

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

LAW ENFORCEMENT OPERATIONS MANUAL

Adopted pursuant to Resolution #1371/98 of the Fond du Lac Reservation Business Committee on November 10, 1998.

Amended by Resolution #1422/99 of the Fond du Lac Reservation Business Committee on December 2, 1999.

Amended by Resolution #1361/00 of the Fond du Lac Reservation Business Committee on October 31, 2000.

Amended by Resolution #1340/03 of the Fond du Lac Reservation Business Committee on December 18, 2003.

Amended by Resolution #1091/04 of the Fond du Lac Reservation Business Committee on April 27, 2004.

Amended by Resolution #2114/05 of the Fond du Lac Reservation Business Committee on August 25, 2005.

Amended by Resolution #1168/11 of the Fond du Lac Reservation Business Committee on May 24, 2011.

Amended by Resolution #1280/11 of the Fond du Lac Reservation Business Committee on

August 23, 2011.

Amended by Resolution #1075/14 of the Fond du Lac Reservation Business Committee on February 26, 2014.

Amended by Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

Amended by Resolution #1119/18 of the Fond du Lac Reservation Business Committee on May 8, 2018.

Amended by Resolution #1338/19 of the Fond du Lac Reservation Business Committee on November 13, 2019.

Amended by Resolution #1463/20 of the Fond du Lac Reservation Business Committee on October 21, 2020.

Amended by Resolution #1026/21 of the Fond du Lac Reservation Business Committee on January 27, 2021.

Amended by Resolution #1043/22 of the Fond du Lac Reservation Business Committee on January 19, 2022.

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
LAW ENFORCEMENT OPERATIONS MANUAL**

TABLE OF CONTENTS

	INTRODUCTION
100.00	CODE OF ETHICS
101.00	LAW ENFORCEMENT - COMMUNITY INTERACTION
102.00	WRITTEN DIRECTIVE SYSTEM
103.00	CHAIN OF COMMAND
104.00	PERSONAL CONDUCT
105.00	CONDUCT UNBECOMING AN OFFICER AND RULES AND REGULATIONS GOVERNING CONDUCT
106.00	DISCIPLINARY PROCEDURES
107.00	COMPLAINTS AGAINST OFFICERS/LAW ENFORCEMENT SERVICES
108.00	EQUIPMENT AND UNIFORM REGULATIONS; PERSONAL APPEARANCE
109.00	IDENTIFICATION CARDS
110.00	PROTECTIVE BODY ARMOR
111.00	SEXUAL HARASSMENT
112.00	USE OF FORCE
113.00	WORK SCHEDULE
114.00	OVERTIME/COMP. TIME/HOLIDAY PAY
115.00	PURSUIT AND EMERGENCY VEHICLE OPERATION POLICY
116.00	TRAINING
117.00	SEARCH WARRANTS
118.00	STOP & FRISK
119.00	ARREST POWERS - CRIMINAL VIOLATIONS
120.00	ARREST PROCEDURES
121.00	SEARCHING/HANDCUFFING/TRANSPORTING PRISONERS
122.00	MOTOR VEHICLE SEARCHES
123.00	IMPOUND VEHICLES
124.00	TOWING
125.00	DAILY LOGS AND MONTHLY REPORTS
126.00	TRAFFIC ACCIDENT INVESTIGATIONS AND REPORTS
127.00	DOMESTIC ABUSE

128.00	MISSING PERSONS
129.00	COMMUNITY NOTIFICATION OF REGISTERED SEX OFFENDERS
130.00	CRIMINAL CONDUCT ON SCHOOL BUSES
131.00	TRAFFIC STOPS
132.00	MOBILE VIDEO EQUIPMENT
133.00	MAJOR CRIME SCENES
134.00	EVIDENCE/PROPERTY CONTROL
135.00	PROPERTY SEIZED FOR ADMINISTRATIVE FORFEITURE
136.00	SUPPORTING DOCUMENTATION FOR PROPERTY HOT FILE RECORDS
137.00	SUPPORTING DOCUMENTATION FOR IDENTITY THEFT POLICY
138.00	DATA PRACTICES - CLASSIFICATION & DISSEMINATION
139.00	IMPARTIAL POLICING POLICY
140.00	POLICE CANINE TRACKING POLICY
141.00	K-9 NARCOTIC DETENTION POLICY
142.00	SOCIAL MEDIA POLICY
143.00	[RESERVED]
144.00	REPORT OF SEXUAL ASSAULT POLICY
145.00	EYEWITNESS IDENTIFICATION PROCEDURES
146.00	PROMOTION PROCESS
147.00	SMALL UNMANNED AERIAL SYSTEM (sUAS) OPERATIONS

APPENDICES

APPENDIX A	TERMINAL AGENCY COORDINATOR (TAC) RESPONSIBILITIES WITH MINNESOTA BUREAU OF CRIMINAL APPREHENSION (MN BCA)
APPENDIX A-1	CJDN SECURITY POLICY
APPENDIX A-2	DISCIPLINE POLICY FOR MISUSE OF CJDN
APPENDIX A-3	MISSING PERSON (NCIC SYSTEM) POLICY
APPENDIX B	USER AGREEMENT
APPENDIX C	MDT/MDC'S USER AGREEMENT
APPENDIX D	FOND DU LAC POLICE DEPARTMENT CASH HANDLING POLICY

FOND DU LAC LAW ENFORCEMENT OPERATIONS MANUAL

ACKNOWLEDGMENT

This Manual contains the official set of policies and procedures to be used by the law enforcement officers of the Fond du Lac Band of Lake Superior Chippewa in the performance of their duties. I understand that additions or revisions of these policies and procedures may occasionally be made, and that I will be informed of such additions or revisions at that time.

I have received a copy of the Manual. I have read the Manual. I understand the policies and procedures in the Manual, and I agree to follow them to the best of my ability. I further understand that the policies and procedures contained in the Manual will be followed in regards to my performance and discipline in matters relating to my duty as a law enforcement officer.

Signature

Date

Supervisor

Date

ACKNOWLEDGMENT

I have read and understand the "Discipline Policy for Misuse of CJDN" for Fond du Lac Police Department. A copy of this sign off sheet will be placed in the employee's personnel file.

Signature

Date

Printed Name of Employee

A copy of this policy signed by the department head is to be kept in the CJDN SOP Manual.

Signature of Agency Administrator

Date

Printed Name of Agency Administrator

The "Discipline Policy for Misuse of CJDN" (see Appendix A-2) was adopted pursuant to Resolution #1075/14 by the Fond du Lac Reservation Business Committee on February 26, 2014.

FOND DU LAC LAW ENFORCEMENT OPERATIONS MANUAL

INTRODUCTION

To achieve success, a law enforcement agency must have the confidence and respect of the community that it serves. As Fond du Lac law enforcement officers, we must perform our duties in a manner which fosters and enhances awareness that Fond du Lac Law Enforcement Services is dedicated to the wellbeing of the community.

In order for this to be achieved, it is necessary to have uniform departmental policies and procedures to guide us and which are consistently followed. A successful law enforcement agency requires the cooperation of all staff towards compliance with department policies and procedures.

As you apply these policies and procedures in the performance of your duties as a tribal law enforcement officer, remember that we cannot be precise and exact in every detail. However, as a law enforcement officer, you must be exact in your actions. These are basic guidelines that you must follow and carry out to the best of your ability in order that your actions do not reflect negatively on the department. Remember to use good judgement and common sense during all incidents involving the exercise of your duties, and that neglecting to respond to the public safety needs of the community is to fail.

In order to perform our duties properly, it is essential that all officers of the department familiarize themselves with the law enforcement Code of Ethics as well as with the policies and procedures contained in this Manual.

FOND DU LAC LAW ENFORCEMENT OPERATIONS MANUAL

100.00 **LAW ENFORCEMENT CODE OF ETHICS**

1. As law enforcement officers, our fundamental duty is to serve mankind, to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence of disorder, and to respect the constitutional rights of all people to liberty, equality and justice.

2. We must keep our private lives unsullied as an example to all, maintain courageous calm in the face of danger, scorn, or ridicule, develop self-restraint, and be constantly mindful of the welfare of others. Honest in thought and deed in both our personal and official lives, we must be exemplary in obeying the laws of the land and regulations of our department. Whatever we see or hear of a confidential nature or that is confided to us in our official capacity will be kept ever secret unless revelation is necessary in the performance of our duties.

3. We must never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence our decisions. With no compromise for crime and with relentless prosecution of criminals, we must enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

4. We recognize the badge of our office as a symbol of public faith, and we accept it as a public trust to be held so long as we are true to the ethics of service. We must constantly strive to achieve these objectives and ideals, dedicating ourselves before the creator to our chosen profession: law enforcement.

101.00 **LAW ENFORCEMENT-COMMUNITY INTERACTION**

101.01 **GENERAL PROVISIONS**

1. Law enforcement-community interaction is based upon the principle that in a democratic society the law enforcement officers are an integral and indivisible element of the public which they serve. Community relations are manifested by positive interaction between the people and law enforcement officers and represents their unity and common purpose.
2. A system of law and its enforcement is not superimposed upon an unwilling public in a free society; the law is created by the people themselves to control the behavior of those who would seek to interfere with the community welfare and existence.
3. While the primary responsibility for the enforcement of law lies with the people, the complexities of modern society and the inability of the people to personally cope with crime have required that they create law enforcement services in order to assist in maintaining social order. The law enforcement officer represents only a portion of the total resources expended by the public to the end, however, this effort, frequently being restrictive of individual freedom, brings the law enforcement officer into contact with members of the public under circumstances which have far reaching impact upon the lives of the affected individuals. A citizen's encounter with the law enforcement officer can be a very traumatic and emotionally painful experience, and under these circumstances, the risk of misunderstanding is very great. The minimization of this risk is a challenge intrinsic in each public contact by the Law Enforcement Services.
5. The Law Enforcement Services must strive for the establishment of a climate where an officer may perform his duties with the acceptance, understanding, and approval of the public. Additionally, the willing and practiced participation of the people in enforcing the law is essential for the preservation of freedom.

101.02 **INDIVIDUAL DIGNITY**

1. A recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is as binding on the Law Enforcement Services as any other.
2. Officers must treat a person with as much respect as that person will allow, and they must be constantly mindful that the people with whom the officer deals with are individuals with human emotions and needs. Such conduct is not a duty imposed in addition to a officer's primary responsibilities, it is inherent in them.

101.03 **ROLE OF THE INDIVIDUAL OFFICER**

1. Officer-community interaction is manifested in its most common form in the numerous daily encounters between individual officers and citizens. It is at this level that reality is given to the unity of the people and the officers and where the greatest burden for strengthening community relation is laid.
2. In dealing with people, each officer must attempt to make his contact one which inspires respect for himself as an individual and professional and one which generates the cooperation and approval of the public. While entitled to his personal beliefs, an officer cannot allow his individual feelings or prejudices to enter into public contacts. However, since an officer's prejudices may be subconsciously manifested, it is incumbent upon him to strive for the elimination of attitudes which might impair his impartiality and effectiveness, keeping in mind that initial contacts leave lasting impressions both for the individual and the Law Enforcement Services.

101.04 **EQUALITY OF ENFORCEMENT**

1. In order to respond to varying law enforcement needs in the different parts of the Reservation, the Law Enforcement Services must have flexibility in deployment and methods of enforcement. However, enforcement policies should be

formulated on a reservation-wide basis, and applied as uniformly as possible in all areas.

2. Implicit in uniform enforcement of law is the element of evenhandedness in its application. The amount of force used or the method of employed to secure compliance with the law or to make arrests is governed by the particular situation. Similar circumstances require similar treatment in all areas of the Reservation and for all groups and individuals.
3. To ensure equal treatment in similar circumstances, and officer must be alert to situations where, because of language barrier or for some other reason, the officer may be called upon to display additional patience and understanding in dealing with that might otherwise appear to be lack of response.

101.05 **RESPONSIVENESS TO THE COMMUNITY**

The Law Enforcement Services must be responsive to the needs and problems of the Reservation. While the Law Enforcement Services task is governed by the law, the policies formulated to guide the enforcement of the law must include consideration of the public will. This responsiveness must be manifested at all levels of the Law Enforcement Services by a willingness to listen and by a genuine concern for the problems of the individuals or groups. The total needs of the community must become an integral part of the programs designed to carry out the mission of the department.

101.06 **OPENNESS OF OPERATION**

Law enforcement operations in a free society must not be shrouded in secrecy. It is necessary that there be full public disclosure of policies and an openness in matters of public interest. Consistent with the protection of the legal rights of involved individuals and with consideration of the necessity for maintaining the confidentiality of Law Enforcement Services responsibilities, the Law Enforcement Services is to, where appropriate, disseminate accurate and factual accounts of occurrences of public interest. Additionally, the Law Enforcement Services must strive to make known and accepted its objectives and policies.

101.07

INTERPERSONAL COMMUNICATIONS

To promote understanding and cooperation, there must be interpersonal communications between members of the community and officers at all levels of the Law Enforcement Services, including the chief and other supervisory staff. Each employee must be aware of the law enforcement needs of the community and their particular assigned area of responsibility. Guided by policy, an officer must tailor their performance to attain the objectives of the Law Enforcement Services include encouraging productive dialogue with the public at all levels and to ensure that the unity of the officers and the public is preserved.

A formal system exists for the dissemination of information throughout the department. This system is intended to establish controls to eliminate contradictory or ambiguous orders and prevent duplication of existing orders. It also sets forth procedures for the definition, organization, processing and distribution of departmental orders and memos.

I. DEFINITIONS

- A. General Order: A written order of the Chief Law Enforcement Officer, or his authorized representative, applicable to all department personnel. General orders establish policy, procedures, rules and regulations.

General orders will comprise the Operations Manual and will continue in effect until rescinded or revised. General orders will be reviewed annually.

- B. Directive: A written order of the Chief Law Enforcement Officer, or his authorized representative, applicable to all department personnel.

Directives shall be informative or instructional in nature and address a single subject. Directives are temporary orders and will be effective for a specific and designated period.

- C. Memoranda (Memos): A written communication of, or request for information which is directed to one or more department members. A memo is a less formal method of communication, originating from any member of the department. memos do not affect operational or administrative policy and procedure. They are intended solely for informal exchange of information or administrative requests.

Memos are distributed to the appropriate person(s) at the discretion of the author.

II. FORM AND CONTENT

A. General Orders

All General Orders shall be prepared on department letterhead and contain a title, effective date and number which references the appropriate manual section. General Orders shall show references to relevant rules, regulations, statutes, ordinances and previous orders which are to be amended, supplemented, rescinded or otherwise affected.

B. Directives

All new Directives shall bear the destination, the originator, a title, date of issuance, effective date and expiration date (when applicable). They shall be prepared on department letterhead. When necessary they shall show reference to previous orders, statutes, ordinances, rules and regulations.

C. Memos

Memos should be prepared on the department notepads. Memos should include a date and who the memo is sent to and who from.

III. DISTRIBUTION AND FILING OF ORDERS

A. General Orders

Copies of all general orders will be printed in appropriate form and will be distributed to each sworn officer. Officers will be required to maintain a current manual. To ensure that each sworn officer has a complete and current manual, a master record of distribution will be maintained and available to all officers for their review.

B. Directives

Directives shall be distributed to all members of the department and maintained on a bulletin boards and when applicable, the "Law Enforcement Only" book. Supervisors

will be responsible for disseminating information contained in directives to personnel.

C. General Orders and Directives - Additional Distribution

In addition to distributions mentioned above, General Orders and Directives will also be distributed to the department clerk where files of such orders will be maintained in folders for this purpose.

D. Memos

There is no formal distribution system for memos. It is left to the author's discretion to determine the distribution.

IV. GENERAL INFORMATION

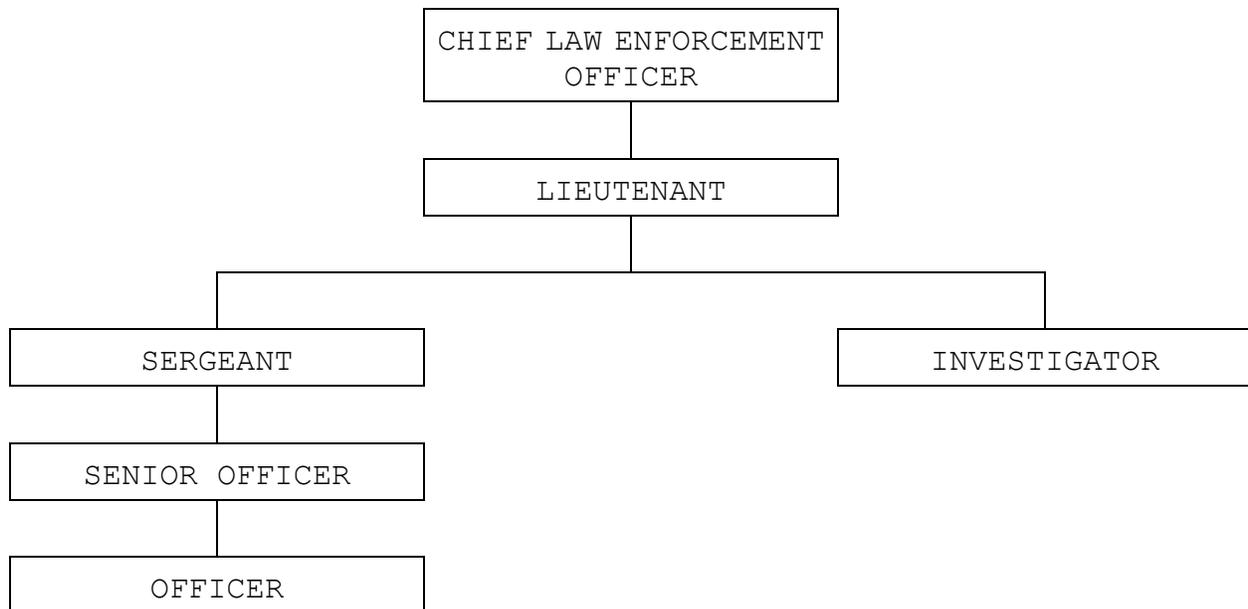
- A. It is the responsibility of all department personnel to assist in the maintenance of department orders. Suggestions for updating, rescinding or revising of orders may be made when an employee notes a change that will affect standing orders.
- B. Procedural changes, policy adjustments and new information received or perceived by employees should be directed to the Chief Law Enforcement Officer for analysis and inclusion in new or revised orders.
- C. Defacing, marring or otherwise changing a written or posted order issued by supervisory personnel is prohibited.

103.00 **CHAIN OF COMMAND**

1. Due to the unpredictable nature of law enforcement emergencies, it is important to establish the chain of command. Employees will always operate within the chain of command.
2. The Chief Law Enforcement Officer must necessarily limit the number of persons that report directly to them. Therefore, an organizational chart exists to delineate the lines of authority. Through the organizational chart all employees know who they are responsible to, who is responsible to them, and their relationship with other units and individuals.

A. Order of Precedence

In the absence of an order establishing other command precedence, the command order of precedence when the Chief Law Enforcement Officer is unavailable shall be:



This Section 103 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

104.00 **PERSONAL CONDUCT**

104.01 **STANDARD OF CONDUCT**

The law enforcement code of ethics is adopted as a general guideline of conduct for officers of the Fond du Lac Law Enforcement Services. All employees of the Law Enforcement Services shall adhere to the personnel rules, regulations and policies of the Law Enforcement Services and the Band's Personnel Policy Manual that govern conduct. If there is a conflict between the Law Enforcement Services policies and the General band Personnel Policies, the Law Enforcement Services Policies shall govern.

104.02 **LOYALTY**

1. In the performance of our duty to serve society, a law enforcement officer is often called upon to make difficult decisions. We must exercise discretion in situations where our rights and liabilities and those of the Law Enforcement Services hinge upon our conduct and judgment. A law enforcement officer's decisions are not easily made and occasionally they involve a choice which may cause them hardship or discomfort.
2. A law enforcement officer must be faithful to their oath of office, the principles of professional law enforcement service, and the objectives of the Law Enforcement Services, and in the discharge of their duty they must not allow personal motives to govern their decisions and conduct.

104.03 **CONDUCT UNBECOMING AN OFFICER**

A law enforcement officer is often the most conspicuous representative of government, and to the majority of the people they are a symbol of stability and authority upon which they can rely. An officer's conduct is closely scrutinized, and when an officer's actions are found to be excessive, unwarranted, or unjustified, they are often criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of any officer or civilian employee, on or off-duty, reflects directly upon the Law Enforcement Services, all members of the department must at all times conduct themselves in a manner which does not bring discredit to themselves, the Law Enforcement Services, the Fond du Lac Band of Lake Superior Chippewa or the law enforcement profession.

104.04 **RESPECT FOR CONSTITUTIONAL RIGHTS**

No person has a constitutional right to violate the law, neither may any person be deprived of their constitutional rights, merely because they are suspected of having committed a crime. The task of determining the constitutionality of a statute lies with an appellate court of proper jurisdiction, not with an officer who seeks to properly enforce the law as it exists. Therefore, an officer may enforce federal, state or band statute which is valid on its face without fear of abrogating the constitutional rights of the person violating the statute. An officer who lawfully acts within the scope of the officer's authority does not deprive persons of their civil liberties. They may within the scope of this authority make reasonable inquiries, conduct investigations, and arrest on probable cause. However, when a police officer exceeds their authority by unreasonable conduct, they violate the sanctity of the law which they are sworn to uphold.

104.05 **USE OF FORCE**

In a complex society, law enforcement personnel are daily confronted with situations where control must be exercised to affect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other available alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use whatever force is reasonable and necessary to protect others or themselves from bodily harm and consistent with applicable federal, state and tribal statutes and the Use of Force Policy of this Operations Manual.

