact with bodily fluids from a subject on an open sore or cut,
3. Mouth-to-mouth resuscitation,
4. Receiving a cut, bite or puncture wound as a result of searching or arresting a subject, and
5. Other incidents of high risk or significant exposure, i.e., stuck by a contaminated needle, broken skin as a result of a human or animal bite.

E. Biohazard Labels and Signs- Any evidence containing body fluids should be labeled with a biohazard label or sealed with biohazard tape. This international symbol warns law enforcement and crime scene personnel of a potential health hazard from pathogens such as Hepatitis and HIV.

III. EXPOSURE WHILE ON-DUTY:

A. When exposed to blood or other potentially infectious materials and the skin is broken or punctured (significant exposure) the following procedure should be followed:

1. Encourage the wound to bleed while applying pressure.
2. Wash the area thoroughly with soap (Beta dine, Dial or other anti-bacterial soap) and warm water. Allow water to free flow over the wound for a minimum 15 to 30 seconds.
3. Contact the Police Departments designated Exposure Control Officer for advice and direction regarding the post exposure prophylaxis (Appendix A).
4. Members will be medically evaluated for evidence of infection after all significant duty related incidents of exposure. **The treatment should begin within two (2) hours.** The exposed victim will notify his or her supervisor and respond to the nearest hospital emergency room.
5. An Incident Report and Exposure Form (Appendix C) will be completed documenting the exposure.

6. The member will notify his or her immediate supervisor who will document the exposure. This documentation will be forwarded to the Exposure Control Officer.

B. When exposed to blood or other potentially infectious materials and there is no break in the skin, the member should:

1. Wash the area thoroughly with soap (Beta dine, Dial or other anti-bacterial soap) and warm water. Allow water to free flow over the wound for a minimum of 15 to 30 seconds.
2. Contact the Police Departments designated Exposure Control Officer for advice and direction regarding the post exposure prophylaxis.
3. Document the exposure in an Incident Report and Exposure Form (Appendix C) detailing the extent of the exposure.
4. The member will notify his or her immediate supervisor who will document the exposure. This documentation will be forwarded to the Exposure Control Officer.

IV. PROCEDURES:

A. Avoid contact with open, weeping sores, wounds, bodily fluids or blood of suspected, infected persons. Use extreme caution while conducting a search, making an arrest or rendering assistance to any person who is suspected of having an infectious disease.

B. Rubber or nitrile gloves should be worn to avoid skin contact with blood or any material that has been exposed to bodily fluids. After the completion of the search, the gloves when pulled off the hands should automatically turn inside out. Leave them in this position and discard them in a red biohazard bag.

C. Full finger black leather or Kevlar gloves may be worn for safety and protection. Black leather or Kevlar gloves may not be worn during routine assignments. They are to be worn during specific police functions such as: search warrants, searches of contaminated persons or property to avoid punctures by sharp objects. Needles and blades should be considered potentially infectious.

D. The most important measure in preventing the spread of infectious disease is to thoroughly wash your hands with soap (Beta dine, Dial or other anti-bacterial soap) and warm water. Hands should be washed even if gloves are worn.

E. Contaminated **evidence** submitted to the evidence section is to be placed in a sealed evidence bag clearly marked with biohazard labels and the case number written on the bag.

1. When the evidence is wet with bodily fluids, allow it to dry prior to sealing the bag. Seek assistance from Crime Scene personnel when the material is saturated and it will not dry prior to being submitted.

F. Large amounts of bio-hazardous material will be taken to Madison Valley Medical Center for disposal. Small amounts of contaminated material such as latex gloves and gauze may be placed into a red biohazard bag and taken to the nearest hospital for disposal. Sharps will not be placed into a biohazard bag. Sharps shall only be placed in approved sharps containers.

G. Each vehicle shall have an Infectious Disease Safety Kit prior to going into service. (Appendix B)

H. When a mask is necessary, use a clear face shield. A mask is necessary to protect eyes, nose, or mouth membranes whenever dealing with potentially bio-hazardous material that could come into contact with these membranes due to direct contact or becoming airborne due to coughing, splashing or other such means.