104.06 **INTEGRITY**

The public demands that the integrity of its law enforcement personnel be above reproach, and the dishonesty of a single Law Enforcement Services member may impair public confidence and cast suspicion upon the entire department. Succumbing to even minor temptation may contribute to an erosion of public confidence. Law Enforcement Services employees must scrupulously avoid any conduct which might compromise the integrity of themselves, their fellow officers, or the Law Enforcement Services, and have the obligation to report the dishonesty of others.

104.07 **GRATUITIES**

1. Gifts, rewards, or gratuities or other benefits, shall not be accepted by a member of the Law Enforcement Services when such benefit is granted whether fully or partially, as a result of their employment by the Law Enforcement Services.
2. No member of the department shall offer or give gifts, gratuities, or special privileges to any other person or agency in expectation of special benefit to the member or the Law Enforcement Services.

104.08 **SOLICITATIONS**

No employee of the Law Enforcement Services shall solicit any form of benefit for themselves, the Law Enforcement Services, the Fond du Lac Band of Lake Superior Chippewa, or any other organization, from any person, group, or firm, when the benefit is secured as a result of their employment by the Law Enforcement Services.

104.09 **COURTESY**

Effective law enforcement depends on a high degree of cooperation between the Law Enforcement Services, the public it serves and other public agencies. The practice of courtesy in all public contacts encourages understanding and appreciation, discourtesy breeds contempt and resistance. The majority of the public are law abiding citizens who rightfully expect fair and courteous treatment by Law Enforcement Services employees. While the urgency of a situation might preclude the ordinary social amenities, discourtesy under any circumstances is indefensible. The practice of courtesy by an officer is not a manifestation of weakness, it is, on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional law enforcement officer.

104.10 **COMPLIANCE WITH LAWFUL ORDERS**

The Law Enforcement Services is and organization with a clearly defined hierarchy of authority. The most desirable means of obtaining compliance are recognition and reward of proper performance and the positive encouragement of a willingness to serve. If there is a willful disregard of lawful orders, commands,

directives, or policies, retraining of personnel or disciplinary action may be necessary.

104.11 **USE OF INTOXICANTS**

There is an immediate lowering of esteem and suspicion of ineffectiveness when there is public contact by a Law Enforcement Services employee evidencing the use of intoxicants. Additionally, the stresses of the law enforcement profession require an employee to be mentally alert and physically responsive. Except as necessary in the performance of an official assignment, the consumption of intoxicants to such a degree that it impairs their on-duty performance is prohibited.

104.12 **ATTENTION ON DUTY**

As most Law Enforcement Officer work is necessarily performed without close supervision, the responsibility for the proper performance of an officers' duty lies primarily with the officers themselves. An officer carries responsibilities for the safety of the community and fellow officers. Officers discharge that responsibility by the faithful and diligent performance of their assigned duty. Anything less violates the trust placed in them by the community and will not be tolerated.

104.13 **FINANCIAL OBLIGATIONS**

Financial distress may impair an employee's effectiveness and tends to bring discredit upon the Law Enforcement Services. Employees should avoid incurring financial obligations which are beyond their ability to reasonably satisfy from their earnings.

104.14 **REFUSAL TO WORK**

The alternative to law enforcement is lawlessness and its resulting devastation. An officer's commitment to public service and professional ethics precludes engaging in strikes or similar concerted activities. For these reasons, law enforcement officers do not have the right to strike or to engage in any work stoppage or slowdown. It is the policy of the Law Enforcement Services to seek the removal from office of any employee who plans or engages in any such strike, work stoppage or slow-down.

104.15 **EMPLOYEE GRIEVANCES**

Effective management and respect for individual dignity require that employees have means available for the proper redress of grievances. A Law Enforcement Services employee having a complaint relating to any matter affecting their employment is ensured the right of review at successive levels of Law Enforcement Services authority until the grievance is resolved. The right of an employee to file a grievance and its administrative review promotes efficiency and results in improved morale. These positive benefits are defeated if employees are reluctant to file a grievance. Therefore, no action of a formal or informal nature shall be taken by the Law Enforcement Services against an employee, or their witnesses merely because of their having filed a grievance pursuant to the Fond du Lac Band's Personnel Policy Manual.

104.16 **COMMENDATIONS**

The Law Enforcement Services expects a very high level of professional conduct from all employees. Even so, members of the Law Enforcement Services often perform their duties in a manner exceeding the highest standards of the Law Enforcement Services. An official commendation of such performance is to be provided by the Law Enforcement Services to give recognition to those who have brought honor to themselves and the Law Enforcement Services.

104.17 **DISCIPLINE**

The Law Enforcement Services has the responsibility to seek out and discipline employees whose conduct discredits the Law Enforcement Services or impairs its effective operation.

104.18 **RELIGIOUS ACTIVITY**

1. The first amendment to the Constitution guarantees the right of all citizens to freedom of religious belief or non-belief. The first amendment also places very explicit restrictions upon governmental intervention in matters which are of a religious nature. Judicial interpretation and case law require that government and its representatives adopt a position of neutrality toward religious matter. Therefore, employees of the Law Enforcement Services, while acting in an official capacity, shall do so in a non-sectarian manner. It shall be the responsibility of each member of this department to insure

that their conduct while acting in an official capacity neither favors nor illegally restricts any particular religious sect.

2. It should be emphasized that it is not the intent of this section to restrict the employees freedom of personal belief, but to insure that employees of this Law Enforcement Services, while functioning in an official capacity, do not manifest those personally held beliefs in a manner which interferes with the equally important rights of other citizens.

104.19 **SEXUAL HARASSMENT**

1. Sex discrimination and sexual harassment are against the law. It is the policy of the Fond du Lac Law Enforcement Services to abide by the federal and state laws which prohibit sexual harassment and to maintain an employment atmosphere free of sexual harassment, intimidation or coercion. The supervisory and management personnel of the Law Enforcement Services are responsible for implementing this policy, and their success in their jobs depends, in part, on its successful implementation.
2. Sexual harassment of any employee by any other employee will not be tolerated. If investigation of a complaint of sexual harassment indicates that such harassment has occurred, appropriate disciplinary actions will be taken. All employees should be careful to treat their co-workers, subordinates, and supervisors with respect at all times.
3. Any employee who feels that he or she is being subjected to sexual harassment in any form, or who believes he or she has witnessed sexual harassment, should contact the Chief Law Enforcement Officer or the Executive Director.

104.20 **RESPONSIBILITY OF ON-DUTY OFFICERS**

1. On-duty officers within the Reservation boundaries, after considering the tactical situation, are to take all steps reasonably necessary and consistent with their assignment to protect life and property, to effect the enforcement of the laws of the band, county, state and nation, and to serve the public.
2. On-duty officers outside the Reservation boundaries who become aware of a situation requiring officer action, must first consider the tactical situation and mutual agreements, then take all steps reasonably necessary to carry out the Band's

responsibilities under the mutual aid agreement. On-duty officers outside the Reservation who are not acting within the scope of their employment as officers on matters of direct concern to the band are to give first consideration to the tactical situation and of their possible liability and that of the Fond du Lac Band of Lake Superior Chippewa.

104.22 **RESPONSIBILITY OF OFF-DUTY OFFICERS**

Both on and off-duty officers have law enforcement officer authority as to any public offense committed for which there is probable cause to believe has been committed in their employing jurisdiction with respect to which there is immediate danger to person or property, or the escape of the perpetrator of the offense. However, off-duty officers are to give first consideration to the tactical situation and of their possible personal liability and that of the Fond du Lac Band of Lake Superior Chippewa.

104.23 **GEOGRAPHICAL LIMITS OF LAW ENFORCEMENT OFFICER AUTHORITY**

1. Band Authority: The authority of a law enforcement officer under Band law shall be geographically limited as follows:
 - a. General civil regulatory authority under Band ordinances shall be limited to the boundaries of Fond du Lac Reservation, except that
 - b. Authority under the ceded territory regulations of the Fond du Lac Band may be exercised over Band members within the boundaries of the ceded territories.
2. State Authority: Law enforcement powers of Band officers under Minnesota law, as granted pursuant to Minnesota Statute § 626.92, do not extend beyond the boundaries of the State of Minnesota except as provided for in the Uniform Act of Fresh Pursuit and Minnesota state statutes. Officers who are outside the boundaries of this state, counties, or Reservation for extradition or other matters of direct concern to the Band are not to engage in officer activities unless necessary in the performance of their duties as an officer of the Band, except when called upon to assist another law enforcement agency or when necessary to protect the life of any person.

104.24 **OFF-DUTY WEAPONS**

The carrying of any weapon other than a duty weapon will require the prior written approval of the Chief Law Enforcement Officer, the serial number will be recorded, and the officer must qualify the weapon at each mandatory firearm qualification training.

This Section 104 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

105.00 **CONDUCT UNBECOMING A LAW ENFORCEMENT OFFICER AND RULES AND REGULATIONS GOVERNING CONDUCT**

1. This policy defines conduct unbecoming a law enforcement officer. This policy supplements the ethical standards contained in the Law Enforcement Code of Ethics, General Order 100.00.
2. Law enforcement effectiveness depends upon community respect and confidence. Conduct which detracts from this confidence is detrimental to the public interest and should be prohibited. The policy of this department is to investigate circumstances suggesting an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.
3. This policy is organized in eight principles governing conduct unbecoming an officer. Each principle is followed by the rationale explaining the principle and a set of rules.

105.01 **PRINCIPLE ONE**

Law enforcement officers shall conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Minnesota Constitution, the Constitution of the Minnesota Chippewa Tribe and the Fond du Lac Band of Lake Superior Chippewa law and all applicable laws, ordinances and rules enacted or established pursuant to legal authority

RATIONALE: Law enforcement officer's conduct their duties pursuant to a grant of limited authority from the community. Therefore, officers must understand the laws defining the scope of their enforcement powers. Law enforcement officers may only act in accordance with the powers granted to them.

RULES

1. Law enforcement officers shall not knowingly exceed their authority in the enforcement of the law.
2. Law enforcement officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants and preservation of evidence.

3. Law enforcement officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the constitutions and laws of the United States, the State of Minnesota, the Minnesota Chippewa Tribe or the Fond du Lac Band of Lake Superior Chippewa.
4. Law enforcement officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction in which the officer is present, except where permitted in the performance of official duties under lawful authority.

105.02 **PRINCIPLE TWO**

Law enforcement officers shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system.

RATIONALE: Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The law enforcement officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.

RULES

1. Law enforcement officers shall carry out their duties with integrity, fairness and impartiality.
2. Law enforcement officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
3. Law enforcement officers shall truthfully, completely and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
4. Law enforcement officers shall take no action knowing it will violate the constitutional rights of any person.
5. Law enforcement officers must obey lawful orders, but must refuse to obey any order the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity

of an order, the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order will be required to justify his or her actions.

6. Law enforcement officers learning of conduct or observing conduct which is in violation of any law or policy of this department shall take necessary action and report the incident to the officer's immediate supervisor, who shall forward the information to the Chief Law Enforcement Officer. If the misconduct is committed by the officer's immediate supervisor, the officer shall report the incident to the immediate supervisor's supervisor.

105.03 **PRINCIPLE THREE**

Law enforcement officers shall perform their duties and apply the law impartially and without prejudice or discrimination.

RATIONALE: Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Law enforcement officers must refrain from fostering disharmony in their communities based upon diversity, and perform their duties without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

RULES

1. Law enforcement officers shall provide every person in our community with professional, effective and efficient law enforcement services.
2. Law enforcement officers shall not express, whether by act, omission or statement, prejudice concerning race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.
3. Law enforcement officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

PRINCIPLE FOUR

Law enforcement officers shall not, whether on or off duty, exhibit any conduct which discredits themselves or their department or otherwise impairs their ability or that of other officers or the department to provide law enforcement services to the community.

RATIONALE: A law enforcement officer's ability to perform their duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Law enforcement officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

RULES

1. Law enforcement officers shall not consume alcoholic beverages or chemical substances, while on duty, except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in Rule 3.
2. Law enforcement officers shall not consume alcoholic beverages off duty to the extent the officer would be rendered unfit for the officer's next scheduled shift. A law enforcement officer shall not report for work with the order of an alcoholic beverage on the officer's breath.
3. Law enforcement officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if it is possible that a prescribed medication could impair the officer's performance during the officer's next scheduled shift.
4. Law enforcement officers, whether on or off duty, shall not engage in any conduct which the officer knows, or reasonably should know, constitutes sexual harassment as defined under Minnesota law, including, but not limited to, making unwelcome sexual advances requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.

5. Law enforcement officers shall not commit any acts which, as defined under applicable law, constitute sexual assault or indecent exposure. Sexual assault does not include a frisk or other search done in accordance with accepted police procedures.
6. Law enforcement officers shall not commit any acts which, as defined under applicable law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the law enforcement officer from the petitioner's home or workplace.
7. Law enforcement officers shall not, in the course of performing their duties, engage in any sexual contact or conduct constituting lewd behavior, including but not limited to, showering or receiving a massage in the nude, exposing themselves. They should not make physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
8. Law enforcement officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or department. This rule does not prohibit those associations that are necessary to the performance of official duties, or where such associations are unavoidable because of the officer's personal or family relationships.

105.05 **PRINCIPLE FIVE**

Law enforcement officers shall treat all members of the public courteously and with respect.

RATIONALE: Law enforcement officers are the most visible form of local government. Therefore, law enforcement officers must make a positive impression when interacting with the public and each other.

RULES

1. Law enforcement officers shall exercise reasonable courtesy in their dealings with the public, fellow officers, superiors and subordinates.

2. No law enforcement officer shall ridicule, mock, deride, taunt, belittle, embarrass, humiliate, shame, or to do anything reasonably calculated to incite a person to violence.
3. Law enforcement officers shall promptly advise any inquiring citizen of the department's complaint procedure, and shall follow the established departmental policy for processing complaints.

105.06 **PRINCIPLE SIX**

Law enforcement officers shall not compromise their integrity, nor that of their department or profession, by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing their official acts or judgments, or by using their status as a law enforcement officer for personal, financial, commercial, or political gain.

RATIONALE: For a community to have faith in its law enforcement officers, officers must avoid conduct that does or could cast doubt upon the impartiality of the individual officer or the department.

RULES

1. Law enforcement officers shall not use their official position, identification cards or badges: (1) for personal or financial gain for themselves or another person, (2) for obtaining privileges not otherwise available to them except in the performance of duty, and (3) for avoiding the consequences of unlawful or prohibited actions.
2. Law enforcement officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the Chief Law Enforcement Officer.
3. Law enforcement officers shall refuse favors or gratuities which could be reasonably interpreted as capable of influencing official acts or judgments.
4. Unless required for the performance of official duties, law enforcement officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually-oriented adult entertainment. This rule does not

prohibit officers from conducting walk-throughs of such establishments as part of regular assigned duties.

5. Law enforcement officers shall:
 - a. not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this department in connection with advertisements for any product, commodity or commercial enterprise.
 - b. maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity, and
 - c. not make endorsements of political candidates, while on duty, or while wearing the department's official uniform.

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

105.07 **PRINCIPLE SEVEN**

Law enforcement officers shall not compromise their integrity, nor that of their department or profession, by taking or attempting to influence actions when a conflict of interest or appearance of conflict of interest exists.

RATIONALE: For the public to maintain its faith in the integrity and impartiality of law enforcement officers and their departments, officers must avoid taking or influencing official actions where the officer's actions would or could conflict with the officer's appropriate responsibilities.

RULES

1. Law enforcement officers shall, unless required by law or policy, refrain from becoming involved in official matters, or influencing actions of other law enforcement officers in official matters, impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.

2. Law enforcement officers shall, unless required by law or policy, refrain from acting or influencing official actions of other law enforcement officers in official matters impacting persons with whom the officer has or has had a financial, business, or employment relationship.
3. Law enforcement officers shall not use the authority of their position as law enforcement officers, or information available to them due to their status as law enforcement officers, for any of personal gain including, but not limited to, initiating or furthering personal intimate interactions of any kind with persons with whom the officer has had contact while on duty.
4. Law enforcement officers shall not engage in any off-duty employment if the position interferes with or compromises or would reasonably tend to compromise the officer's ability to impartially perform the officer's official duties. Officers shall notify the Chief Law Enforcement Officer of any off-duty employment which they accept.

105.08 **PRINCIPLE EIGHT**

Law enforcement officers shall maintain the confidentiality of information available to them due to their status as a law enforcement officer.

RATIONALE: Law enforcement officers are entrusted with vast amounts of private and personal information, or access thereto. Law enforcement officers must maintain the confidentiality of such information to protect the privacy of the subjects of the information, and to maintain public faith in the officer's and department's commitment to preserving such confidences.

RULES

1. Law enforcement officers shall not knowingly violate any legal restriction for the release or dissemination of information.
2. Law enforcement officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.

3. Law enforcement officer's shall not divulge the identity of persons giving confidential information except as required by law or department policy.

105.09 **RULES AND REGULATIONS GOVERNING CONDUCT**

The following regulations will provide a basis for the orderly and disciplined performance of duty. Their publication will promote a surer knowledge of what is expected of personnel generally, and of all ranks and assignments specifically. This should result in a greater degree of self-assurance in all positions. In relationships between ranks, it should be our individual aim to continuously build mutual respect and confidence which is essential to our type of operation.

105.10 **COOPERATION**

Cooperation within the department is essential to effective law enforcement. Therefore, all members are strictly charged with establishing and maintaining a high spirit of cooperation.

105.11 **CONDUCT TOWARD RANKING OFFICERS**

Officers shall at all times show respect to others and obey officer rank. When dealing with other law enforcement agencies and military personnel, whether it be by correspondence or in person, all officers shall use their rank titles properly.

105.12 **GIVING NAME AND BADGE NUMBER**

When acting in an official capacity, officers of the Law Enforcement Services shall provide their full name and badge number to any person who so requests.

105.13 **CONDUCT TOWARD THE PUBLIC**

Officers, unless the situation dictates otherwise, shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, avoiding harsh, violent, profane or insolent language and remain calm regardless of provocation to do otherwise.

105.14 **PUBLIC SUPPORT AND COOPERATION**

Public support and cooperation is essential if we are to effectively fulfill our responsibilities. Each officer of the Law Enforcement Services must understand that the foundation for a positive work attitude is a desire and willingness to serve the public.

GUIDELINES

1. A law enforcement officer shall be courteous, civil, and respectful.
2. A law enforcement officer shall maintain proper decorum befitting a professional law enforcement officer at all times.
3. A law enforcement officer shall be pleasant and personal in non-restrictive situations, firm and impersonal in situations calling for regulation and control.
4. A law enforcement officer shall endeavor to maintain an even temperament regardless of the situation.
5. A law enforcement officer shall refrain from harsh, violent, coarse, profane, sarcastic, insolent, or derogatory language, which would demean the inherent dignity of any person.
6. It is imperative that all law enforcement officers in performance of their duties observe, uphold, and enforce all laws without bias or regard to race, creed, gender, national origin, economic status, religious affiliation, age or sexual orientation.

105.15 **REPORTING FOR DUTY**

Employees of the department shall be punctual in reporting for duty at the time and place designated by the superior officers. Repeated failure to report promptly at the time directed will be deemed neglect of duty. Sickness or illness must be reported promptly prior to the time the officer is due to report for duty. Once having reported sick, the officer shall keep the Chief Law Enforcement Officer or Supervisor advised as to their status and expected return to duty. When reporting sick or unable to work, they must follow chain of command.

105.16 **MAINTENANCE OF COMMUNICATIONS**

Officers off duty or when officially on call shall be directly available by normal radio communications or shall keep dispatch informed of the means by which they may be reached when not available by radio.

105.17 **PHYSICAL FITNESS**

All officers shall maintain good physical condition to ensure their ability to handle the variety of situations faced by a law enforcement officer.

105.18 **ON-DUTY ACTIVITY**

Officers shall not loiter in cafes, service stations or other public places except for the purpose of transacting department business or to take regular meals as provided for in department orders. Officers shall not loiter in department offices, except while actually transacting department business nor devote any of their on duty time to activities other than those which pertain to official business.

105.19 **SLEEPING ON DUTY**

Officers shall not sleep on duty.

105.20 **SHOPPING IN UNIFORM**

Officers in uniform shall not carry large quantities of merchandise unless directly connected with law enforcement activity. The occasional stop for gas, milk, or other small items for personal use is allowed.

105.21 **INTOXICANTS/DRUGS**

No officer in uniform shall drink any alcoholic beverage while on duty except when necessary in the performance of duty. No officer off-duty wearing any identifying part of the uniform, or any clothing identifying Fond du Lac Police Department, shall drink alcoholic beverages. No officer while off-duty shall drink any alcoholic beverage to an extent which results in the commission of an obnoxious or offensive act which would bring discredit upon the department.

No officer of this department will appear for or be on duty while impaired or under the influence of liquor or drugs or have an odor of alcoholic beverages or drugs on their breath when reporting for duty or become unfit for duty as a result of such use. Employees of the Law Enforcement Services are prohibited from keeping any alcoholic beverages or drugs (except prescribed by a doctor) in departmental vehicles, lockers, desks or drawers, refrigerators, or storage bins unless such beverages are evidence being prepared for proper inventorying.

105.22 **OFFICE KEYS/DOOR BADGES**

Officers shall submit requests to the Chief Law Enforcement Officer for duplicate keys. Officers are required to report missing or lost door badges immediately to supervisor. Supervisor will report that information to Lieutenant. Lieutenant will record information and notify other divisions.

105.23 **RESPONDING TO CALLS**

1. Officers shall respond without delay to all calls for law enforcement assistance from citizens or other officers. Emergency calls take precedence, however, all calls should be answered as soon as possible consistent with normal safety precautions and vehicle traffic laws. Failure to answer a call for law enforcement officer assistance is justification for misconduct charges.
2. Except where circumstances make it necessary for officers to report a matter or refer a complaint to a more suitable officer or agency, officers shall be attentive to take suitable action on reports and complaints. Proper requests for information or assistance shall be fulfilled and officers shall aid the person in otherwise obtaining the requested information or assistance if the officer is unable to help.

105.24 **LAW ENFORCEMENT SERVICES PROPERTY**

All officers are responsible for the safekeeping and proper care of all property used by them and belonging to the department. Property shall only be used for official business and in the capacity for which such property was assigned.

105.25 **LAW ENFORCEMENT SERVICES VEHICLE USE**

Officers and staff of the Law Enforcement Services shall use department vehicles in accordance with the vehicle use policies of the Reservation Business Committee.

105.26 **DAMAGED OR INOPERATIVE PROPERTY OR EQUIPMENT**

Officers shall immediately report to the Chief Law Enforcement Officer or the supervisor in writing the loss of or damage to Law Enforcement Services property assigned to or used by them. The Chief Law Enforcement Officer or supervisor will be notified of any defects of hazardous conditions existing in any law enforcement equipment or property and be responsible to see that such conditions are corrected.

105.27 **SOLICITATION OF SPECIAL PRIVILEGES**

1. No officer shall use their badge, uniform, identification card or official position to solicit special privileges for themselves or others. An officer may use their badge or other official credential to obtain admission to any public gathering when such use is in the course of official duty.
2. Officers shall not accept any gift, gratuity or reward of money or other consideration for services rendered in the line of duty to the community or to any person, business or agency except lawful compensation by the Band.

105.28 **ACCEPTANCE OF FEES, COMPENSATION**

Every officer is prohibited from buying, selling or obtaining items of value from or to, any complainant, suspect, witness, defendant, prisoner, or other person involved in a case which has come to their attention or which is a result of their department employment.

105.29 **PERSONAL USE OF PROPERTY**

Officers shall not convert to their own use or have any claim in any found property or recovered property or property held as evidence except through legal channels.

105.30 **OFF-DUTY REPORTING IN EMERGENCIES**

Officers off-duty shall, upon official notice, report for duty immediately and comply with instructions given at the time of the notification.

105.31 **ACTS OR STATEMENTS BY OFFICERS**

Officers shall not perform any acts or make any statements oral or written for publication or otherwise which tend to bring the Law Enforcement Services, the Fond du Lac Band of Lake Superior Chippewa or its administrative offices into disrepute or ridicule, or which destructively criticize the Law Enforcement Services, the Fond du Lac Band of Lake Superior Chippewa or its administrative offices in the performance of their official duties, or which tends to interfere with or subvert the supervision and proper discipline of Law Enforcement Services officers.

105.32 **CRITICISM OF OFFICERS**

Every officer shall refrain from making any statement or inference which discredits any officer of the Law Enforcement Services, except when reporting to his supervisors as required by these rules. Every officer shall accord courtesy, consideration and cooperation to every other officer.

105.33 **ASSISTANCE TO OTHER OFFICERS**

All officers are required to take prompt and appropriate law enforcement action toward aiding a fellow officer exposed to danger or in a situation where danger might be pending.

105.34 **CITIZENS IN POLICE VEHICLES**

No person will be allowed to ride in Law Enforcement Services vehicles, except officers of the Law Enforcement Services, individuals detained or being transported in the course of law enforcement work, or other person(s) specifically approved by the Chief Law Enforcement Officer or supervisor. Ride alongs must sign a waiver form before they are permitted to accompany the officer. Ride alongs will not be allowed until officer completes probationary period.

105.35 **CIVIL ACTIONS**

Officers, when notified of any civil action arising out of their official duties, shall notify the Chief Law Enforcement Officer. Officers shall not use their positions with the department as a means of forcing or intimidating persons whom they are engaged in civil matters with in order to settle the case in their favor.

105.36 **CIVIL DISPUTES**

Officers shall avoid entering into civil disputes while performing law enforcement duties.

105.37 **PAYMENTS FOR LINE-OF-DUTY INJURY**

Officers who accept, or agree to accept, anything for any personal injury incurred in the line of duty shall promptly notify the Chief Law Enforcement Officer.

105.38 **ASSAULTS UPON PERSONNEL**

Any assault upon a officer of this department acting in an official capacity, whether it be a misdemeanor or felony assault, is to be reported in writing to the Chief immediately. This written report should include the name of the officer who has been victimized, together with the name of the suspect or suspects, and a brief description of the facts involved and any injury sustained.

105.39 **TESTIFYING FOR THE LAW ENFORCEMENT SERVICES**

Any officer subpoenaed to testify for the defense in any trial or hearing, or against any municipality of law enforcement agency, shall promptly notify the Chief Law Enforcement Officer upon receipt of the subpoena or such request to testify.

105.40 **CHANGE OF ADDRESS**

Officers shall notify the Chief Law Enforcement Officer within 24 hours of change of address or telephone number. This notification must be in writing.

105.41 **TELEPHONE**

All officers shall maintain a working phone at all times in order to be reached while off duty.

105.42 **BUSINESS CARDS**

Officers shall not utilize any business cards or other forms of communication which have not been previously approved by the Chief Law Enforcement Officer.

105.43 **INFORMATION TO SUPERIORS**

Officers shall inform superiors of any matter coming to their attention which may affect the welfare of the Law Enforcement Services.

105.44 **OBEYING ORDERS**

All officers shall promptly obey any lawful order emanating from any superior officer.

105.45 **DISOBEDIENCE OF ORDERS**

Failure to comply in a timely manner with any legal command or order, written or oral issued by a superior officer shall constitute a violation of this section. Whenever any question arises as to the wisdom of an order issued by a superior officer, the order shall be obeyed so long as the ordered act is not criminal in nature and afterwards any question regarding a lawful order should be submitted to a higher ranking officer. The responsibility for the effect of any lawful order issued lies with the officer issuing it and not with the subordinate.

105.46 **QUESTIONS REGARDING ASSIGNMENT/ORDER**

Officers and employees in doubt as to the nature or details of their assignment or orders shall seek such information from their supervisors as necessary by going through the chain of command.

105.47 **CRITICISM OF ORDERS**

Officers shall not publicly criticize instructions or orders they have received except as permitted by this manual.

105.48 **REPORTING VIOLATIONS OF LAWS, ORDINANCES, RULES, OR ORDERS**

Officers knowing of any other officers violating any law, ordinance, rule, or order shall promptly notify the Chief Law Enforcement Officer in writing.

105.49 **ACTING SUPERVISORS**

A officer temporarily filling the position of a supervisor in an acting capacity shall be vested with the authority and responsibility of that position as denoted in the position description.

105.50 **FORWARDING COMMUNICATIONS VIA CHAIN OF COMMAND**

Any officer receiving or initiating a written communication for transmission to a higher level shall forward such communication to their immediate supervisor until the communication reaches the person designated.

105.51 **GENERAL RESPONSIBILITY OF OFFICER AT A CRIME SCENE**

The first officer to arrive at the scene of a crime or other law enforcement incident is responsible for the following actions as they may apply to the situation:

1. Summoning medical assistance and the administration of first aid as required to prevent further injury or loss of life.
2. Security of the scene.
3. Arrest of any perpetrator.
4. Any other action which appears to be warranted in the best judgment of the officer.

105.52 **RADIO DISCIPLINE**

All officers and other employees of the department who operate the law enforcement radio, whether from a mobile unit or in the office, shall strictly observe all regulations for radio operations as set forth in departmental orders and by the Federal Communications Commission.

105.53 **MARKING OR DEFACING NOTICES**

Officers shall not mark, alter, or deface any printed notices relating to the Law Enforcement Services or other government business. Posting any notice of a derogatory nature related to the business of the Law Enforcement Services or government or any officials of either shall be prohibited. Unauthorized notices or correspondence will be removed.

105.54 **DIVULGING OFFICIAL BUSINESS**

1. All officers shall treat as confidential the business of the Law Enforcement Services. They shall give such information only to those authorized to receive it.

2. The contents of any criminal record or report filed with the Law Enforcement Services shall not be exhibited or divulged to any person other than during the process of an investigation, or to other duly authorized law enforcement officers, or as provided for under applicable law except as directed by a supervisor. Officers shall not, because of their position, obtain information from other agencies of government to be used by the officer personally or for personal gain.

105.55 **CRIMINAL NEGOTIATIONS**

Officers shall not communicate in any manner, directly or indirectly, any information which might assist persons who may have committed criminal or quasi-criminal acts to escape detection, arrest or punishment, or which may enable them to dispose of or, hide evidence of unlawful activity or money, merchandise or other property unlawfully obtained.

105.56 **WITHHOLDING CRIMINAL INFORMATION**

Officers receiving or possessing facts or information relative to any criminal offense shall not retain such facts or information based upon ulterior motive or for personal credit but shall report the facts or information in accordance with proper procedure. No officer shall retain in their personal possession, any official pictures, reproductions, diagrams, daily logs, accident reports or information that is evidence of official law enforcement business.

105.57 **DEPARTMENTAL INVESTIGATIONS**

When so directed, officers are required to truthfully answer questions or produce relevant documents and statements to a competent authority in a departmental investigation.

105.58 **ATTORNEY AND BONDING RECOMMENDATIONS**

No officer of the Law Enforcement Services shall in the line of duty, either directly or indirectly, recommend the employment of any person as attorney or counsel. No officer shall suggest or recommend the name of any bonding company to any prisoner or suspect.

105.59 **REPORTING**

Officers shall, before the end of their shift, submit such reports as are required in the performance of their duties.

105.60 **REVIEW OF REPORTS**

Upon review of reports by a supervisor, any reports containing errors or which are incomplete will be returned with instructions for necessary correction. Reports are to be proofread.

105.61 **SPECIAL PRIVILEGES**

No officer shall be granted any special privileges or be required to work fewer hours twice per week than the average required of other officers of the Law Enforcement Services of similar rank and assignment, or be exempted from any rule or regulations to which other officers with similar rank and assignment are subjected except when the Chief Law Enforcement Officer determines that public interest

requires assignment of a officer of law enforcement to a special assignment.

105.62 **SERIOUS INJURY OR DEATH IN THE LINE OF DUTY**

In the case of a officer's serious injury or death in the line of duty, the Chief Law Enforcement Officer shall be notified immediately. The Chief Law Enforcement Officer will direct the actions of the Law Enforcement Services concerning notification of next of kin, press release, and the investigation.

105.63 **PRESS RELATIONS**

Any situation which involves an inquiry by the press should be directed to the Chief Law Enforcement Officer or his/her designee. Non-supervisory personnel shall not make statements to the press unless authorized to do so.

105.64 **COMPULSORY FIREARM PRACTICE AND INSPECTION**

Every law enforcement officer is required to report for the purpose of firearms training and inspection at such times and for such periods as specified by departmental order. Failure to keep a firearm in proper condition or to be reasonably proficient in its use shall be considered a violation of this regulation. Proficiency will be determined at each session and recorded by a qualified firearms instructor.

105.65 **FOND DU LAC LAW ENFORCEMENT SERVICES OPERATIONS
MANUAL**

1. The Manual is designed to contain all instructions pertaining to the operation of the Law Enforcement Services in a uniform manner and to provide a comprehensive guide to the policies of the Fond du Lac Law Enforcement Services.
2. It is the responsibility of each officer of the Law Enforcement Services to keep the contents of the manual accurately updated and to become and remain familiar with the contents of the manual.

105.66 **VIOLATION OF ANY CRIMINAL LAW**

1. Whenever an officer is found to be guilty of a crime defined as a misdemeanor, the officer shall be subject to such disciplinary action as may be compatible with the nature of the offense.
2. Any officer who is found to be guilty of a crime defined as a gross misdemeanor or felony may be subject to immediate dismissal from the Law Enforcement Services.

105.67 **APPLICATION**

Any disciplinary actions arising from violations of this policy shall be investigated in accordance with MN STAT 626.89, Peace Officer Discipline Procedures Act and the law enforcement agency's policy on Allegations of Misconduct as required by MN Rules 6700.2000 to 6700.2600.

This Section amended pursuant to Resolution #1280/11 of the Fond du Lac Reservation Business Committee on August 23, 2011.

This Section 105 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

106.00 **DISCIPLINARY PROCEDURES**

The purpose of this section is to ensure the integrity of the Law Enforcement Services in establishing procedures for handling complaints and disciplinary actions against a officer of the department. These procedures will assure the prompt and thorough investigation of incidents to clear the innocent, establish guilt, and facilitate suitable disciplinary action. This section is based on the policy that discipline is the function of command and a well-disciplined force is a force which voluntarily and willingly conforms to all rules and orders.

SCOPE OF THIS ORDER

Incidents which are to be handled in accordance with the provisions of this order include: alleged or suspected violations of statutes, ordinances, department rules on orders or actions of officers (i.e. sworn civilian, and temporary employees) of the Law Enforcement Services. Also included are incidents submitted to supervising officers by officers of the Law Enforcement Services, either orally, by telephone or in written form, either signed or anonymous.

106.01 **EMERGENCY SITUATION**

1. All supervisory officers have the authority to impose emergency suspension until the next business day upon a officer of the department when it appears that such action is in the best interest of the department. Any person so suspended shall be instructed to report to the Chief Law Enforcement Officer as soon as possible on the next business day unless circumstances requires special action. The supervisor recommending or imposing the suspension will also report at the same time.
2. Discretion will be exercised in the application of this authority, and such discipline will normally be resorted to only when the offending officer has failed to respond to previous supervisory commands. Care must be taken to ensure that critical assignments are not left uncovered as a result of a suspension action.

106.02 **ORAL REPRIMAND**

An oral reprimand is a verbal communication to correct a officer for a violation of a departmental rule, regulation or procedure by a supervisor to a subordinate. No further action is required.

106.03 **WRITTEN REPRIMAND**

A written reprimand is the sustained findings of a violation of this manual by an officer where more than an oral warning, but less than a suspension, is determined to be the appropriate action. A copy of the written reprimand is given to the officer, and a copy is placed in their personnel file.

106.04 **APPLICATION OF ORAL REPRIMAND & WRITTEN REPRIMAND**

This procedure provides for immediate disciplinary action against those officers who fail to conform to certain department standards of conduct and appearance.

Incidents to be covered by this provision include, but are not limited to:

1. Failure to comply with Department Rules and Regulations.
2. Failure to report back-in-service immediately upon completion of an assignment.
3. Failure to properly care for or use official Department Equipment.
4. Taking excessive time for meals and breaks.
5. Failure to provide prompt, correct, courteous service.
6. Failure, while on patrol duty, to give full attention to the prevention of crime by:
 - a. Lounging on post.
 - b. Visiting with other officers other than for the exchange of information related to their assignments.

- c. Parking in locations and in such a manner as to serve no useful purpose in preventing crime.
7. Transporting persons in a department vehicle except for a proper law enforcement purpose or on law enforcement business without approval by the Chief Law Enforcement Officer or supervisor.
8. Leaving community or patrol area (without authorization) before designated time.
9. Failure to perform assigned tasks or submit required reports or records.
10. Reporting unfit for duty for reasons other than would justify action under other provisions of this order.
11. Failure of a supervising officer to take appropriate action on observing any of the above incidents.

When a greater penalty is justified, either because of the circumstances or because of the offender's past record, the procedures outlined in the order for complaint investigations will be followed. Action under this subdivision does not prevent the imposition of a more severe penalty by a higher authority when it is felt that such lesser punishment is being used to cover up conduct warranting a more severe penalty or dismissal. If a greater penalty results, any preliminary punishment served will be taken into account in fixing the larger penalty.

106.05 **DISCIPLINARY PENALTIES**

Any officer may be subject to reprimand, suspension from duty, reduction in rank, dismissal from the Law Enforcement Services or any one or more of the foregoing penalties according to the nature of the offense.

106.06 **DISTRIBUTION OF REPORTS OF DISCIPLINARY ACTION**

The report shall be forwarded to the Chief Law Enforcement Officer. In writing and submitting these reports, every effort shall be made to keep the incident confidential, when necessary, the use of sealed envelopes is recommended.

COMPLAINTS AGAINST OFFICERS OR DEPARTMENT

1. DEFINITIONS. For the purpose of this section of the Law Enforcement Operations Manual, the following terms are defined:
 - a. CHIEF means the Fond du Lac Chief Law Enforcement Officer.
 - b. COMPLAINANT means the person or group that files a complaint with the department alleging misconduct or an infraction/violation of department policies and procedures, or the department supervisor who accepts believable facts relating to alleged misconduct on violations or infractions of departmental policies and procedures.
 - c. COMPLAINT means a statement which is made to a department supervisor in writing, in person, or by phone which alleges misconduct or an infraction of departmental policies and procedures.
 - d. DISCIPLINE means:
 - (1) oral reprimand,
 - (2) written reprimand,
 - (3) suspension,
 - (4) demotion, or
 - (5) discharge.
 - e. EXONERATED means the investigation freed the officer from blame or wrongdoing and no misconduct or infractions of law, department policies or procedures occurred.
 - f. FORMAL STATEMENT means the questioning of an agency member in the course of obtaining a recorded, stenographic or signed statement to be used as evidence in a disciplinary proceeding against the agency member.
 - g. INFRACTION means violation of any department policy and procedure.
 - h. MAY means that the action is permissible.
 - i. MEMBER means all voluntary and compensated personnel of the agency.
 - j. MISCONDUCT means:

- (1) a violation of any agency policy and procedure governing conduct of agency members;
 - (2) the use of unnecessary or excessive force;
 - (3) the conviction of any criminal offense;
 - (4) abuse of authority;
 - (5) conduct which violates a person's civil rights;
 - (6) abusive or insulting language or conduct which is derogatory of a person's race, religion, sex, national origin or sexual preference;
 - (7) sexual harassment as that term is defined under Minnesota law;
 - (8) intimidation or retribution toward a complainant or witness involved in any complaint proceeding.
- k. NOT SUSTAINED means the investigation failed to disclose sufficient evidence to prove or disprove the allegation(s) made by the complaint.
- l. OFFICER means all law enforcement officers and civilian department employees whether full-time, part-time or temporary, including the Chief Law Enforcement Officer.
- m. POLICIES AND PROCEDURES means the administrative acts promulgated by the Band regulating conduct of officers.
- n. RECEIVING AUTHORITY means the person who receives the complaint when the subject of the complaint is the Chief Law Enforcement Officer.
- o. RESPONDENT means any agency member, whether full-time, part-time, temporary or voluntary, against whom a complaint has been filed.
- p. SHALL/WILL means, as used herein, that the action is mandatory.
- q. SUSTAINED means a fair preponderance of the evidence obtained in the investigation established that the accused officer's actions constituted misconduct, an infraction or a violation of department policies and procedures.

107.01 **PURPOSE OF THIS POLICY**

1. A relationship of trust and confidence between department officers and the community they serve is essential for effective

law enforcement. Law enforcement officers must be free to exercise their best judgement and to initiate enforcement action in a lawful and impartial manner without fear of reprisal, while at the same time they must meticulously respect individual rights.

2. This complaint process is intended to provide corrective action when a law enforcement officer conducts himself or herself improperly, and to protect the officer from unwarranted criticism when they discharge their duties properly.
3. Any person who believes that a law enforcement act is improper is encouraged to bring the complaint to the Chief Law Enforcement Officer's attention.
4. No reprisal shall be taken against any person or witness who brings a complaint or provides information in any investigation of a complaint.
5. Complaints shall be handled in a prompt, just, open and expeditious manner in accordance with these procedures. Summaries of the complaint process, and copies of these procedures shall be made available to the public upon written request.

107.02 **PROCEDURE FOR ACCEPTING COMPLAINTS**

1. Anyone who has personal knowledge of the facts or reliable hearsay information may file a complaint. Any agency member who has personal knowledge of misconduct shall file a complaint according to the procedures stated herein.
2. Any agency member shall self-report to the Chief Law Enforcement Officer and to the Peace Officer Standards and Training Board any action, inaction, or condition of that agency which the agency member reasonably believes would constitute grounds for disciplinary action under the Peace Officer Standards and Training Board's regulatory provisions.
3. A supervisory officer shall be available at all reasonable times for taking complaints. Upon receiving a complaint, the officer shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign administrative case number. The complaint will not be considered filed until the complainant signs the CCF.

4. If the person filing the complaint sets forth specific believable facts relating to the alleged misconduct and the person wishes to remain anonymous, the officer receiving the information shall then become the complainant. If the officer has reason to believe that the complaint is unfounded, the officer shall have the authority to require the person to identify themselves. If the person refuses to do so, the officer may refuse to initiate a complaint and shall advise the anonymous person of that fact.
5. After a CCF is filed, the officer receiving the complaint shall sign the document, then give or mail a copy to the Chief Law Enforcement Officer. The Chief Law Enforcement Officer will forward a copy of the document to the accused officer, but only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
6. A complainant may be accompanied by an attorney, legal officer, or other appropriate representative at the time a complaint is filed or at any other stage of the process.
7. Any complaints against the Chief Law Enforcement Officer, shall initially be made to the Executive Director. Upon receiving a complaint the receiving authority shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered until the complainant signs the CCF.
8. The Executive Director should refer investigations of alleged misconduct against a Chief Law Enforcement Officer to an outside law enforcement agency or criminal justice agency.

107.03 **PROCEDURE FOR NOTIFICATION**

1. Upon receipt of an ICR, the Chief Law Enforcement Officer shall make an initial determination whether the facts alleged warrant a formal investigation. In making this determination, the Chief Law Enforcement Officer may meet informally with the complainant(s), accused officers or any potential witness.
2. If the Chief Law Enforcement Officer decides that an investigation is not warranted, the disposition of the complaint shall be either not sustained or exonerated. If the matter was based on a "citizens complaint," the complainant will

be notified in writing of this decision and the basis for the determination. The accused officer will also be notified in writing. If the complainant supplies additional information within thirty (30) days of the determination, the Chief Law Enforcement Officer may reverse this decision.