I. Disposable airway equipment or resuscitation equipment should always be used during mouth to mouth resuscitation.

J. Custody Procedures:

1. Caution should be exercised especially when dealing with persons suspected to be in high risk groups including homosexuals, intravenous drug users and prostitutes. In a situation where violence is anticipated, protective disposable gloves should be worn. Extreme caution must be used when reaching into areas that are not visible, i.e., pockets, purses and other containers.
2. A supervisor will be notified in advance whenever it is necessary to transport, for medical treatment, a subject who has blood or body fluids present on their person or clothing. An Emergency Medical Services (EMS) unit will transport the subject to a hospital when necessary.
3. Subjects with blood or other body fluids present should be transported separately from other subjects when possible. Officers will inform Dispatch Operations when a subject should be transported alone.
4. Officers have an obligation to inform fire fighters, paramedics, corrections officers, crime scene

investigators and other support personnel when transferring custody of an arrestee who has blood or other body fluids present on his or her person or if the arrestee has made a voluntary statement that he or she has a contagious disease. When a subject makes such a voluntary statement, the officers should indicate this on the arrest forms.

K. Members will notify their Supervisor of any damaged uniforms or hazardous, defective, or damaged equipment. The damaged uniform or hazardous, defective or damaged equipment will be documented in an Incident Report.

L. Laundering contaminated uniforms, leather goods and personal clothing is the responsibility of the member (Appendix D)

K. Vehicle Maintenance:

1. A police vehicle exposed to blood or other body fluid discharges will be disinfected.
2. A supervisor will be notified and the vehicle taken into the car wash area.
3. The officer is responsible for cleaning and disinfecting the vehicle.
 - a. Protective gloves and eye protection will be worn during all phases of the disinfection procedure.
 - b. Any excess blood or body fluids should first be wiped up with a disposable absorbent pad.
 - c. A freshly mixed 10% chlorine bleach and water solution will be used.
 - d. The affected area should be sprayed and allowed to air dry for 10 minutes.
5. All disposable contaminated cleaning items will be placed in a red plastic bag marked BIOHAZARD sealed and taken to the nearest hospital for disposal.
6. Police vehicles taken to the car wash area for routine cleaning will have the interior disinfected with the 10% chlorine bleach and water solution.

L. Supplies:

1. The Officer is responsible for the inventory and dissemination of supplies for infectious disease control.
2. Officers using supplies stored in police vehicles are responsible for replacing them.

V. TRAINING:

A. All Department members who are subject to exposure will receive training upon initial hire and annual training thereafter in:

1. The Infectious Diseases policy,
2. Exposure control procedures and OSHA regulations, including;
 - a. Familiarization with the basic epidemiology, symptoms, and the modes of transmissions of infectious diseases.
 - b. An explanation of the signs, labels, and color coding identifying biohazardous waste.
3. Blood borne diseases.
4. Use and limitations of methods that will prevent or reduce exposure, including personal protective equipment.
5. Information about the agencies Hepatitis vaccination program.
6. Procedures to follow at any incident involving blood or other potentially infectious materials.
7. Procedures to follow if an exposure occurs, including reporting requirements and medical follow-up.
8. An opportunity to have questions answered.

VI. CITY OF ENNIS VOLUNTARY HEPATITIS B VACCINATION PROGRAM:

A. The following have been identified as having occupational exposure during normal performance of their duties and are authorized to receive Hepatitis vaccinations and must receive initial training and annual training in bloodborne pathogens;

1. All Sworn members,
2. All Non-Sworn members,

B. All new members subject to exposure will be offered the vaccine at the time of their pre-employment physical and within 10 working days of initial assignment.

1. Vaccination information regarding the Hepatitis B vaccination program will be made available immediately following the initial training. (Appendix E.)
 - a. Members not wishing to participate in the Hepatitis B vaccination program must indicate "No" on the declination to participate.

- b. Those members who initially decline vaccinations will be provided the vaccination, if the decision is made to accept at a later date.
 - 2. Vaccinations will be provided to the member at no cost to the member and at a reasonable place and time.
- C. If after the third shot, testing indicates inadequate antibody response, additional doses will be provided.
- D. Vaccinations will be provided by a licensed medical facility contracted through the City of Ennis.

APPENDIX A

Members who have a significant exposure while on duty will contact the Exposure Control Officer.