107.04 **PROCEDURE FOR INVESTIGATION OF COMPLAINTS**

1. Upon receipt of the Citizen Complaint Form (CCF), the Chief Law Enforcement Officer shall make an initial determination as to whether the facts alleged require a formal investigation. If the Chief Law Enforcement Officer decides that an investigation is not required, the disposition of the investigation is not required. The disposition of the complaint shall be either "not sustained" or "exonerated". The complainant and the respondent will be notified of this decision and the basis for the determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the Chief Law Enforcement Officer may reverse this decision and order a formal investigation.
2. If the Chief Law Enforcement Officer determines a formal investigation is required an appropriate person will be assigned to investigate the complaint. When the Chief Law Enforcement Officer believes an external investigation is appropriate and when the Chief Law Enforcement Officer is the subject of the complaint, the investigation will be assigned to an external agency.
3. The Chief Law Enforcement Officer may suspend a respondent with pay at any time during the investigation of a complaint.
4. The investigator shall, as soon as possible after being assigned, inform the complainant party that an investigation has commenced and provide a business phone number and update on the status of the complaint.
5. The investigator shall thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation uncovers potential misconduct by another officer, the investigator shall initiate a complaint against that officer.

6. Officers may not refuse to answer questions asked them by a superior or the investigator that are specifically directed and narrowly related to their official duties or fitness for duty (or the duties and fitness of fellow officers). If they do refuse, they may be disciplined or discharged for refusal to answer questions lawfully requested. However, the answers are not admissible in a later criminal trial, nor may the "fruits" of their responses be used in a criminal trial. But the answers are admissible in a disciplinary hearing. Officers under investigation shall be warned of their rights and told their responses may not be used in a criminal trial, but may be used in a disciplinary procedure. They may not be compelled to sign a waiver so that their responses could be used in a criminal trial. The Chief Law Enforcement Officer or investigator shall warn officers under investigation by reading the following:

"I wish to advise you that you are being questioned as part of an official investigation of the Fond du Lac Law Enforcement Services. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of the United States and the Fond du Lac Band of Lake Superior Chippewa, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which could result in your dismissal from the Law Enforcement Services. If you do answer, neither your statements nor information or evidence which is gained by reason of such statements may be used against you in relation to subsequent criminal proceedings. However, these statements may be used against you in relation to subsequent departmental charges."

7. The investigator shall complete a written report which shall contain all relevant information, organized into three (3) following section:

- a. ALLEGATIONS: This section shall consist of an itemized summary of the acts of misconduct alleged in the complaint. References shall be made to the rules, policies, procedures, directives, orders, statutes or constitutional provisions that would be violated if the allegations are taken as true.
 - b. INVESTIGATION: This section shall consist of a chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused officer(s), and all available witnesses. Written statements, descriptions and analysis of all physical evidence and all other relevant information shall be included in the summary.
 - c. CONCLUSIONS: This section shall include the investigator's findings and conclusions as to whether any misconduct infraction or violation of policies and procedures or applicable law occurred. These conclusions shall be binding unless overturned.
8. The investigation shall be concluded within thirty (30) days of the filing of the complaint, unless for good cause shown an extension is granted in writing by the Chief Law Enforcement Officer. The accused officer and the complainant shall be informed in writing of any extension in time.
 9. A complaint received through the Minnesota Board of Peace Officer Standards and Training will be handled pursuant to this Policy; the Board will be advised of the status of the complaint within thirty (30) days.

107.05 **INVESTIGATION REVIEW AND DISPOSITION**

1. Upon completion of the investigation, the investigator shall submit his report, the case file, and all investigative notes to the Chief Law Enforcement Officer. If the Chief Law Enforcement Officer determines the investigation was not adequate, the Chief Law Enforcement Officer shall order further investigation. If the Chief Law Enforcement Officer determines the investigation was adequate, the Chief Law Enforcement Officer shall make one of the following dispositions: exonerated, not sustained or sustained.

2. The Chief Law Enforcement Officer may withhold issuing a disposition until any related criminal charges are resolved. The complainant and the accused shall be so informed in writing.
3. If the complaint is exonerated or not sustained, the Chief Law Enforcement Officer shall immediately notify the complainant and accused officer of the disposition in writing
4. If the complaint is sustained, the Chief Law Enforcement Officer shall take appropriate disciplinary action. Such action shall be based on the investigative report and the accused officer's record of service. The disciplinary action may include counseling, remedial education, and oral reprimand, a written reprimand, suspension with or without pay, demotion, or discharge. In making this decision the Chief Law Enforcement Officer may consider the severity of the present infraction and any prior infractions which were committed by the accused. Officers who have a past history of committing infractions may be discharged even in cases where a conglomeration of "minor" infractions were committed in the past. The Chief Law Enforcement Officer shall determine whether a violation is considered major or minor.
5. After selecting the appropriate disciplinary action, the Chief Law Enforcement Officer will issue a written Findings of Fact which shall minimally contain the following information:
 - a. A summary of the act or acts constituting misconduct, infractions or violations of policies and procedures, statutes, regulations or directives.
 - b. A description of the disciplinary or remedial action taken to prevent recurrence of the misconduct.
 - c. Any additional information as the Chief Law Enforcement Officer may find relevant to accurately document the disposition.
6. Prior to the implementation of remedial or disciplinary actions, the accused officer shall be provided with a copy of the Findings of Fact. The Chief Law Enforcement Officer shall review it with the accused officer and explain reasons for the action. The Chief Law Enforcement Officer will contact complainant and explain the outcome of the investigation.

7. Either the complainant or the accused officer may within fifteen (15) days after notification of the disposition, request in writing that the Chief Law Enforcement Officer, for good cause shown, re-open the investigation. If there is no request for reconsideration within 15 days, the decision shall become final. If a request for reconsideration is made, the disposition shall become final upon a decision on such request or the completion of any additional actions directed by the Chief Law Enforcement Officer. Notwithstanding the foregoing, the investigation may be re-opened by the Chief Law Enforcement Officer at any time if substantial "new" evidence is discovered which is relevant to the complaint.
8. When a sustained disposition is final, the accused officer may appeal the disposition according to the Fond du Lac Band's Personnel Policy Manual, "Grievance Procedures" section.
9. The Chief Law Enforcement Officer may suspend an accused officer with pay at any time during the investigation of a complaint.
10. This policy procedure shall not preclude different disciplinary procedures for misconduct allegations not initiated by a citizen complaint.

107.06 **MAINTENANCE AND DISCLOSURE OF DATA**

1. Disclosure to the complainant, accused officer and the public regarding disciplinary data collected, created, received or maintained shall be done in accordance with this Manual, and with the Fond du Lac Band's Policies and Procedures governing disclosure of data.
2. All data collected, created or received by the Law Enforcement Services in connection with this manual shall be maintained in accordance with the department's retention schedule.
3. The placement of the disposition report or other data in an employee's personnel file shall be governed by the Fond du Lac Band's Personnel Policy Manual.

This Section 107 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

108.00 **EQUIPMENT AND UNIFORM REGULATIONS; PERSONAL APPEARANCE**

PURPOSE: Standards of equipment, uniforms and personal appearance shall be established and maintained in order to assure adequate capability and proper presentation. The Chief Law Enforcement Officer shall be responsible for all matters pertaining to the administration of these standards.

108.01 **Equipment**

1. Scope: This policy applies to every officer of the Fond du Lac Law Enforcement Services Division.
2. Definitions
 - a. Department. Department means the Law Enforcement Services Division of the Fond du Lac Band of Lake Superior Chippewa.
 - b. Officer. Officer means any full or part time law enforcement officer employed by the Fond du Lac Band of Lake Superior Chippewa, unless the context clearly indicates otherwise.
3. Equipment
 - a. General Requirement. All officers shall be issued the standard equipment specified in this Section. No non-standard or additional equipment (including but not limited to weapons, chemical agents, explosives and restraints) may be possessed or used by an officer while on duty, carried in Department vehicles, or stored in Department facilities without the express, written approval of the Fond du Lac Reservation Business Committee. Officers will be required to sign for this equipment and shall be responsible for securing and maintaining it.
 - b. Standard Equipment. Standard equipment shall include the following items:
 - (1) Side Arm: Department issue, Serial # Recorded;
 - (2) [RESERVED]

- (3) Handheld Flashlight: one 5-cell rechargeable Maglite or similar;
- (4) Belt Flashlight: one handheld 3-cell, 3 volt rechargeable Surefire or similar;
- (5) Handcuffs: two pair;
- (6) Baton: one ASP and holder stainless steel;
- (7) Chemical Mace: Pepper Solution in spray or foam; Bio shield
- (8) Key Carrier;
- (9) Portable Radio: one with current Department specifications;
- (10) Duty Belt: one belt;
- (11) Magazine Holder; one with current Department specifications;
- (12) Belt Keepers: to secure Duty Belt to Trouser Belt, as needed;
- (13) Vest : one Level 3 vest or similar;
- (14) Video Camera: one vehicle-mounted;
- (15) Tape Recorder - Mounted: officer mounted;
- (16) Tape Recorder - Portable: one hand held;
- (17) Digital Camera: one Digital Camera;
- (18) Trousers: four pair (two Class A and two Class C);
- (19) Shirts: three short sleeved; 3 long sleeved; 3 turtlenecks;
- (20) Jacket: one Winter weight;
- (21) Sweater: optional at Officer's expense; and
- (22) Tazer: one tazer.

108.02 **Uniforms**

1. **Wearing the Uniform**

Unless otherwise ordered or permitted by the Reservation Business Committee, while on duty all officers shall wear the uniforms and uniform equipment specified in this Section. Wearing parts of the uniform with civilian clothing items is prohibited. The Chief Law Enforcement Officer shall inspect uniforms and equipment on a regular basis.

- a. Officers shall be responsible for ensuring that their uniforms fit properly and are maintained in a clean and serviceable condition.
- b. When the identifying portions of the uniform are worn, they shall be worn in their entirety. All officers shall place the badge and nametag on the outermost garment of the uniform so as to be readily visible to the public. Nametags shall be worn on the left. Badges shall be worn at all times while on duty and shall be located either on the left breast pocket or the belt.
- c. No part of the uniform, recognizable as such by the public, shall be worn in public while off duty.
- d. Shoes and boots shall be kept polished, and shall be wiped off before going on duty.
- e. Long and short sleeve shirts may be worn with or without a tie. If no tie is worn, a plain white t-shirt with sleeves and a throat-high neck must be worn underneath the shirt. All buttons, including cuffs, shall be fastened on shirts. Sleeves shall not be rolled or turned up. Supervisors will authorize the change from long sleeve to short sleeve and vice versa based upon the weather and season.
- f. The wearing of non-regulation articles of clothing or items associated with the uniform is prohibited, except that the officer's supervisor may approve a deviation from the regulation uniform if an assignment or weather indicates that the regulation uniform is impractical.
- g. Only approved emblems and insignia shall be worn with the uniform. When the identifying portions of the uniform are

worn, they must be worn in their entirety. A Department issued breast badge will be worn in a badge holder on left side of shirt and jacket at all times while on duty. Officers name plates are also to be worn on the uniform at all times. For display on jackets, the name plate is to be affixed to upper portion of the shirt above the right pocket. Identifying insignias shall be removed from worn out clothing.

- h. All brass is to be kept in a highly polished condition with black or blue figures and lettering in those places where it appeared originally.
 - i. [RESERVED]
 - j. Only approved equipment shall be attached to the equipment belt.
 - a. All officers shall carry a pocket notebook and a pen.
 - b. All officers are required to wear full Class A Uniform while attending court.
 - c. Administrative personnel above the rank of Sergeant are required to wear full Class B Uniform or shirt, tie, slacks, appropriate footwear and jacket or coat while on duty. Class C will be acceptable during training or other approved events.
2. The below listed uniform classes are established:
- a. Class A Uniform: Standard uniform slacks and long sleeved button up shirt with tie and coat or jacket if weather dictates.
 - b. Class B Uniform: Standard uniform slacks or BDU and short sleeve shirt and coat or jacket if weather dictates.
 - c. Class C Uniform: Tactical uniform clothing to consist of: police tee-shirt, and "tactical" pants or clothing, "undercover" type jackets, appropriate footwear and baseball type hats.
3. Officers who are issued body armor by the department are required to wear the armor at all times while on-duty. Armor will either be worn beneath the uniform shirt and shall be

contained in the carrier or may be worn in a quilted type vest or tactical outer carrier approved by the Chief Law Enforcement Officer on the outside of the uniform.

108.03 **GROOMING AND APPEARANCE**

1. Hair on top of the head will be neatly groomed. The length and bulk of the hair will not be excessive or present a ragged, unkept or extreme appearance. The bulk or length of the hair shall not interfere with the normal wearing of all standard headgear.
2. If the individual desires to wear facial hair, it must be kept neatly trimmed.

108.04 **STANDARDS FOR PLAIN CLOTHES PERSONNEL**

1. Hair: As situation dictates.
2. Mustaches: As situation dictates.
3. Beards: As situation dictates.
4. Sideburns: As situation dictates.

108.05 **EXCEPTIONS**

1. Special assignments: Any deviation from the prescribed regulations shall be for special assignment purposes only, which shall include travel to training assignments, and shall have the approval of the Chief Law Enforcement Officer.

This Section amended pursuant to Resolution #1422/99 of the Fond du Lac Reservation Business Committee on December 2, 1999.

This Section amended pursuant to Resolution #1280/11 of the Fond du Lac Reservation Business Committee on August 23, 2011.

This Section 108 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

109.00 **IDENTIFICATION CARDS**

Fond du Lac Law Enforcement Services identification cards are distributed to all officers in order to properly identify law enforcement personnel, insure uniformity and maintain control.

109.01 **OFFICER IDENTIFICATION CARD PROVISIONS**

1. No Identification card shall be carried other than the Band issued one.
2. Whenever a officer Identification card is lost, stolen, or destroyed, a general incident report explaining in full details the loss or destruction shall be submitted, and a new card will then be issued.
3. No officer shall retain a worn or mutilated I.D. card.
4. New I.D. cards shall be issued in the event of a title or assignment change.
5. Officer I.D. cards are the property of the Fond du Lac Law Enforcement Services and must be returned upon request or as required by this Manual.
6. Any officer or employee of the Law Enforcement Services who refuses to give their badge number and name, or present their official identification card on the request of any citizen, shall be guilty of a violation of this Manual.

110.00 **PROTECTIVE BODY ARMOR**

The Fond du Lac Law Enforcement Services recognizes the potential for violent assaults against officers. To reduce the risk of serious injury and prevent a tragic loss of life the department will provide or reimburse the purchase price of approved protective body armor for all licensed personnel assigned to the law enforcement division.

DEFINITION: For the purposes of this section, "APPROVED PROTECTIVE BODY ARMOR, also referred to as "soft body armor" or "protective vest," is that which meets or exceeds the National Institute of Justice Standard 0101.03 for Type II Armor. The carrier worn under the uniform must be white or blue in color.

RULES. All licensed personnel who are provided or are reimbursed the purchase price of a protective vest shall properly maintain the protective vest according to the manufacturer's instructions and will always have the protective vest available for use as follows:

1. All uniformed patrol officers shall wear a protective vest at all times while on duty and outside of their respective offices.
2. Officers engaged in administrative duties shall have their protective vests available for immediate use when on duty and outside their respective offices. These officers shall wear their protective vests while engaged in any activity that poses a risk of injury, great bodily harm, or death. These activities include but are not limited to: the execution of search warrants; responding to or immediate investigation of incidents in which a firearm or other potential weapon was involved; while effecting the arrest, capture, or preventing the escape of any person(s) who the officer knows or has reason to believe has committed or attempted to commit a crime involving the use or threat of force.
3. Non-compliance of these rules for medical reasons will be considered on an individual basis, requiring a written reason from a physician and approval by the Supervising Officer or the Chief Law Enforcement Officer.

This Section 110 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

111.00 **SEXUAL HARASSMENT**

Sex discrimination and sexual harassment are against the law. It is the policy of the Fond du Lac Band and Fond du Lac Law Enforcement Services to prohibit sexual harassment and to maintain an employment atmosphere free of sexual harassment, intimidation or coercion. The supervisory and management personnel of the Fond du Lac Law Enforcement Services are responsible for implementing this policy, and their success in their jobs depends, in part, on its successful implementation.

1. **PROHIBITION:** Sexual harassment of any employee by any other employee will not be tolerated. If investigation of a complaint of sexual harassment indicates that such harassment has occurred, appropriate disciplinary actions will be taken.

The following are some examples of conduct which may be legally actionable sexual harassment:

- a. Use of offensive or demeaning language which has a sexual connotation.
- b. Objectionable physical closeness or physical contact.
- c. Unwelcome suggestions about, or invitations to, social engagements or work-related social events.
- d. Any suggestion, whether direct or indirect, that an employee's job security, job assignment, conditions of employment, or opportunities for advancement are in any way dependent on the employee granting sexual favors to any other employee, supervisor, or manager.
- e. Any action relating to an employee's job status which is, in fact, affected by whether the employee granted or refused to grant sexual favors to another employee, or affected by how the employee responded to sexual advances, sexual comments, or jokes.
- f. The creation of an atmosphere of sexual harassment of intimidation, regardless of whether or not the people whose actions created that atmosphere intended to do so.
- g. The deliberate or careless making of jokes or remarks of a sexual nature to or in the presence of employees who may find such jokes or remarks offensive.

- h. The deliberate or careless distribution, posting, or display of materials (such as cartoons, articles, pictures, etc.), which have sexual content and which are not necessary for our work, to employees who may find such materials offensive.

All employees should be careful to treat their co-workers, subordinates, and supervisors with respect at all times.

- 2. COMPLAINTS. Any employee who feels that he or she is being subjected to sexual harassment in any form, or who believes he or she has witnessed sexual harassment, should contact the Chief Law Enforcement Officer or the Executive Director.
- 3. REPRISALS. No retaliation of any kind will occur because you have reported an incident or suspected sexual harassment. We encourage you to help us keep the Fond du Lac Law Enforcement Services free of harassment.

112.00 **USE OF FORCE POLICY**

112.01 **PURPOSE**

It is the policy of the Fond du Lac Tribal Police Department to provide officers with guidelines for the use of force and deadly force in accordance with:

MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE; POLICIES AND INSTRUCTION REQUIRED;
MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;
MN STAT 609.06 AUTHORIZED USE OF FORCE;
MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and
MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

112.02 **POLICY**

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

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

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

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

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

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties.

Section 112.04 Procedure, paragraphs (7.a-b), are effective March 1, 2021 and thereafter.

112.03 **DEFINITIONS**

1. Bodily Harm: Physical pain or injury.
2. Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
3. Deadly Force: Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
4. De-Escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
5. Other Than Deadly Force: Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
6. Choke Hold: A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means

applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

7. Authorized Device: A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
 - a. obtained training in the technical, mechanical and physical aspects of the device; and
 - b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

112.04 **PROCEDURE:**

1. General Provisions

- a. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- b. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
- c. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
- d. All uses of force shall be documented and investigated pursuant to this agency's policies.

2. Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

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

3. Duty to Report

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

4. De-escalation

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

5. Use of Other Than Deadly Force

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

- a. effecting a lawful arrest; or
- b. the execution of legal process; or
- c. enforcing an order of the court; or

- d. executing any other duty imposed upon the public officer by law; or
- e. defense of self or another.

6. Use of Certain Types of Force

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

7. Use of Deadly Force

- a. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply:
 - i. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - (1) can be articulated with specificity by the law enforcement officer;
 - (2) is reasonably likely to occur absent action by the law enforcement officer; and
 - (3) must be addressed through the use of deadly force without unreasonable delay; or
 - ii. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or

has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (i), items (1) to (3), unless immediately apprehended.

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

8. Training

- a. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
- b. In addition, training shall be provided on a regular and periodic basis and designed to
 - i. Provide techniques for the use of and reinforce the importance of de-escalation
 - ii. Simulate actual shooting situations and conditions; and
 - iii. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
- c. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
- d. Before carrying an authorized device all officers shall receive training and instruction in the use of the device

including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.

- e. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
- f. With agency approval, officers may modify, alter or cause to be altered an authorized device in their possession or control.

9. Recordkeeping Requirements

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

112.05 **[RESERVED]**

112.06 CRITICAL INCIDENTS, INCLUDING OFFICER INVOLVED IN SHOOTINGS

- 1. PURPOSE: To describe the function and activation procedures for officers and department members, sworn and civilian, involved in a critical incident, and to authorize the Chief Law Enforcement Officer to order administrative leave to officers under their command for up to three (3) days relative to their involvement in critical incidents.
- 2. DEFINITION: A critical incident is any traumatic event that is outside the usual range of human experience. These events have the potential of causing traumatic stress reactions that may impair cognitive, emotional, spiritual or physical function. These reactions are a normal response to an abnormal situation.
- 3. POLICY: It is the policy of this department to provide department personnel, who are involved in a critical incident, with the opportunity to obtain the appropriate professional assistance necessary to maintain emotional and physical wellbeing, retain valued and experienced employees and provide the community with the safest possible public safety services.

Some possible examples of critical incidents are:

- a. Officer involved in the use of deadly force through the intentional or accidental discharge of a firearm.
 - b. Intentional or accidental use of any other deadly or dangerous weapon which results in serious injury or death of any person as a result of police involvement.
 - c. An incident resulting in death, great bodily harm or substantial injury to an officer or other member of the Fond du Lac Law Enforcement Department.
 - d. Attempts to effect an arrest or otherwise gain physical control over a person, which could result in serious injury or death. (A fight for your life.)
 - e. Death or serious injury of a person while in police custody or under police control following the use of force.
 - f. Vehicular incidents related to police actions that result in serious injury or death of any person.
 - g. Suicides, homicides, child abuse cases, or several difficult incidents occurring within a short time frame.
 - h. Near shoot situations.
4. REPORTS: Officers involved in a critical incident shall file a report. The timing for filing that report, whether it is a written report or a question and answer statement, or both, is at the discretion of the Chief Law Enforcement Officer or his/her designee.
5. PROCEDURES FOR CRITICAL INCIDENTS
- a. Whenever an officer of this Department is involved in an incident similar to the examples defined above, or a mandatory debriefing event, he/she shall immediately notify his/her supervisor.
 - b. The on-duty supervisor will report the incident in writing to their division commander or his/her designee and brief them on the critical incident. This will occur at the on-duty supervisor's earliest convenience.

- c. If the situation meets the requirements of a mandatory event, the on-duty supervisor will contact the Department's Critical Incident Debriefing Team to provide the employee(s) with a confidential debriefing. If the occurrence is a non-mandatory critical incident, the supervisor and his/her employee(s) will determine if a debriefing is necessary.
- d. If it appears officer(s) exhibit symptoms of post-stress related problems, difficulty performing their duties, and/or are involved in a pending investigation, the Chief, as well as the Assistant Chief, or Lieutenant, has the authority to place the officer(s) on administrative leave for up to three (3) days.
- e. If leave is granted, the division commander shall file a report detailing the circumstances of the incident to the Chief Law Enforcement Officer, including the supervisor's reasons for granting the leave.

6. PROCEDURES FOR OFFICER INVOLVED SHOOTINGS

The following procedures shall be uniformly applied following any officer involved shooting that has resulted in death or serious injury.

- a. A supervisor shall be dispatched to the scene and shall assume primary responsibility in caring for the involved personnel.
- b. The supervisor shall notify his/her division commander.
- c. The division commander shall notify the Chief Law Enforcement Officer.
- d. The supervisor shall ensure the scene is secured.
- e. The Chief Law Enforcement Officer shall initiate the request for an outside agency to conduct the investigation.
- f. The involved officer(s) should be removed from the scene as soon as possible.

- g. A supervisor or "peer" officer should be assigned to the involved officer(s) for liaison purposes.
- h. The involved officer(s) shall be placed on paid administrative leave until cleared to return to work by the Chief Law Enforcement Officer.
- i. The involved officer(s) may expect the following from the investigating agency:
 - (1) Weapon taken for possible evidence.
 - (2) Blood and/or urine samples taken.
 - (3) Clothes taken.
 - (4) Interview with Miranda Warning.
 - (5) Department Internal Affairs Investigator.

7. MANDATORY DEBRIEFING

- a. When an officer, in the course of duty, has seriously injured or caused the death of a human being.
- b. When an officer is seriously injured but is physically able to receive counseling.
- c. When an officer is involved in a major disaster or mass casualty incident.
- d. When an officer's partner is killed or seriously injured.

8. POST INTERVENTION

Following any critical incident intervention if the officer, or other concerned individuals, feel a need for additional assistance, the officer shall notify the division commander, who will contract the Department's Critical Incident Debriefing Team.

9. OFFICERS ASSIGNED TO OTHER AGENCIES

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this policy.

10. EXTENDING SERVICES TO FAMILY

Critical incidents not only affect the officer, but immediate family members as well. If requested, and at the discretion of the Chief

Law Enforcement Officer, this department may assist with arranging professional counseling and follow-up care through the Department's Critical Incident Debriefing Team for immediate family members affected by the aftermath of the incident.

11. POST TRAUMATIC STRESS SYNDROME BENEFIT

Minnesota State Statute 299A.411 requires law enforcement agencies to provide certain benefits to officers who have been clinically diagnosed as suffering from Post-Traumatic Stress Syndrome as a result of the lawful taking of a life and are unable to perform peace officer duties required by the employer. Officers involved in incidents covered by the legislation will be afforded the benefits as required by State Statute.

This Section adopted pursuant to Resolution #1029/98 by the Fond du Lac Reservation Business Committee on February 5, 1998.

This Section amended pursuant to Resolution #1340/03 by the Fond du Lac Reservation Business Committee on December 18, 2003.

This Section amended pursuant to Resolution #2114/05 by the Fond du Lac Reservation Business Committee on August 25, 2005.

This Section 112 amended pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

This Section amended pursuant to Resolution #1463/20 by the Fond du Lac Reservation Business Committee on October 21, 2020.

113.00 **WORK SCHEDULE; REST PERIODS; MEAL BREAKS**

PURPOSE: To establish and define the work schedules, rest periods, and meal breaks for department personnel.

POLICY: The work year for all full-time employees shall be two thousand eighty hours (2,080), an averaged forty (40) hour week, to be accounted for by each employee through hours worked on assigned shifts, holidays, assigned training, and authorized leave time.

Nothing contained in this or any other section shall be interpreted to be a guarantee of a minimum or maximum number of hours employees may be assigned to work per day or per week.

113.01 **STAFF BUSINESS HOURS**

All full time administrative staff will work a five (5) day, forty (40) hour schedule, or a four (4) day, thirty-two (32) hour schedule, subjected to the needs of the department, and work usual office hours, 08:00 a.m. to 4:30 p.m., or an equivalent number of hours by arrangement with the Chief Law Enforcement Officer. Weekend and other hours when the services of office support staff are needed may be scheduled subject to compensation as provided in section 114.03, OVERTIME.

113.02 **MEAL/REST BREAKS**

A thirty (30) minute lunch break may be taken by each employee. A rest period of fifteen (15) minutes shall be provided to employees each morning and afternoon.

All full time law enforcement personnel who work scheduled eight (8) ten (10) hour shifts shall enjoy a early shift rest break and a late shift rest break of twenty (20) minutes and remain subject to call-out during this period. Said rest periods shall be taken at a time which does not disrupt the operational functions of the department. If an employee does not receive a rest period because of operational requirements, such rest period may not be taken during a subsequent shift. To minimize response time to service, all breaks will be taken in or near the officer's assigned patrol area.

All full time law enforcement personnel who work scheduled eight (8) ten (10) hour shifts, shall take a thirty (30) minute meal break

during their shift and remain subject to call-out during this period. Due to operational requirements, an officer may not be able to take their meal break during the appropriate time. In these instances, the employee shall be allowed an alternate meal time during the shift. Additionally, to maximize law enforcement response and service, meal breaks will be taken within a close proximity to the assigned area.

Tribal law enforcement officers personnel, who are assigned vehicles equipped with radios shall begin and end their shifts by notifying the appropriate dispatcher of their status via use of standard 10-code.

Officers shall begin and end their work shift within the geographical area which they are assigned to patrol, unless, due to operational requirements, it is not feasible to do so.

114.00 **HOLIDAYS; COMPENSATORY TIME: OVERTIME**

PURPOSE: To define compensation for holidays worked by departmental personnel and to define compensatory time / overtime for department personnel.

114.01 **HOLIDAYS**

Full time employees are eligible for the paid holidays of the Band and any employee not required to work on the holiday shall have the day off with pay.

In order to qualify for the holiday pay, an otherwise qualified employee must work their last scheduled work day immediately preceding the holiday and their first scheduled working day immediately following the holiday, unless the employee is on paid leave or the absence is approved by a supervisor.

Any full time employee required to work on a holiday shall receive time and one-half (1/2) the regular rate of pay for all hours worked, on the holidays approved as such by the Fond du Lac Band.

114.02 **COMPENSATORY TIME**

Each employee shall make every effort to complete his/her duties or assigned services within the scheduled shift. Any overtime hours must have approval of the supervisor or Chief Law Enforcement Officer before compensation.

All approved overtime will be compensated at the rate of one and one half hour off work for each hour of overtime hour worked. Such time-off, as compensation, shall be taken at the approval of the supervisor and shall not accumulate beyond 120 hours. Officers must use comp time before requesting vacation time.

114.03 **OVERTIME**

It is the policy of this department in consideration of budgetary constraints and limitations, to compensate hourly employees who work in excess of forty (40) hours per week at one and one half (1/2) rate of pay for each hour worked outside of their schedule.

Each employee shall make every effort to complete their duties or assigned services within the scheduled shift, work period or work week. Any hours worked beyond the regularly scheduled work shift must have prior approval of a supervisor.

114.04 **CALL-IN TIME**

When an officer is called for duty outside of his or her schedule, he or she shall receive overtime pay for three hours plus the actual amount of time required to perform his or her responsibilities during that call.

114.05 **COURT TIME**

Officers called to testify at court will be paid three (3) hours of overtime for court. Overtime will not be paid in excess of three (3) hours. In the event that court is cancelled and it is before noon on the prior day, the officer will not receive overtime compensation for court.

114.06 **DAYLIGHT SAVINGS TIME**

Officers who work a shift that would normally be a 12-hour shift, but because of day light savings time is only an 11-hour shift, will be paid for the regular 12 hours.

This Section 114 amended pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

This Section 114 amended pursuant to Resolution #1119/18 by the Fond du Lac Reservation Business Committee on May 8, 2018.

115.00 **PURSUIT AND EMERGENCY VEHICLE OPERATION POLICY**

115.01 **Policy**

It is the primary mission of the Fond du Lac Law Enforcement Department to protect lives while enforcing the law. In addition, it is the responsibility of the Fond du Lac Law Enforcement Department to guide its officers in the safe and reasonable performance of their duties. To accomplish these goals, the following policy is provided to control and regulate the manner in which emergency vehicle operations are undertaken and performed. When engaged in emergency vehicle operations in the performance of official duties, drivers of authorized emergency vehicles are exempt from certain traffic laws. These exemptions are provided to help protect lives, not to place them at undue risk.

115.02 **Definitions**

1. Pursuit: A multi-stage process by which a police officer initiates a vehicular stop and a driver resists the signal or order to stop, increases speed, takes evasive action and/or refuses to stop the vehicle. Once the driver refuses to obey the police officer's signal or order, this pursuit policy and procedure will determine the officer's and department's actions.
2. Termination of a Pursuit: A pursuit shall terminate when the primary officer turns off the emergency equipment, resumes routine vehicle operation and informs dispatch, or when the suspect vehicle stops.
3. Divided Highway: Any highway which has been separated into two or more roadways by:
 - a. A physical barrier; or
 - b. A clearly indicated dividing section so constructed as to impede vehicular traffic.
4. Channeling: To direct vehicular traffic into a progressively narrowing passageway or lane location on the roadway.

5. Compelling Path: The use of channeling technique with a modified roadblock located at its narrowed end. The compelling path differs from a termination roadblock in that the driver or any vehicle traveling the path has an exit option at the narrowed end.

115.03 **Pursuit Considerations**

1. Pursuit is justified:
 - a. When a vehicle operator fails to stop after being given a visual or audible signal to stop by a peace officer; and
 - b. When there is reasonable expectation of a successful apprehension of the suspect.
2. Other factors to be considered:
 - a. The initial decision to engage in a pursuit shall lie primarily with the officer who has initiated the vehicular stop, after considering the elements of this policy.
 - b. These elements shall include, but are not limited to, the crime for which the suspect is wanted (the need to apprehend immediately) and the risk to the community created by the pursuit (traffic, area of pursuit, environmental factors, and weather conditions).
 - c. The officer must continually consider the risks created by the pursuit, as those risks may change during a pursuit.
 - d. Terminating a pursuit shall be considered a decision made in the interest of public safety. Many times the termination of a pursuit is the safest and most appropriate action.
 - e. The officer's decision to continue a pursuit may be overridden by a supervisor at any time.
3. Standards applied to the evaluation of a pursuit, as well as the decision to continue a pursuit shall include the following:
 - a. Is the need to immediately apprehend the suspect more important than the risk created by the pursuit?

- b. Do the dangers created by the pursuit exceed the danger posed by allowing the perpetrator to escape?

115.04 **Procedures and Tactics for an Officer Engaging in a Pursuit**

1. Emergency vehicles shall be driven in a safe manner and with due respect for public safety.
2. Emergency vehicles operating in emergency mode are permitted to violate certain traffic regulations when necessary, as long as the operator continues to exercise due care in vehicle operation.
3. The vehicles shall be known as the primary unit, which will be the unit closer to the fleeing vehicle and the secondary unit, which shall remain at a safe distance behind the primary unit but close enough to provide support and communicate with dispatch. Backup units as needed shall operate at a safe distance to provide support.

115.05 **Responsibilities of the Primary Unit**

1. The driver of the primary unit shall notify dispatch of the pursuit and shall provide at least the following critical information to dispatch:
 - a. Unit identification;
 - b. Offense for which the suspect is being pursued;
 - c. Suspect vehicle description, including license number if reasonably possible;
 - d. Location, direction, and speed of both vehicles;
 - e. Description of occupant(s) and if suspect is known to officer; and
 - f. Any other important information about the suspect vehicle or environment (for example: suspect is traveling without lights, officer loses sight of vehicle, etc.).
2. Based on the known information, the supervisor shall make the decision to either take further appropriate action or terminate the pursuit.

3. No officer will intentionally make vehicle-to-vehicle contact unless in conformance with Department policy on use of force (see Department Policy on Force).
4. Roadblocks established must conform to the policy on use of force.
5. Only police vehicles with emergency lights and siren will be used as pursuit vehicles.

115.06 **Supervisor's Responsibilities**

1. The supervisor shall have control over the activities of the pursuit.
2. Once notified that a unit has become involved in a pursuit, the supervisor shall acknowledge his/her presence immediately, monitor the pursuit activities and provide the driver of the primary unit with appropriate direction.
3. The supervisor shall request critical information necessary to evaluate the continuation of the pursuit.
4. The supervisor has the authority to terminate any pursuit.
5. Options for the supervisor to keep in mind include, but are not limited to the following:
 - a. In cases involving wrong-way drivers, parallel pursuits may be used;
 - b. Notification of the next jurisdiction is encouraged;
 - c. Channeling techniques may be used; or
 - d. Creating a compelling path.
6. Post-pursuit change of command notifications are required.

115.07 **Dispatch Responsibilities**

Dispatch shall coordinate critical information, both as timely and accurately as possible.

115.08 **Factors Influencing the Termination of a Pursuit**

The driver of the primary unit and the supervisor shall continually evaluate the risks and likelihood of a successful apprehension of the suspect, and shall consider terminating the pursuit under the following conditions:

1. The conditions of the pursuit become too risky for the safe continuation of the pursuit, i.e., it is futile to continue.
2. A supervisor orders it terminated.
3. If information is communicated that indicates the pursuit is out of compliance with policy.
4. When normal communication is broken.
5. When visual contact is lost for a reasonable period of time or the direction of travel cannot be determined.
6. When the suspect is known and could be apprehended later, and to delay apprehension does not create a substantial known risk of injury or death to another.

115.09 **Interjurisdictional Pursuit**

1. The primary unit, before leaving its jurisdiction, shall update critical information to the dispatcher.
2. The primary law enforcement vehicle shall remain the primary vehicle in other jurisdictions, unless the controlling pursuit authority transfers its authority to another jurisdiction.
3. Upon receiving notification that the pursuit is entering another agency's jurisdiction, the dispatcher shall forward all critical information possessed by the dispatcher to that agency.
4. When a pursuit enters this department's jurisdiction:
 - a. The dispatcher shall update the critical information to the shift supervisor, or other authorized individual identified by the law enforcement agency.

- b. The controlling pursuit authority shall determine if the pursuit is in conformance with policy.
- c. The controlling pursuit authority shall provide the appropriate direction to their units.

115.10 **Air Support**

Once contact is made with air support and air support has suspect vehicle in sight, the primary pursuit unit shall reduce the level of pursuit to that of support or backup unit.

115.11 **Care and Consideration of Victims**

- 1. If during a pursuit an officer observes or is made aware of an injury to an individual, the officer shall immediately notify the dispatcher to have the appropriate emergency units respond.
- 2. The primary pursuit unit will be responsible for ensuring that assistance is provided to people who may have been injured during the course of a pursuit. The primary pursuit unit may delegate the responsibility to render the assistance to a backup unit.

115.12 **Pursuit Summary Report**

- 1. The primary officer and the supervisor shall file a pursuit summary report, as soon as feasible, but no later than end of officer's shift.
- 2. To ensure compliance with MN STAT 626.5532, the chief law enforcement officer shall insure the completion of the pursuit report form within 30 days following the incident.
- 3. As required in MN STAT 626.5532, the report must contain the following elements:
 - a. The reason(s) for, and the circumstances surrounding the incident;
 - b. The alleged offense;
 - c. The length of the pursuit including time and distance;
 - d. The outcome of the pursuit;

- e. Any injuries or property damage resulting from the incident; and
 - f. Any pending criminal charges against the driver.
4. If the pursuit involved the enforcement of Minnesota law, the chief law enforcement officer shall forward a copy of the pursuit summary report to the DPS/BCA within thirty (30) days.

115.13 Evaluation and Critique

After each pursuit, the supervisor and department units involved with the pursuit will evaluate the pursuit and make recommendations to the chief law enforcement officer on ways to improve the department's pursuit policy and tactics.

115.14 Lighting Exemption of Law Enforcement Vehicles

1. POLICY: It is the policy of this department to provide a uniform guideline for all department personnel to use when operating a department vehicle without headlights, taillights or marine navigational lighting while functioning as a peace officer.
2. DEFINITIONS: for the purposes of this policy, the following definitions apply:
 - a. Vehicle: means a motor vehicle or watercraft owned, leased or otherwise the property of the Fond du Lac Law Enforcement Department.
 - b. Lights: refers to headlights, taillights and marine navigational lighting as referenced in MN STAT 84.87, 84.928, 169.48 to 169.65 and 86B.511.
3. PROCEDURES: a peace officer may not operate a vehicle without lights, contrary to MN STAT 169.541. **LIGHTING EXEMPTION FOR LAW ENFORCEMENT; STANDARDS**, under conditions of limited or reduced visibility as defined in MN STAT 84.87, 84.928, 169.48 to 169.65 and 86B.55:
 - on an interstate highway.

- at speed greater than what is reasonable and prudent under existing weather, road and traffic conditions.
- faster than the posted speed limit.
- in situations where the peace officer is an active participant in the pursuit of a motor vehicle in violation of MN STAT 609.487.

This Section approved pursuant to Resolution #1031/98 of the Fond du Lac Reservation Business Committee on February 5, 1998.

This Section amended pursuant to Resolution #1422/99 by the Fond du Lac Reservation Business Committee on December 2, 1999.

This Section amended pursuant to Resolution #1361/00 by the Fond du Lac Reservation Business Committee on October 31, 2000.

This Section 115 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

116.00 **TRAINING**

To provide the best service to our citizens, we require a well-trained department. It is essential that each employee be properly trained, not only upon entering the department, but continuing through the employee's career.

It is the department's responsibility to make training available and the employee's responsibility to take advantage of the opportunity.

It is also the employee's responsibility to fulfill the continuing educational requirements established by the P.O.S.T. Board. An employee's failure to maintain his/her license may result in disciplinary action including termination of employment.

116.01 **PROCEDURES FOR REQUEST FOR TRAINING**

1. All training attendance must be approved by the Sergeant and Chief Law Enforcement Officer. All forms requiring supervisory authorization, such as registration and reimbursement forms, will be signed by the Sergeant and Chief Law Enforcement Officer. If the Chief is not available, his/her designee shall sign the form, and a copy will be forwarded to the Chief.
2. An employee attending a training session is on duty and all applicable departmental rules of conduct are in effect.
3. An employee signed up for training must attend the entire session, unless he/she has a valid excuse for not doing so, which has been approved by the Chief Law Enforcement Officer or his/her designee.

116.02 **REIMBURSEMENT FOR DEPARTMENT TRAINING EXPENSES**

1. When an employee is assigned by a supervisor to attend a mandatory training session or an approved voluntary training session, the employee will be reimbursed for all legitimate expenses, including overtime, transportation, lodging, meals and registration fees. Overtime shall occur when the training hours cause the officer's time to exceeds forty (40) hours in a week.

2. Staff may formally request a travel advance which must be accounted for within five (5) days after return. Any additional advances may not be made until the previous advance has been accounted for. Receipts must accompany ALL requests for travel reimbursements.

This Section 116 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

117.00 **SEARCH WARRANTS**

Search warrants are valuable tools available to law enforcement that enable the seizure of items necessary for successful investigations. This procedure is intended to establish guidelines for officers to follow in applying for and executing of search warrants.

117.01 **APPLICATION OF WARRANT**

1. Verbal request is made to a supervisor.
2. After a careful review of all reports and information available, a search warrant will be drafted, consisting of three parts:
 - a. Application for Search Warrant and Supporting Affidavit. This part consists of three pages, each with an original and two copies which must be distributed as indicated on the bottom of the form.
 - b. Search Warrant. This part consists of one page, an original with three copies, which must be distributed as indicated on the bottom of the form.
 - c. Receipt, Inventory and Return. This part consists of one page, an original with three copies, which must be distributed as indicated on the bottom of the form (This portion is not completed until after the warrant is executed).
3. Grounds for Issuance:
 - a. The property or things were stolen or embezzled.
 - b. The property or things were used as a means of committing a crime.
 - c. The possession of the property or things constitutes a crime.
 - d. The property or things are in the possession of any person with the intent to use them as a means of committing a crime or the property or things so intended to be used are in the possession of another to whom they have been delivered

for the purpose of concealing them or preventing their being discovered, or

- e. The property or things to be seized consists of any item or constitute any evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.
4. Application may be made to any neutral and detached Judge of any court having jurisdiction over the matter.
 - a. In addition to the distribution order shown on the bottom portion of the forms, an officer must deliver to the issuing judge a copy of the warrant (part one and two) when making application.
 - b. The warrant must be read and signed by the Judge.
 5. After the warrant is signed, no officer shall alter it in any manner. If an error is detected in the warrant, it must be returned to the issuing Judge for correction.
 6. The affidavit must establish probable cause to search for the particular items at the particular place described in the application.
 7. Particular description of the place to be searched:
 - a. Private residences should be identified by street address. Any detached buildings within the curtilage of the primary buildings should be described if they are intended to be searched.
 - b. Vehicles shall be listed separately.
 8. Particular description of things to be seized:
 - a. As complete a description as is available should be used in identifying the things to be seized.
 - b. Generally, a less precise description is required of property that is unique or of a particular character, such as contraband.