As of January 2011, the current Exposure Control Officer is the Chief of Police or his/her designee. The E.C.O. will assist persons who are involved in an exposure incident make an informed decision regarding treatment. The E.O.C. can be contacted at the following numbers: Office: 406-682-4287 Dispatch: 406-843-5301

APPENDIX B

The Emergency Response Safety Kit in the police vehicle contains:

1. Latex gloves.
2. Red plastic bags marked BIOHAZARD
3. Antibacterial soap.
4. Plastic containers for the disposal of syringes and other sharps.
5. Germicidal disposal wipes.
6. Face shield.
7. An airway resuscitation mask with a one way valve.

**APPENDIX C
EXPOSURE FORM**

EMPLOYEE NAME: _____

SSN: _____ **DOB:** _____ **INCIDENT#:** _____

DATE: _____

EXPOSED TO:

IN THE CASE OF DISEASE EXPOSURE, INDICATE THE SUSPECTED OR CONFIRMED DISEASE:

NAME OF PATIENT/SUSPECT: _____

SEX: _____ **AGE:** _____ **DOB:** _____

PATIENT/SUSPECT ADDRESS:

FOR THE FOLLING SECTIONS BE SPECIFIC:

WHAT PART OF YOUR BODY BECAME EXPOSED? _____

HOW DID THE EXPOSURE OCCUR? _____

WHAT PRECAUTIONS WERE BEING USED TO PREVENT EXPOSURE? _____

DID YOU SEEK MEDICAL ATTENTION: NO: YES: DATE: _____

LOCATION OF MEDICAL TREATMENT: _____

DIAGNOSIS & TREATMENT OF EXPOSURE:

APPENDIX D

Uniform and Equipment Laundering

1. To assure the effectiveness of any sterilization or disinfection process, equipment must be first thoroughly cleaned of all visible soil.
2. When cleaning clothing, a liquid detergent along with oxygenated bleach should be used.
 - a. Do not use chlorinated bleach on clothing, uniforms, or other apparel or equipment.
 - b. The application of a disinfectant, intended for environmental use and air drying is sufficient for disinfection of leather gear and equipment.

In accordance with our written directive, Infectious Diseases, you are authorized to receive free immunization vaccinations for Hepatitis A and B through our medical provider, this is a free service provided by the City of Ennis.

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

- Yes, I wish to receive the Hepatitis series vaccination.
- No, I do not wish to receive these vaccinations at this time, however I understand that I can receive them at my next scheduled Annual Physical Exam.
- I have already received the vaccinations and have attached proof of the vaccinations.

Signature

Name

P37 Hours of Work and Holiday's

Police work is a 24 hour per day 7 day per week job. Hours shall be set by the Chief in bi-weekly schedules. In general officers and the Chief will work 8 to 10 hour scheduled shifts. Full time employees shall work 86 hours in two weeks (pay period) in accordance with FLSA. Part time hours will be set by the Chief.

Overtime should be kept to a minimum and use of Comp time is encouraged.

A Police Department Employee may flex off hours at the end of the pay period if he/she is over hours based on the department's needs.

Holidays as defined in the Town Policy manual will be paid or worked on the actual date of the holiday not the observed day. Per the Town Policy Holidays should not be worked unless necessary for the public safety.

The U.S. Department of Justice
***Standards for Certification on Safe Policing for Communities –
Recommendations***

Standards for Certification

1 – The agency’s use of force policy prohibits chokeholds, except in situations where the use of deadly force is allowed by law

Prohibition of choke holds [Use of Force Policy 2.2.12](#)

2 – The agency’s use of force policies adheres to all applicable federal, state, and local laws.

Adherence to Constitutional standards [Use of Force Policy 2.0.0](#)

Adherence to applicable federal, state, and local laws [Use of Force Policy 2.0.0](#)

Safe Policing Standards Listed Below

1. Use of Force Model Policy

Use of force de-escalation techniques [2.1.1](#)

Termination of use of force [2.1.1](#)

Duty to intervene [2.2.11](#)

Training protocols on use of force and de-escalation [2.6.0](#)

Appropriate medical care [2.2.9](#)

Warn before shooting [2.2.13](#)

Shooting at or from a moving vehicle [2.2.7](#)

Warning shots [2.2.8](#)

2. Search and Seizure Model Policy

No-knock warrants [8.5.12](#)

3. Performance Management Tools

Early intervention systems [28.10 - P28 – Employee and Family Wellness](#)

Hiring of personnel [P19 – Hiring Sworn Personnel](#)

4. Community Engagement

Building Community Engagement [P29 - New Model Policy](#)