- c. Greater care in description is ordinarily necessary when the type of property sought is generally in lawful use in substantial quantity.

117.02 **PREPARATION FOR EXECUTION OF WARRANT**

1. In planning the execution of the warrant, the officer in charge should allocate sufficient personnel to assure:
 - a. The safety of the officers.
 - b. The containment of persons at the scene of the warrant execution.
 - c. The security of the items being sought. Generally, three officers is the minimum number necessary to execute a warrant, with a least one officer in uniform for entry purposes. This number should be expanded upon, depending upon the magnitude of the search to be conducted.
2. Where warrants obtained by Law Enforcement Officers are to be executed in another jurisdiction, that jurisdiction shall be notified before the warrant is served and asked if they wish to participate.

117.03 **EXECUTION OF THE WARRANT**

1. The warrant must be executed and returned to the court from which it was issued within ten days after the issuance date. The warrant remains valid during this time frame, providing the probable cause recited in the affidavit continues to the time of execution. The warrant should be served as timely as possible to ensure that the probable cause upon which it was based has not dissipated.
2. The warrant is valid for day time service only, unless the facts in the affidavit justify a night time search and a night time search is expressly authorized on the warrant.
3. No person other than officers or officers of the prosecuting attorney's office shall be permitted to accompany officers in the execution of the warrant unless absolutely necessary.

4. Gaining entry to a private residence.
 - a. Generally, officers shall knock, announce their identity and demand admittance. They shall then wait to be admitted, explain their purpose and display the warrant. When no one is home, entrance may be accomplished by the least forceful means possible under the circumstances.
 - b. Officers may enter unannounced, providing entry without announcement has been expressly authorized by the warrant. In such cases, officers shall enter the premises by the most efficient means possible, inflicting the least amount of damage possible under the circumstances.
 - c. When officers are executing a warrant not authorizing an unannounced entry and are confronted with exigent circumstances which would have otherwise justified a judge to authorize an unannounced entry, the officers may enter unannounced. The burden of proof then lies entirely with the executing officers and their ability to articulate the exigent circumstances present at the time of execution. To validate the exigent circumstances, the executing officers will have to show that the unannounced entry was necessary to prevent the loss, destruction, or the removal of the objects of the search or to protect the safety of the officers or others.
5. Entry - Commercial Establishment
 - a. When officers execute a warrant at a commercial establishment, under normal circumstances, the officers should execute the warrant when someone is present therein.
 - b. The same principles as with private residences also apply for entry of commercial establishments.
6. Injury or damaged property resulting from warrant execution.
 - a. Whenever any person is injured or property is damaged during the execution of a warrant, the involved officers shall be responsible for filing complete reports setting forth the reason for the injuries or the necessity for the damage.

117.04 **DETENTION AND SEARCH OF PERSONS ON PREMISES**

1. Persons on the premises may be detained while the search is conducted when the executing officers reasonably believe that the detained persons are involved in criminal activity relating to the warrant.
2. Officers may frisk any person on the premises who they reasonably believe may have a weapon concealed upon their person.
3. Any person on the premises may be searched when:
 - a. Incidental to a lawful arrest.
 - b. The person is named in the warrant.
 - c. The officer has reason to believe that the person has the object of the search concealed upon their person.

117.05 **ARREST**

Arrests may be made in accordance with the rules of the arrest.

117.06 **SCOPE OF SEARCH**

1. Upon completion of the search, a copy of the warrant and a copy of the Receipt, Inventory and Return shall be given to the person from whom the property was seized or left at the scene of the search.
2. The entire originals of the warrant along with the completed original of the Receipt, Inventory and Return shall be returned to the issuing court as soon as practical.

117.07 **DISPOSITION OF PROPERTY**

1. Property seized pursuant to a search warrant issued in conjunction with an investigation being conducted by Law Enforcement Officers shall be properly inventoried on a Department Property Inventory Form.

- a. The property may be transferred to other criminal justice agencies for investigative purposes providing the chain of custody is maintained and so noted on the Inventory Form.
 - b. Seized property which will be used in a subsequent prosecution may be released to the legal owner upon approval of the prosecution authority. The property will be photographed with the owner and an identifying case number prior to release. Date and time of release shall be noted on the Inventory Form.
2. When Law Enforcement Officers assist another jurisdiction with warrant execution, that jurisdiction will be responsible for the property seized and no department Inventory Form is necessary.

This Section 117 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

118.00 **STOP AND FRISK**

Stop and frisk is a law enforcement practice that involves the temporary detention, field questioning, and limited search for weapons of persons who are reasonably suspected of committing a crime, being about to commit a crime, having recently committed a crime, or who are suspected of being armed.

118.01 **DEFINITIONS**

ACCESS AREA: Readily accessible places where a weapon could be concealed and used in assaulting and officer or other person, which may include areas of a vehicle if the suspect is stopped in or near a vehicle and frisked near it:

1. Unlocked glove box;
2. The areas above the visors and beneath the front seat;
3. Under clothing;
4. Paper or other matter on the car seat;
5. Many parts of the human anatomy;
6. Hand-carried cases;
7. Packages; or
8. Purses, bags, etc.

ARREST: The intentional seizure of a person, whether actual or constructive, by an officer who is acting under real or assumed legal authority to do so, coupled with a recognition of the arrest by the person arrested, for the purpose of bringing him before a court to answer for the commission of an offense or crime, distinguished from "stop" and "detention."

FRISK: Jargon referring to a limited search of a person to discover weapons, that search described by "pat-down."

FULL SEARCH: A complete and unrestricted search of a person who has been arrested to discover weapons, contraband and the fruits, instrumentalities and evidence of a crime.

INTERROGATION/INTERVIEW: The questioning of a person who is not suspected of criminal activity at the time of the encounter.

NON-SUSPECT: A person who is not suspected of criminal activity or any other matter within the scope of the officer's duties.

OUTER CLOTHING: A generic description of one's garments including coats, waistbands and pocket exteriors when inside heavy coats, hats, pants, cuffs, boot tops and such other places where a touching of a person would reveal if he is armed. See also access area,

PAT DOWN: The feeling, with sensitive fingers, of every portion of the suspect's body where a weapon could be concealed, including the arms and armpits, waistline and back, groin and the entire surface of the legs down to the feet, the method for conducting a limited search called a "frisk".

PROBABLE CAUSE: Facts or circumstances which would lead a reasonable, cautious and prudent person to believe that a crime has been committed, that a particular person has committed it or that seizable items will be found in a particular place.

REASONABLE SUSPICION: Facts or circumstances which would lead a reasonable person to suspect that a crime has been committed or that a particular person is armed, less than probable cause but more than a mere hunch.

SEARCH: Either a full search based upon probable cause or incident to lawful arrest, or limited search known as a "frisk", consisting of a pat-down and inspection of nearby access areas.

SUSPECT: A person thought to be possibly involved in a criminal activity.

118.02 CONTACTS AND INTERVIEWING

1. A law enforcement officer may contact any person and interview them whenever the officer feels the interview is necessary, providing the officer is in a place they have the right to be. An officer need only show that the encounter is reasonable under the circumstances to justify the interview. However, they may not arbitrarily hold any citizen they see on the streets.
2. A law enforcement officer must identify themselves as an officer when requested to do so.
3. Persons contacted for interviews must be permitted to go on their way if they choose to do so. However, they may be kept under a close watch if this action is thought necessary and conducted in a reasonable manner.

118.03 **STOPS FOR INTERROGATION**

1. A law enforcement officer may stop any person they see and interrogate the person whenever the officer reasonably suspects that person to be involved in criminal activity. This includes both pedestrians and motorists, however, the officer must be in a place where the officer has a lawful right to be.
2. A law enforcement officer must identify themselves as an officer when stopping persons for interrogation unless their identity is obvious.
3. Before an officer stops a person for interrogation, they must be able to point to specifically describable suspicious conduct or circumstances that justify the detention. Some of the things which would assist an officer in justifying a stop and detention are:
 - a. The suspect is making evasive or furtive movements.
 - b. The suspect fits a "wanted" notice.
 - c. The suspect is near the scene of a recently committed crime.
 - d. The suspect's demeanor or presence is unusual for the time or the place.
 - e. The officer has received information that the suspect is involved in criminal activity.
4. In evaluating the person's conduct or appearance, a law enforcement officer can rely on their training and experience to determine better if the person is involved in criminal activity.
5. A law enforcement officer can base their suspicion that a person is involved in criminal activity upon information received from a citizen informant including an anonymous informant.
6. When the suspected crime is serious, a detention and interrogation of a suspect is more justified than when the suspected crime is of a less serious nature.
7. A law enforcement officer must be able to articulate the reason why a person was detained and interrogated. They do not need to point to any one thing that alone would justify the action, but may refer to several things, each of which when taken alone may seem innocuous but when considered together by a law enforcement officer who is trained and experienced in ferreting

of criminal activity, raise a reasonable suspicion of criminal activity.

118.04 **FRISKS**

1. A law enforcement officer may frisk any suspect the officer reasonably suspects is armed.
2. An officer should begin the frisk:
 - a. Immediately, if they reasonably suspect the person is presently armed and prior to commencing the questioning process, or
 - b. During or after the questioning process, if grounds to suspect that the person is armed did not exist at the time the encounter began, but later develop.
3. Some of the factors which an officer may consider in determining whether a frisk of a person detained is warranted include, in combination with any of the facts underlying the detention (as listed in section 118.03):
 - a. If the suspect attempts to flee from the officer when stopped, or
 - b. If the suspect fails to produce valid identification and is unable to account for his actions or presence (or refused to talk to the officer at all), or
 - c. If a companion is found to be armed, or
 - d. If the suspected crime involved the use of weapons, or
 - e. If the officer observes bulges in the suspect's clothing or efforts to conceal objects, or
 - f. Knowledge by the officer that the suspect has been reported to customarily or occasionally carry weapons, or
 - g. If the suspect offers a patently false or fabricated story.
4. A law enforcement officer can base their judgement on whether a person is actually suspected of being armed upon information received from an informant.

5. A law enforcement officer must be able to articulate a reason why a person stopped was frisked. The officer does not need to point to any one thing that would justify their action, but may refer to several things, each of which when taken alone may seem innocuous, but when considered together by a law enforcement officer who is trained and experienced in dealing with criminal suspects, raise a reasonable suspicion that the person stopped is armed.

118.05 SCOPE OF FRISKS

1. The pat-down shall consist of feeling the suspect's outer clothing and shall start at the place where a weapon would most likely be concealed. This location will differ based on the type of clothing worn and weather. The pat-down should proceed to the next most likely places. The process should continue until the officer has felt, using their fingers, every portion of the suspect's body where a weapon could be concealed, including the arms and armpits, waistline and back, groin area, and the entire surface of the legs down to the feet.
2. The officer shall open a suspect's coat or other heavy garments and pat-down his inner clothing when the garments worn are too bulky to permit a pat-down (which would reveal a weapon, if one is concealed). An officer shall not open inner clothing to pat-down underclothing unless there is probable cause to extend the search and the person is under arrest.
3. The officer who has a reasonable suspicion that a weapon is secreted in a particular place on a suspect may reach directly into that area to seize it. An officer must be able to justify this action, based on facts that led them to suspect that a weapon would be found at that location.

118.06 RESULT OF FRISKS

1. When an officer, during the course of a lawful frisk, feels an object or item that they reasonably suspect is a weapon or dangerous instrument, they shall remove that object or item for closer examination.
2. If the object or item removed reasonably appears to be or to contain contraband or evidence, the officer shall arrest the

person, conduct a complete search of their person and inventory the contraband or other evidence seized.

119.00 **ARREST POWERS - CRIMINAL VIOLATIONS**

119.01 **SCOPE OF AUTHORITY**

1. Fond du Lac Law Enforcement Officers have the authority and responsibility to enforce all ordinances of the Fond du Lac Band of Lake Superior Chippewa, and laws of the State of Minnesota in accordance with Minnesota Statute § 626.92 and law enforcement agreements with local agencies.
2. Conditions to the Exercise of State Authority by Band Officers:
 - a. State authority can only be exercised by Band officers who are certified by the Peace Officers Standards and Training Board of the State of Minnesota.
 - b. State authority can only be exercised by Band officers within the boundaries of the Fond du Lac Reservation unless acting under a mutual aid agreement, or other specific law enforcement function.
 - c. State authority is only supplemental to Band authority, and can never be exercised against a Fond du Lac Band member by a Band officer when a Band law is directly applicable to a situation.
 - d. State civil regulatory laws can never be applied by a Band officer to a Band member or other member of the Minnesota Chippewa Tribe within the Fond du Lac Reservation.
3. Officers are to take all reasonable steps necessary to enforce the law. Officers must exercise discretion and good judgment in determining the proper course of action. When an officer is unclear of the appropriate disposition, he should consult a supervisor.

119.02 **PURPOSE**

Officer's powers range from verbal warnings to arrest and incarceration. Application of these powers requires officers to balance discretion and knowledge, as some offenses require officers to arrest and incarcerate. This order is intended to provide guidelines for the proper use of discretion and arrest powers.

119.03 **DEFINITIONS**

1. **ARREST**: The intentional seizure of a person, whether actual or constructive, by an officer who is acting under real or assumed legal authority to do so, coupled with a recognition of the arrest by the person arrested, for the purpose of bringing him before a court to answer for the commission of an offense or crime, distinguished from "stop" and "detention".
2. **COMPLAINT**: A written, signed statement of the essential facts constituting the offense charged.
3. **SUMMONS**: An order which directs the defendant to appear at the stated time and place to answer the complaint before the court and which includes a copy of the complaint.
4. **WARRANT**: An order for the arrest of the defendant that directs that they be brought before the court. The warrant identifies the defendant, describes the offense committed, and may contain the amount of bail and conditions of release.

A summons, rather than a warrant, is issued for offenses punishable only by fines, and for other misdemeanors if it is believed that the defendant will respond to the summons. Failure to respond to a summons causes a warrant to be issued.

A summons, rather than a warrant, may be issued for felonies, whenever the judge is satisfied that a warrant is unnecessary to secure the appearance of the defendant.

119.04 **AUTHORITY**

1. **DISCRETION**: Officers are allowed to use discretion in many areas, such as traffic offenses, minor disputes between individuals, problems involving children, and some domestic situations.

In some situations involving minor, non-violent infractions, the individual, and the public, may be better served by arranging detoxification services, or referring to a social service agency.

2. ARREST POWERS

a. On-Duty Authority: On duty officers within the Fond du Lac Reservation have the power to make arrests in the following situations:

- (1) When a warrant exists for the individual's arrest;
- (2) Felonies and gross misdemeanors committed in the officer's presence;
- (3) Felony and gross misdemeanors investigations when probable cause to make an arrest exists;
- (4) Misdemeanors committed in the officer's presence; and
- (5) The following misdemeanors even when the officer does not witness the incident:
 - (a) DWI;
 - (b) Domestic Assault (domestic violence mandates arrests in many instances);
 - (c) Violation of an order for protection excluding the person from the residence of another mandates an arrest;
 - (d) Violation of a restraining order prohibiting the person from harassing another;
 - (e) School bus stop arm violations; and
 - (f) Shoplifting.

On-duty officers have no arrest powers outside the reservation except when taking actions in furtherance of the Band's jurisdiction, such as hot pursuit of a suspect, or when action under a mutual aid agreement.

b. Off-Duty Authority: Off-duty sworn officers are expected to take appropriate action when a crime is observed within the Fond du Lac Reservation. Inside the Reservation, off-duty officers have the same arrest power and authority that they have on-duty.

c. Off-Reservation: Outside the Reservation, off-duty officers have no power or authority other than that of a private citizen, unless confronted with circumstances that would permit the use of deadly force.

- d. Trainees: Except as absolutely necessary to prevent injury or destruction of property, recruit officers participating in the Field Training Officer Program should avoid direct involvement in arrests while off-duty. The recruit should summon an on-duty officer and assist as necessary.
- e. Private Citizen Authority: A private citizen may arrest another:
 - (1) For a public offense committed or attempted in the arresting person's presence;
 - (2) When the person arrested has committed a felony, although not in the arresting person's presence; or
 - (3) When a felony has been committed and the arresting person has reasonable cause for believing the person must be taken to a judge or law enforcement officer without delay.

119.05 **ARREST WARRANTS**

1. Arrest Warrant Execution

- a. Arrest warrants may be executed by on-duty officers anywhere in the state. The County Sheriff's Offices has primary responsibility for maintaining and executing arrest warrants. Fond du Lac Law Enforcement Officers are not restricted from executing arrest warrants.
- b. An arrest for felony or gross misdemeanor warrant may be made on any day and at any time of the day or night.
- c. Misdemeanor warrant arrests may not be made on Sundays, holidays or between 10:00 p.m. and 08:00 a.m. except when:
 - (1) The judge has ordered in the warrant that the arrest may be made between those hours; or
 - (2) The person named in the warrant is found in public.

119.06 **ARREST DISPOSITIONS**

1. Incarceration. Incarceration is appropriate for most felonies. Incarceration for gross misdemeanors, misdemeanors and petty misdemeanors occur only when necessary to:
 - a. Ensure the defendant's appearance in court; or
 - b. Prevent further criminal conduct; or
 - c. Prevent bodily harm.

Citations are issued to persons incarcerated for petty misdemeanors and misdemeanors. The court date is left blank.

2. Release with Citation. Persons charged with petty misdemeanors, and non-violent misdemeanors, may be released after the issuance of the citation(s).
3. Release from Incarceration. When a subject is incarcerated without a warrant the arresting officer may authorize the subject be released without bail.

NOTE: Citations should be issued prior to release for petty misdemeanors and misdemeanors. If a person charged with domestic assault is released, the victim must be notified.

119.07 **OFFICER PROTECTION**

When making an arrest, officers should search the individual and the immediate area around the suspect for weapons and contraband. Searches must be in accordance with current case law. If in doubt about the legality or propriety of a search, officer should contact their supervisor.

This Section amended pursuant to Resolution #1422/99 of the Fond du Lac Reservation Business Committee on December 2, 1999.

This Section 119 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

120.00 **ARREST PROCEDURES**

Officers must comply with all constitutional, statutory, and case law projections granted individuals concerning arrest, search and seizure.

120.01 **SEARCHES**

1. Prisoners: All prisoners must be searched and handcuffed prior to being transported.
2. Prisoners' Vehicles: All vehicles must be searched prior to towing. Vehicles may be towed any time the driver is arrested.
3. Area Searches: The area under the immediate control of the prisoner should be searched.

If the desired search involves an area not under the immediate control of the prisoner, officers should attempt to obtain permission to search from the person in control of the property and complete a VOLUNTARY SEARCH CONSENT FORM. If unable to obtain permission, the area is to be secured and a search warrant obtained.

Officers are encouraged to be thorough and diligent in obtaining evidence but must comply with all constitutional, statutory, and case law restrictions. Officers have a right to seize any evidence in "plain view" when they have a legal right to be there.

120.02 **MIRANDA WARNING**

1. A person under arrest must be read the Miranda Warning prior to questioning. If the individual is not being questioned, the warning should not be given. (In a DWI arrest, the Minnesota Implied Consent Advisory is read before the Miranda Warning.) The Miranda Warning and waiver should be read from the card provided by the prosecutor's office. The officer's reports should indicate whether or not the Miranda Warning was read, who read the warning, and the prisoner's response.
2. The officer must ensure that the individual understands their rights before questioning. In some instances this may require asking if they understand each right separately, or rephrasing the rights after the initial reading, to ensure comprehension.

Prisoners will not be questioned if they:

- a. Decline to answer questions;
 - b. Request an attorney; or
 - c. Cannot understand the warning.
3. The rights granted by Miranda can be invoked at any time during questioning and officers must observe this right.
 4. All custodial interrogation information about rights, any waiver of those rights, and all questioning shall be electronically recorded where feasible and must be recorded when questioning occurs at a place of detention.

120.03 [RESERVED]

120.04 **TRANSPORTATION**

Prisoners may be transported to headquarters if an interview is to be conducted. Prisoners at headquarters should be separated and must be accompanied by an officer at all times. Otherwise, prisoners should be transported directly to a detention facility.

This Section 120 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

121.00 **SEARCHING, HANDCUFFING AND TRANSPORTING OF PRISONERS**

It shall be the policy of this law enforcement agency to take the precautions necessary while transporting prisoners to protect the lives and safety of the officers, the public and the person in custody.

121.01 **VEHICLE INSPECTION**

1. At the beginning and end of each tour of duty, all vehicles regularly used for prisoner transport shall be inspected for readiness as follows:
 - a. The safety screen shall be securely in place and undamaged;
 - b. All windows shall be intact, and outer door latches in proper working order;
 - c. Rear seat door handles and window controls shall be deactivated; and
 - d. The interior shall be thoroughly searched to ensure that no weapons or contraband have been left or hidden within the vehicle.
2. Prior to placing a prisoner in the vehicle for transport, the transporting officer shall again inspect the interior for weapons or contraband. The vehicle shall be searched again after the prisoner has been delivered to the detention facility or other destination.

121.02 **HANDCUFFING**

1. Officers shall handcuff (double lock) all prisoners with their hands behind their back and palms facing outward.
2. The officer may handcuff the prisoner with their hands in front or utilize other appropriate restraining devices where the prisoner:
 - a. Is in a obvious state of pregnancy;
 - b. Has a physical handicap; or
 - c. Has injuries that could be aggravated by standard handcuffing procedures.

3. Prisoners shall not be handcuffed to any part of the vehicle during transport.
4. Additional approved restraint devices may be used to secure a prisoner who violently resists arrest or who manifests mental disorders such that they pose a threat to themselves or to the public.

121.03 **TRANSPORT**

1. Prior to transport, all prisoners shall be thoroughly searched for any weapons or tools of escape.
 - a. If practical, the protective search should be conducted by an officer of the same sex as the prisoner; and
 - b. The transporting officer should also search the prisoner, unless a search was conducted in their presence.
2. When transporting prisoners, the officer shall provide the communication's center with the following information when possible:
 - a. Identity of the prisoner;
 - b. Arrest location and destination of transport; and
 - c. Mileage readings before and after transport of prisoners of opposite sex.
3. The officer should use care when assisting a prisoner into the vehicle for transport.
4. Prisoners shall be transported in the following manner:
 - a. Where the vehicle has a security screen, but only one transporting officer, the prisoner shall be placed in the back seat on the right hand side of the vehicle. Prisoners will not be transported in a vehicle without a security screen.
 - b. Leg restraints shall be used when an officer believes the prisoner has potential for violent behavior.
 - c. One transporting officer should not transport more than one prisoner in a vehicle without a security barrier. In

such situations, additional transport assistance should be requested.

- d. All prisoners shall be secured in the vehicle by proper use of a seatbelt.
- e. Any wheelchairs, crutches, prosthetic devices, and medication should be transported with, but not in the possession of, the prisoner.
- f. Prisoners shall not be left unattended during transport. Any escape shall be immediately reported to the communications center.

This Section amended pursuant to Resolution #1280/11 of the Fond du Lac Reservation Business Committee on August 23, 2011.

122.00 **MOTOR VEHICLE SEARCHES**

PURPOSE: The purpose of the policy is to provide departmental personnel with guidelines for the search of motor vehicles.

122.01 **POLICY**

It is the policy of this department to conduct motor vehicle searches that are both legal and thorough. Such searches are to be conducted in strict observance of the constitutional rights of the owner and occupants of the motor vehicle being searched, and with due regard for the safety of all officers, other persons and the property involved.

122.02 **DEFINITIONS**

1. Motor Vehicle: Any vehicle operating or capable of being operated on public streets or highways including automobiles, trucks, trailers, recreational vehicles, mobile homes, motor homes and other type of vehicle, whether self-propelled or towed. This policy does not apply to vehicles of any type that have been immobilized in one location for use as a temporary or permanent residence or storage facility, or which are otherwise classified by the law as residences or buildings.

2. Search: An examination of all or a portion of the vehicle with an investigatory motive (i.e., for the purpose of discovering fruits, instrumentalities or evidence of a crime or contraband, or to enter the vehicle to examine the vehicle identification number or to determine ownership of the vehicle). Inventories of personal property conducted pursuant to impoundment of a vehicle are not covered by this policy.

122.03 **PROCEDURES**

1. When Vehicle Searches May Be Conducted. Whenever feasible, a warrant will be obtained for the search of a motor vehicle. Warrantless searches are to be conducted only when lack of time or other exigencies make it impractical for officers to obtain a warrant. When a vehicle has broken down, or there is otherwise no significant chance the vehicle will be driven away or that evidence contained within it will be removed or

destroyed, the vehicle should be searched only after a warrant has been obtained. Other instance when vehicles may be searched without a warrant are:

- a. When probable cause to search the vehicle exists;
- b. With consent of the operator;
- c. Incident to an arrest of the occupants of the vehicle;
- d. To frisk for weapons;
- e. When necessary to examine the vehicle identification number to determine the ownership of the vehicle; or
- f. Under emergency circumstances not otherwise enumerated above.

2. Scope of Vehicle Searches

- a. Searches with a warrant. When searching pursuant to a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.
- b. Probable cause searches. Probable cause searches may extend to all areas of the motor vehicle, unless the probable cause is limited to a specific area of the vehicle.
- c. Consent searches. The extent of a consent search depends upon the terms of the consent itself. If the consent is limited to specific areas of the vehicle, officers may search only portions of the vehicle covered by the consent. The consent should be put in writing before conducting these searches.
- d. Searches incident to arrest. Searches of vehicles incident to the arrest of an occupant shall be limited to areas within reach of the arrestee (normally the passenger area of the vehicle). The trunk, the engine compartment, and locked compartments within the passenger area may not be searched.
- e. Frisks for weapons. Frisks for weapons normally must be confined to the passenger area of the vehicle. Areas not immediately accessible to the vehicle's occupants, such a locked glove compartment, may not be frisked.
- f. Entries to examine a vehicle identification number or to determine ownership of the vehicle. Entries made to examine the vehicle identification number or to determine

the ownership of the vehicle must be limited to actions reasonably necessary to accomplish these goals.

- g. Emergencies. Search of a motor vehicle under emergency circumstances not otherwise enumerated above must be limited by the nature of the emergency. The proper extent of the search must therefore be determined by search personnel in each specific situation, but in for event may the extent of the search exceed what is necessary to respond properly to the emergency.

NOTE: Where the initial search discloses probable cause to believe that other portions of the vehicle may contain fruits, instrumentalities or evidence of a crime or contraband, any additional portions of the vehicle may be searched that could reasonably contain the items being sought.

3. Search of Containers Found in Vehicle. In no instance shall a container in a motor vehicle be searched unless it could contain the item(s) being sought. In addition:
 - a. Unlocked containers found in motor vehicles are governed by the nature of the search, as follows:
 - (1) In a probable cause search, containers such as paper bags, cardboard boxes, wrapped packages, etc., wherever found in the vehicle, may be opened.
 - (2) When the passenger compartment of a vehicle is being searched incident to an arrest, such containers found within the passenger compartment may be opened.
 - (3) Containers discovered during a consent search of the vehicle may be opened provided that the terms of the consent expressly permit or reasonably imply that the particular container may be opened.
 - (4) Containers found in or discarded from a vehicle under circumstances that do not justify their search under probable cause rules or in connection with a search incident to arrest should be secured but not searched until a warrant is obtained to search them.
 - b. Locked containers such as attache' cases, suitcases and footlockers found during a vehicle search should be opened only if:

- (1) The search is being conducted under a warrant; or
 - (2) A valid consent to open the locked container is first obtained. Where these conditions are not met, locked containers should be secured by search personnel and opened only after a warrant has been obtained.
4. Location and Time of Search. Whenever possible, a search of a motor vehicle, and of containers found therein should be conducted at the location where the vehicle was discovered or detained. Under exigent circumstances, search of the vehicle or container may be delayed and conducted after the vehicle or container has been moved to another location. However, the search shall be conducted as soon as is reasonably possible, that is, as soon as adequate personnel are available to conduct a thorough search with due regard for the safety of all officers, citizens, and property concerned.
5. Conduct of the Search. Where possible, damage to the vehicle or to other property in the course of the search should be avoided. Where unavoidable, such damage should be confined to that reasonably necessary to carry out a safe and thorough search.
6. Abandoned Vehicles. Examination of a vehicle that has been abandoned on a public thoroughfare is technically not a search. If an officer can determine in advance that the vehicle has been abandoned, examination of the interior of the vehicle shall be conducted only in accordance with the provisions of this policy and applicable law.
7. Seizure of Evidence. Any evidentiary items discovered in the course of a motor vehicle search shall be collected, handled, packaged, marked, transported and stored in accordance with applicable policies and procedures of the department. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner or occupants of the vehicle.
8. Compliance with Health and Safety Requirements. Searches of motor vehicles are to be conducted in strict compliance with all applicable laws, governmental regulations, and departmental policies and procedures pertaining to the protection of departmental personnel from communicable diseases and hazardous substances. Any exposure of search personnel or others to such substances shall be immediately reported to a supervisor.

9. Security of Vehicles and Property Contained Therein. If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, search personnel shall take such steps as are reasonably necessary to secure and preserve the vehicle or property from such hazards.

10. Responsibility of Supervising Officer. An officer supervising a vehicle search shall be responsible for ensuring that it is conducted in accordance with this policy and applicable law. In the event that the vehicle search is conducted pursuant to a warrant, the officer shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The officer shall also be responsible for making any other reports regarding the search that may be required by applicable law, policy or procedure.

This Section 122 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

123.00 **IMPOUNDING AND RELEASING MOTOR VEHICLES**

The purpose of this order is to establish guidelines governing conditions for impounding and releasing vehicles. For the purpose of this order, "impounded vehicle" shall mean a vehicle towed at the direction of a Fond du Lac Law Enforcement Services employee.

123.01 **CONDITIONS FOR IMPOUNDMENT**

1. A vehicle can be impounded commensurate with the authority granted by Minnesota Statute or Band law.
2. Any vehicle involved in a crime when the vehicle itself constitutes evidence or contains evidence.
3. A vehicle reported as a stolen.
4. Any vehicle parked in such a manner that it creates a public hazard.
5. A vehicle from which the driver is arrested.
 - a. When the driver is the owner and consents to the vehicle being released to another person then and there present, the vehicle shall be released to that person providing that other conditions do not exist that would be contrary to this arrangement.
 - b. When the driver is not the owner and the owner is present, the vehicle shall be released to the owner providing that other conditions do not exist that would be contrary to this arrangement.
 - c. When the arrestee is removed from a vehicle parked upon his property, the vehicle may not be impounded unless the arrestee request that the vehicle be towed or the vehicle is evidence, contains evidence or is reported stolen.
 - d. When an individual is arrested and that person was not using the car to commit a crime or was not seen in the car at the time of the offense, their vehicle shall not be impounded except at their request.

6. A vehicle from which the driver is removed, who is incapable of caring for the vehicle due to a medical condition.
7. Any vehicle being operated upon a roadway with unsafe equipment when the operation of the vehicle presents a hazard to public safety. Fond du Lac officers are cautioned, however, that state law may not authorize the impoundment of vehicles owned by the Fond du Lac Band or a member of the Band within the Fond du Lac Reservation for unsafe equipment.

123.02 **PRIVATE TOWS**

If a tow is required for an individual who is stalled, or at a scene of an accident where the owner or driver is not arrested or removed for medical care, and the vehicle need not be impounded for investigation, the officer shall inform the owner or driver that a tow will be requested to remove the vehicle and the responsibility of where the vehicle is to be taken is that of the owner or driver. If the vehicle is not a hazard, the driver or owner may arrange for his own tow.

123.03 **PRIVATE PROPERTY**

Removal of a vehicle from private property is the responsibility of the property owner or their agent in the absence of a law enforcement officer "hold" or "want".

123.04 **REPORTS**

1. Any time a vehicle is impounded, an impound/inventory form must be completed and submitted along with an incident report wherein the reason for the impound is established.
2. The impound/inventory form must be completed in its entirety. Where information is requested on the form and none is available, the annotation "N/A" shall be inserted in the space provided. The completed form shall be submitted no later than the end of the officer's tour of duty.
3. In all instances when an impounded vehicle is designated "hold", the employee responsible for the impound shall cause to be

written in the remarks section of the impound form the reason for the hold.

4. The impound form shall be filled out. This is completed by the officer who impounds the vehicle before the end of the shift.

123.05 **VEHICLE INVENTORY**

1. The contents of all impounded vehicles shall be inventoried and articles with an approximate value in excess of \$100.00 itemized on the impound form. Money and jewelry valued in excess of \$100.00, all firearms and any other property having substantial value and not affixed to the vehicle, may be brought to the Law Enforcement Department, property inventoried and stored in the evidence room. Any article of substantial value which is so large that removing and storing in the Law Enforcement Department would be impractical, may be left in the vehicle with that fact stated on the impound form.
2. Keys will remain with the vehicle except under circumstances when the vehicle has evidentiary value or contains evidence. When these circumstances exist, the keys shall be removed and property inventoried as evidence.

123.06 **ISSUANCE OF CITATIONS**

1. When a citation is issued for a parking violation against a vehicle that is impounded and the owner/operator is present, the owner/operator will be given the violator copy and the remaining copy will be deposited at the office.
2. When a citation is issued for a parking violation against a vehicle that is impounded and unattended, the citation shall be completed in full and attached to the impound form. When the vehicle is claimed, the violator's copy will be given to the claimant and the other copy processed through the normal channels.

This Section 123 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

124.00 **TOWING**

PURPOSE: Minnesota State Statute 169.041 Towing Authority establishes the requirements that law enforcement agencies operating under state law must adhere to when towing vehicles.

124.01 **POLICY**

1. Law enforcement officers must prepare, in addition to the citation, a written towing report to be signed by the officer and the tow driver and must complete the vehicle inventory part on every towed vehicle using the Vehicle Inventory Report.
2. Officers are authorized to tow vehicles in accordance with Minnesota State Statute § 169.041, subds. 3-5.

124.02 **PROCEDURE**

1. Vehicle report will be signed by the officer and the tow driver.
2. The Towing report and the Vehicle Inventory Report must be submitted by the end of shift.
3. Vehicles held must indicate reason on vehicle report.

124.03 **ACCIDENTS**

Vehicles towed from accident scenes are at the request of the owner and are not subject to inventory unless held for criminal investigative purposes. The tow slip is provided to the driver/owner at the scene or as soon as practical.

This Section 124 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

125.00 **DAILY LOGS/LAW ENFORCEMENT INVESTIGATION REPORTS**

125.01 **DAILY LOGS**

The daily log will enable this department to maintain more accurate records of times involving certain law enforcement duties and functions. Also this log sheet will cut down the amount of materials used to record all daily incidents. The daily work sheet must be filled out completely and accurately on each sheet.

125.02 **LAW ENFORCEMENT INVESTIGATION REPORTS**

1. All investigation reports shall be complete and in detail as much as possible. Include pictures when possible and an estimated value of damage. A full and complete detailed report will be prepared by the investigating officer on all offenses. The report shall not contain abbreviations, opinions, conclusions or "10-code" terms.
2. For calls received from the St. Louis and Carlton Sheriff's Department dispatchers, the dispatcher will issue an ICR report on all incoming calls regarding any and all police action. The ICR will contain a case number and all pertinent information recorded. The ICR will be assigned to the duty officer.
3. Include on the ICR report an estimate of damage or estimate of loss and value of property. The ICR must be completed and signed by the officer assigned the ICR. Officer will comply with report filing requirements as defined in mutual aid agreement with both respecting counties.

125.03 **FILING OF INVESTIGATION REPORTS**

1. The report will be filed by ICR number in order.
2. All investigation reports shall be completed and in detail.
3. Who, What, Where, When, Why, and How?.
4. Pictures should be taken of accident and property marked and filed along with the accident pictures.

5. All additions or corrections shall be attached to the report.
6. All reports are to be refiled after use.
7. All reports will be reviewed.
8. [RESERVED]
9. Correspondence received by the Law Enforcement Services mailbox will be given to the officer it pertains to.
10. Each officer is responsible for his own evidence pertaining to a certain case, properly marking and handling of evidence techniques employed.
11. Each officer will receive a copy of any memo, correspondence, directives, etc. that pertains to them or matters relating to duties.

125.04 **MONTHLY SUMMARY REPORTS**

1. The Lieutenant shall be responsible for preparing a "Monthly Summary Report," which shall include the following:
 - a. The number, type, and district (Cloquet, Brookston, Sawyer) of responses;
 - b. The Band membership or nonmember status of individuals who are subject to the responses; and
 - c. The types of offenses for which citations are issued or charges made in connection with the responses, and the specific statutory authority for each citation or charge (state or tribal law, and statute or ordinance section).

The "Monthly Summary Report" shall be submitted to the Chief Law Enforcement Officer no later than the fifth day of the following month.

2. No later than the fifteenth day of the following month, the Chief Law Enforcement Officer shall prepare a "Fond du Lac Law Enforcement Services, Monthly Summary Report" which shall include the aggregate data compiled pursuant to Subsection 1. Copies of the Report shall be distributed to each member of the Reservation Business Committee, the Fond du Lac Executive Director, and the Fond du Lac Legal Affairs Office.

This Section 125 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

126.00 **TRAFFIC ACCIDENT REPORTS**

PURPOSE: The purpose of this section is to set forth written guidelines for officers of the Fond du Lac Law Enforcement Services which identify those situations which require the preparation and submission of traffic accident reports. In addition, this regulation will provide the necessary guidelines to enable officers to provide consistent response to those motor vehicle accidents which do not require traffic accident reports.

126.01 **TRAFFIC ACCIDENT REPORT REQUIRED**

Officers who respond to the following types of motor vehicle accidents shall be required to prepare and submit a traffic accident and supplemental report.

1. Motor vehicle accidents which involve personal injury or property damage in excess of \$1,000.00.
2. Motor vehicle accidents which involve felony or gross misdemeanor violations.
3. Motor vehicle accidents which involve violations which the investigating officer intends to prosecute, and hit and run accidents.
4. Motor vehicle accidents which involve property belonging to the Fond du Lac Band of Lake Superior Chippewa.
5. Motor vehicle accidents which involve property belonging to any other unit of government or political subdivision when requested by that agency.
6. Motor vehicle accidents involving commercial vehicles with property damage in excess of \$3,000.00.

126.02 **TRAFFIC ACCIDENT REPORT OPTIONAL**

Officers who respond to motor vehicle accidents which involve private property damage only are not required to prepare and submit a traffic accident report.

The preparation and submission of a traffic accident report in the above situation is not mandatory. However, if the investigating officer believes that the circumstances involved in a particular accident (i.e., excessive dollar value in damage, age or maturity of the drivers) warrant the preparation of a traffic accident report, officer may submit a traffic accident report and Initial Complaint Report. If the investigating officer elects not to prepare a traffic accident report, the officer shall submit an Initial Complaint Report which contains in the narrative portion the following information on the drivers and vehicles involved:

- a. Name;
- b. Address;
- c. Driver's License Number;
- d. Vehicle License Number;
- e. Vehicle Make;
- f. Witness information, if available; and
- g. Insurance information.

Officers may also include in the narrative portion of the report any information that is believed to be relevant.

126.03 **OFFICER OBLIGATION**

When officers respond to a motor vehicle accident which does not require a traffic accident report, the officer shall perform, or cause to be performed, the following duties:

1. Insure that the roadway is safe for vehicular and pedestrian traffic.
2. Prepare and submit an Initial Complaint Report.
3. Advise drivers if a traffic accident report will or will not be filled out.

126.04 **TOW VS. IMPOUND**

1. Officers investigating motor vehicle accidents shall allow the drivers or owners of vehicles involved the opportunity to secure towing service from the company of their choice unless the delay involved presents a potential hazard to vehicle and pedestrian traffic or poses unnecessary delay in the performance of other

duties. Officer may suggest towing firms to owners or drivers of vehicles if the owner or driver does not have a preference. If towing firms are suggested by the officer, the office shall utilize the nearest, competent tow service available.

2. Officers shall enter vehicle in the Impound log if it is impounded.

126.05 **OFFICER INVOLVED ACCIDENTS**

When accident involves an on-duty officer, the following procedures shall be followed:

1. ICR must be generated.
2. Another law enforcement agency will complete accident investigation when there is damages to the general public's personal property, or significant damage to this Department's property.
3. A first report of injury and FDL Incident Report should be completed.
4. A drug test must be completed in accordance with the FDL Employee Drug Testing Policy.

This Section 126 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

127.00 **DOMESTIC ABUSE**

Domestic abuse is a very serious problem on the Fond du Lac Reservation and represents one of the most recent calls for assistance and action by law enforcement. It is often considered one of the most dangerous calls for law enforcement officers. Law enforcement officers have a critical responsibility to domestic abuse. They are usually the first point of contact victims and perpetrators have with the legal system. The proper response by law enforcement officers will increase victim safety, have positive impact on subsequent prosecutorial and court decisions, and play an integral part in eliminating domestic abuse.

127.01 **INTRODUCTION AND PURPOSE OF THIS POLICY**

1. Introduction: The Fond du Lac Band of Lake Superior Chippewa and it's Law Enforcement Services recognizes domestic abuse as a serious problem in today's society. The Fond du Lac Law Enforcement Services is to protect victims of domestic abuse by making an arrest whenever it is authorized and by ensuring its law enforcement officers complete understanding of the law governing this area.

2. Purpose: The principal purpose of this policy is to establish guidelines and procedures to be followed by law enforcement officers in law enforcement's response to domestic abuse. Additionally, this policy intends to:
 - a. To prevent future incidents of domestic abuse by establishing arrest rather than mediation as the preferred law enforcement response to domestic abuse;

 - b. To afford maximum protection and support to victims of domestic abuse through a coordinated program of law enforcement and victim assistance;

 - c. To ensure that the same law enforcement services are available in domestic abuse cases that are available in other criminal cases;

 - d. To reaffirm the law enforcement officer's authority and responsibility to make arrest decisions in accordance with established probable cause standards;

- e. To promote law enforcement officer safety by ensuring that they are fully prepared as possible to respond to domestic calls;
 - f. To complement and coordinate efforts with the development of domestic abuse prosecutions plans, so that law enforcement, prosecution and advocacy will be more efficient and successful;
 - g. To promote law enforcement's accountability to the public in responding to domestic abuse; and
 - h. To document allegations of domestic abuse so there can be meaningful prosecution and delivery of victim services.
3. Utilization: Law enforcement officers will utilize this policy in response to calls where there may be domestic abuse. This policy prescribes courses of action law enforcement officers would take in response to a domestic call. The Fond du Lac Law Enforcement Services will aggressively enforce these laws without bias and prejudice based on race, marital status, sexual orientation, social class, age, disability, gender, religion, creed, or natural origin.

127.02 **DEFINITIONS**

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

DOMESTIC ABUSE: has the meaning given it in Minn. Stat. 518B.01, subd. 2(a), which states: "Domestic abuse" means the following, if committed against a family or household member by a family or household member: (i) physical harm, bodily injury, assault (ii) the infliction of fear of imminent physical harm, bodily injury or assault; or (iii) terroristic threats, within the meaning of section 609.713, subdivision 1; or (iv) criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

DOMESTIC ABUSE PROGRAM: A public or private intervention project or advocacy program which provides support and assistance to the victims of domestic abuse.

CHILD: A person under the age of 18.

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

DOMESTIC CALL: means a request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family or household member.

QUALIFIED DOMESTIC VIOLENCE-RELATED OFFENSE (QDVRO): has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fifth degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; and violation of a domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime. (See Enhancement Table appended hereto).

ORDER FOR PROTECTION (OFP): is an order under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms of relief are also available. Violating an OFP is a crime.

DOMESTIC ABUSE NO CONTACT ORDER (DANCO): is an order issued under Minn. Stat. 629.75 by a judge in a criminal court limiting contact

between a defendant and a victim of domestic abuse. DANCOS may be issued as pretrial condition of release and/or as a probationary condition of sentence.

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

HARASSMENT: has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect, on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.

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

127.03 DISPATCHING THE CALLS

1. Receiving the Domestic Call: Upon receiving a domestic call, the dispatcher will assign domestic calls a high priority and should assign at least two officers to the call. If only one officer is available, all reasonable attempts should be made to obtain another officer to assist the officer who was initially dispatched.
2. Information to be Obtained: The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officer as much of the following information as possible.
 - a. The nature of the incident.

- b. The address of the incident, including apartment number, etc.
- c. The telephone number where the caller can be reached and an alternative telephone number.
- d. Whether weapons are involved or present in the dwelling.
- e. Whether someone is injured and the nature of the injury.
- f. Information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.
- g. Relationship between the caller and the suspect.
- h. Whether there has been prior abuse or prior calls involving these individuals.
- i. Whether there is an Order for Protection (OFP), harassment retaining order (HRO) or criminal pre-trial or probationary domestic abuse no contact order (DANCO).
- j. Whether children are present at the scene.
- k. Whether there are non-English speaking people, or people with mobility impairments or hearing impairments.

If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way, and when the caller can expect the law enforcement officers to arrive.

If the caller is witness to the incident in progress, the dispatcher should attempt to keep the caller on the phone and should relay ongoing information provided by the caller to the responding officers. If the responding officers are some distance away, and the dispatcher cannot remain on the telephone with the call/victim, the dispatcher should attempt to call back periodically to check on the progress of events, and call again when the officers arrive at the scene. If the dispatcher finds that a victim/caller who was recently available suddenly cannot be reached by phone or there is a persistent busy signal, the dispatcher should relay that information to the officers.

127.04 **RESPONDING TO THE CALLS**

1. Driving to the Scene: The law enforcement officer should respond directly and without unreasonable delay to the scene of a domestic call.
2. Initial Contact with Occupants: Upon arriving at the scene of a domestic call, the responding officers should identify themselves as law enforcement officers, and explain their presence, and request entry into the home. The officers should ask to see the person who is the subject of the call. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officers should check to make sure all of the occupants are safe.
3. Entry:
 - a. Refused: If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers should request the dispatcher to contact the caller.
 - b. Forced Entry: If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry
 - c. Search Warrant Entry: If the officers are refused entry and have no legal grounds for forced entry and they have reasonable grounds to believe a crime has been committed, they should contact the supervisor and request permission to obtain a search warrant.
4. First Aid: After securing the scene, the responding law enforcement officer shall provide the necessary first aid, or call for appropriate medical/ambulance services.

127.05 **ARREST DECISIONS**

1. Making Arrests: After securing the scene and providing any first aid, the Law enforcement officers will conduct an assessment of the risk of the situation based on the totality of the circumstances and begin a criminal investigation to determine if there is evidence and probable cause to believe

that a crime has been committed based on the evidence and not upon the victim's desire to make an arrest. The officers should collect relevant physical evidence, including weapons which may have been used, take photographs of the scene or any injuries and statements from the parties and witnesses. Some of the evidence and statements include:

- a. Photos of the scene.
- b. Condition of clothing.
- c. Property damage.
- d. Excited utterances of the victim and the suspect.
- e. Demeanor of the victim and the suspect.
- f. Medical records including the victim's statements to paramedics, nurses, and doctors.
- g. Interviews of witnesses including the children who may have been present.
- h. Evidence of any prior domestic abuse-related convictions, including dates, and any existing Orders for Protection or contact orders. The jurisdiction of convictions and Order for Protection should also be noted.
- i. Defensive wounds.

When determining probable cause, the law enforcement officer should consider their observations and any statements by parties involved and any witnesses. Prior convictions may provide the enhancement to a gross misdemeanor or felony charge.

2. Factors not to be considered in making the arrest; Arrests should be made without consideration of:
 - a. Marital status, sexual orientation, race, or cultural, social, political or professional position;
 - b. Ownership, tenancy rights of either party, or the fact the incident occurred in a private place;
 - c. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
 - d. Verbal assurance that the abuse will stop;
 - e. Disposition of previous police calls involving same victim or suspect;

- f. Denial by either party that the abuse occurred when there is evidence that the abuse occurred;
 - g. Lack of a court order restraining or restricting the suspect;
 - h. Concern about reprisals against the victim;
 - i. Adverse financial consequences that might result from the arrest; or
 - j. Chemical dependency or intoxication of either party.
3. Predominant Aggressor and Dual Arrests: The Fond du Lac Law Enforcement Services shall discourage dual arrest. Where there are allegations that each party assaulted the other, the law enforcement officer shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor based on the following criteria and the officers judgement:
- a. Comparative extent of any injuries inflicted;
 - b. Fear of physical injury because of past or present threats;
 - c. Actions taken in self-defense or to protect oneself;
 - d. The history of domestic abuse perpetrated by one party against the other; and
 - e. Existence or previous existence of Orders for Protection.
4. Victim Request Not to Prosecute: If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

127.06 **AUTHORITY AND TYPES OF ARREST**

1. Warrantless Probable Cause Arrest for Fifth Degree Assault: A law enforcement officer may arrest a person anywhere without a warrant, including at that person's residence, if the law enforcement officer has probable cause to believe that the person within the preceding 72 hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm the person's spouse, former spouse, or other person with whom the person resides or has formerly resided or other person

with whom the person has a child or an unborn child in common, regardless of whether they have been married or lived together at any time, though the assault did not take place in the presence of the law enforcement officer (Minn. Stat. § 629.341). A law enforcement officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

** An arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides. (Minn. Stat. § 629.72).

2. Level of Arrest for Fifth Degree Assault, Misdemeanor, Gross Misdemeanor and Felony: Assault in the fifth degree is typically a misdemeanor. However, recent changes in the statute greatly increase the potential for fifth degree assault arrests at the gross misdemeanor and even felony level:

a. Gross Misdemeanors: Minn. Stat. § 609.224, subd. 2 (a), assault in the fifth degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of discharge from sentence for a previous conviction for assault, criminal sexual conduct in the first through fourth Degree or terroristic threats in Minnesota or any similar law of another state.

If the current victim is a family or household member and the crime occurs within ten years of discharge from sentence for conviction of any of the above offenses against any family or household member, the same gross misdemeanor enhancement applies.

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

b. Felonies: If a person commits assault in the fifth degree within ten years of discharge from sentence for the first of two or more convictions of assault, criminal sexual conduct in the first through fourth degree or terroristic threats against the same victim, fifth degree assault becomes a felony. The same enhancement applies to fifth

degree assault against any victim occurring within two years of the first of two or more of these convictions.

3. Stalking (Minn. Stat. § 609.749): The acts which constitute stalking according to Minn. Stat. § 609.749 include several which are frequently applicable to domestic abuse situations even when no actual assault occurs.
 - a. Gross misdemeanors: A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
 - (1) Directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
 - (2) Stalks, follows or pursues another, whether in person or through any available technological or other means;
 - (3) Returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
 - (4) Repeatedly makes telephone calls or text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
 - (5) Makes or causes the telephone of another repeatedly or continuously to ring;
 - (6) Repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistance devices for the visually or hearing impaired, or any other communication made through any available technologies or other objects; or
 - (7) Knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

Also, according to Minn. Stat. 607.749, subd. 1a., the State does not have to prove the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted or

intimated. The intent to the defendant is immaterial. Obtaining a complete domestic abuse history is usually the key to making the determination that the current act, under the circumstances, constitutes the crime of stalking.

- b. Felony/Felony Enhancements. A person who commits any offense described in 3(a) above, against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony.

Any of the above gross misdemeanors are enhanceable to a felony if committed within ten years of previous QDRVO conviction or adjudication of delinquency OR if committed against a juvenile OR if committed while possessing a dangerous weapon.

In addition, it's a felony to engage in a pattern of harassing conduct with respect to a single victim or one or more members of a single household in a manner that would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and that does cause this reaction in on the part of the victim. According to Minn. Stat. 609.749, subd. 5, a "pattern of harassing conduct" means two or more acts (convictions not necessary) within a five year period that constitute any of the following offenses: murder, manslaughter, terroristic threats, fifth-degree assault, domestic assault, violation of domestic abuse orders for protection, violation of harassment restraining orders, certain trespass offenses, interference with an emergency call, obscene or harassing telephone calls, letter, telegram, or package opening or harassment, burglary, damage to property, criminal defamation, first-to-fifth degree criminal sexual conduct, and violations of domestic abuse no contact orders.

The stalking statute makes it more important than ever to document not just the facts of the current police call but the history of abuse or stalking.

- c. Venue (Minn. Stat. 609.749, subp. 1b): If a suspect commits acts of stalking in different counties, the acts may be consolidated and prosecuted in any county in which one of the acts was committed. If the conduct that constitutes stalking is done through use of a wireless or electronic

communications device, the conduct can be prosecuted in the county where either the suspect or the victim resides.

4. Probable Cause Warrantless Arrest: The domestic abuse arrest statute (Minn. Stat. § 629.72) an officer may not issue a citation in lieu of arrest in harassment/stalking, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order cases. According to Minn. Stat. 629.34, subd.1(c) (5) an officer may make a warrantless probable cause arrest for harassment even if the offense did not occur in the officer's presence if the officer has reasonable cause to believe the offense was a gross misdemeanor or felony (no 24 hour restriction).
5. Probable Cause Felony Arrests for Other Crimes: At a domestic call, law enforcement officers shall consider whether other felonies have been committed including but not limited to: burglary, felony assault, terroristic threats, kidnapping, criminal sexual assault, false imprisonment and witness tampering.

** A fifth degree assault may be chargeable as burglary in the first degree even if the home is also the offender's, if the entry is made without consent of the victim and in violation of an Order For Protection (OFP) barring the offender from the premises.
6. Violation of Court Orders: The law enforcement officer shall verify whether any of the following orders exist before or during an arrest. This verification may be made by the law enforcement officer or someone acting in the officer's direction. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county or Tribe of origin, the file number and the provision allegedly violated.
 - a. Order For Protection (OFP): A law enforcement officer shall arrest and take into custody without warrant, a person who the law enforcement officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. § 518B.01, subds. 6, 7, or 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the law enforcement

officer, if the existence of the order can be verified by the officer.

- ** Minn. Stat. 518B.01, subd. 18(a)(2), states that an OFP is not voided even if the respondent was invited back to the residence by the petitioner, and there is no hour limitation for a warrantless arrest for a violation of an OFP.

A violation of an Order for Protection is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within ten years of discharge from sentence for conviction of violation of an OFP or (effective for crimes occurring on and after 8/1/94) for any conviction of assault, terroristic threats, violation of either a harassment order or harassment/stalking. It is enhanceable as a felony if it occurs within ten year of discharge of the first of two or more such convictions.

OFSs and DANCOs can be verified on the State MNJIS system, also known as the Hot Files. HROs are not in the Hot Files system at this time, but are still enforceable.

- b. Harassment Restraining Order (HRO): A law enforcement officer shall arrest and take into custody a person who the law enforcement officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. § 609.748, subds. 4 or 5, if the existence of the order can be verified by the officer.

A person who violates an HRO is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable to a gross misdemeanor if it occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Per Minn. Stat. 609.748, subd. 6(d), it is enhanceable to a felony if the person knowingly violates the order:

- (1) within 10 years of the first two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;
- (2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual

- orientation, disability (as defined in Section 363A.03), age, or national origin;
- (3) by falsely impersonating another;
 - (4) while possessing a dangerous weapon;
 - (5) with intent to influence or otherwise tamper with a juror or judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
 - (6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

7. Other Misdemeanors: At a domestic call, the law enforcement officer shall consider whether other crimes have been committed including but not limited to: trespassing, criminal damage to property, disorderly conduct, witness tampering or assault.

127.07 **ASSISTANCE, CRIME VICTIM RIGHTS AND SERVICES**

1. Assistance to Non-English Speaking Victims or Victim with Communication Disabilities: The law enforcement officer make every effort to contact a person to assist in those cases where the participants in the domestic call, including witnesses, are non-English speaking, are hearing impaired, or have other communication disabilities. The officer should avoid the use of friends, family, neighbors serving as the primary interpreter for the investigation.
2. Notice of Crime Victim Rights: The law enforcement officer shall supply the victim of a domestic call with contact information for advocacy.
3. Services: The law enforcement officer should contact the local domestic abuse program, if available, by phone as soon as possible on all arrest situations and provide the name and address of the victims and a brief factual reconstruction of events associated with the action. This section shall not apply if prohibited by the Minnesota Government Data Practices Act (Minn. Stat. § 13.82, subd. 10).

127.08 **CHILDREN**

1. Child Victims: If a child is present at the scene of a domestic call or is the victim of domestic abuse, the law enforcement officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the requirements of Minn. Stat. § 626.556, Reporting of Maltreatment of Minor. The officer shall also attempt to verify whether there has been an Order of Protection (Minn. Stat. §260C.201). If the child has been physically injured, the officer should escort the child to the nearest hospital for treatment.

2. Child Present and Care: If the legal parent or guardian of a child can no longer provide care (for example, when the victim is hospitalized), the officer should consult with the legal guardian on determining the disposition of the child and should make a good faith attempt to follow the request of the legal guardian or parent.

If the law enforcement officer reasonably believes that the child's immediate surroundings or conditions endanger the child's health and welfare, the officer may take the child into immediate custody pursuant to Minn. Stat. § 260.165, subd. 1 (c) (2).

127.09 **REPORTS AND FORMS**

1. Written Report: Whether there is an arrest or not, law enforcement officers shall make a written report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following: detailed statements from the victim; suspect and witnesses; description of injuries; information about past abuse; description of the scene; predominant aggressor; existence of language barriers; presence of elderly victims or those with disabilities; risk assessment answers; and documentation of evidence.

127.10 **FURTHER INVESTIGATION**

1. A domestic call shall be turned over to the appropriate investigator for further follow-up or investigated by the officer initially responding to the call. If there is an arrest, the law enforcement officer shall determine the defendant's criminal record, and if there is evidence of a previous conviction, the law enforcement officer should advise the prosecutors of any enhanced criminal sanction which may be available.

2. Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the law enforcement officer shall thoroughly document all relevant information in the report and shall refer to report to the appropriate prosecutor for review and consideration of criminal charges.

127.11 **RESOURCE LIST**

If a Fond du Lac Law Enforcement Officer should need a translator in the case of communication language barrier or disability they should contact Lutheran Social Services for a directory of translators and interpreters at (218) 726-4769.

Enhancements Table

Conviction means a plea of guilty or verdict of guilty accepted by the court (Minn. Stat. § 609.02, subd. 5)

Discharge from Offense means the time between conviction and the end of five (5) years following discharge from sentence for that offense.

QDVRO means a "Qualified Domestic Violence Related Offense" which includes a violation of or attempt to violate a domestic abuse order for protection; first or second-degree murder; first through fifth-degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth-degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; and violation of domestic abuse no contact order (DANCO); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories. (Minn. Stat. 609.02, subd. 16)

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st or 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 st of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household member (as defined in Minn. Stat. 518B.01, subd. 2)	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of 1 st of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony
Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor

Example of Enhancement Reachback:	
Arrest for Assault 5 & Malicious Punishment	1/1/2013
Plea (Accepted) to Assault 5 & Malicious Punishment (Conviction)	6/1/2013
Sentence of 2 years of probation	8/1/2013
Expiration of reachback for any victim for Assault 5	6/1/2016
Discharge from sentence	8/1/2015
Expiration of reachback for any victim for Malicious Punishment	8/1/2020
Expiration of reachback for same victim for Assault 5	6/1/2023

This Section 127 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

128.00 **MISSING PERSONS**

POLICY: It is the policy of this Department to establish guidelines and responsibilities for the consistent response to, and investigation of, all reports of missing and endangered persons as defined in MN STAT Chapter 299C.52, subd. 1 (c) and (d) ("Minnesota Missing Children and Endangered Persons' Program" referred to as Brandon's Law).

This Policy addresses investigations where the person has been determined to be both missing and endangered and includes all procedures required by MN STAT 299C.52.

The Fond du Lac Law Enforcement Services recognizes there is a critical need for immediate and consistent response to reports of missing persons and missing and endangered persons. The decisions made and actions taken during the preliminary stages may have profound effect on the outcome of the case. Therefore, this Department has established the following responsibilities and guidelines for the investigation of missing and endangered persons. All peace officers employed by this Department will be informed of and comply with the procedures contained in this Policy.

128.01 **DEFINITIONS**

1. CHILD: has the meaning given it in MN STAT 299C.52, subd. 1(a), "Any person under the age of 18 years or any person certified or known to be mentally incompetent".
2. CJIS: Minnesota Criminal Justice Information System.
3. DNA: has the meaning given it in MN STAT 299C.52, subd. 1(b), Deoxyribonucleic acid from a human biological specimen.
4. ENDANGERED: has the meaning given it in MN STAT 299C.52, subd. 1, (c), "A law enforcement official has recorded sufficient evidence that the missing person is at risk of physical injury or death". The following circumstances indicate that a missing person is at risk of physical injury or death:
 - a. The person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;

- b. The person is missing under known dangerous circumstances;
- c. The person is missing more than 30 days;
- d. The person is under the age of 21 and at least one other factor in this paragraph is applicable;
- e. There is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;
- f. The person does not have a pattern of running away or disappearing;
- g. The person is mentally impaired;
- h. There is evidence that the person may have been abducted by a noncustodial parent;
- i. The person has been the subject of past threats or acts of violence;
- j. There is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate or effective investigation and search and rescue efforts are critical; or
- k. Any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

5. NCIC: means the National Crime Information Center.

128.02 **PROCEDURES**

This Department will respond according to the following six types of general procedures:

- Initial Response
- Initial Investigation
- Investigation

- 30 Day Benchmark
- Prolonged Investigation; and
- Recovery/Case Closure

1. INITIAL RESPONSE

- a. As required by MN STAT 299C.53, subd. 1(a), Law Enforcement shall accept, without delay, any report of a missing person. Law Enforcement shall not refuse to accept a missing person report on the basis that:
- (1) the missing person is an adult;
 - (2) the circumstances do not indicate foul play;
 - (3) the person has been missing for a short amount of time;
 - (4) the person has been missing for a long amount of time;
 - (5) there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
 - (6) the circumstances suggest that the disappearance may be voluntary;
 - (7) the reporting person does not have personal knowledge of the facts;
 - (8) the reporting person cannot provide all the information requested by the law enforcement agency;
 - (9) The reporting person lacks a familial or other relationship with the missing person;
 - (10) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.
- b. Dispatch an officer to the scene to conduct a preliminary investigation to determine whether the person is missing, and if missing, whether the person is endangered.
- c. Obtain interpretive services if necessary.
- d. Interview the person who made the initial report, and if the missing person is a child, the child's parent(s) or guardian(s).
- e. Determine when, where, and by whom the missing person was last seen.

- f. Interview the individual(s) who last had contact with the person.
- g. Obtain a detailed description of the missing person, abductor, vehicles, etc. and ask for a recent photo of missing person.
- h. Immediately enter the complete descriptive and critical information, regarding the mission and endangered person, into the appropriate category of the NCIC Missing Person File.
 - (1) As required by 42 U.S.C. 5779(a) (Suzanne's Law) law enforcement shall immediately enter missing person less than 21 years of age into the NCIC.
 - (2) As required by MN STAT 299C.53, subd. 1(b), if the person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the person into the NCIC.
- i. Enter complete descriptive information into the NCIC system regarding suspect(s)/vehicle.
- j. Request investigative and supervisory assistance.
- k. Update additional responding personnel.
- l. Communicate known details promptly and as appropriate to other patrol units, other local law enforcement agencies, and surrounding law enforcement agencies and if necessary, use the International Justice & Public Safety Network (NLETS), the Minnesota Crime Alert Network, and the MNJIS KOPS Alert to alert state, regional, and federal law enforcement agencies.
- m. Notify the family of of the Minnesota Missing/Unidentified Persons Clearinghouse services available.
- n. Secure the crime scene and/or last known position of the missing person and attempt to identify and interview persons in the area at the time of the incident.

- o. Obtain and protect uncontaminated missing person scent articles for possible use by search canines.
- p. Activate protocols for working with the media. (AMBER Alert, Minnesota Crime Alert Network).
- q. As required by Minnesota Statute § 299C.53, subd. 1(b), consult with the Minnesota Bureau of Criminal Apprehension if the person is determined to be an endangered missing person. Request assistance as necessary.
- r. Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
 - (1) the primary agency has limited resources;
 - (2) the investigation crosses jurisdictional lines; or
 - (3) jurisdictions have pre-established task forces or investigative teams.
- s. Based on the preliminary investigation, determine whether or not a physical search is required.

2. INITIAL INVESTIGATION

- a. Conduct a canvas of the neighborhood and of vehicles in the vicinity.
- b. Arrange for use of helpful media coverage.
- c. Maintain records of telephone communications/messages.
- d. Ensure that everyone at the scene is identified and interviewed separately.
- e. Search the home, or building, or other area/location where the incident took place and conduct a search including all surrounding areas. Obtain a consent or a search warrant if necessary.
- f. Assign an investigator or officer whose duties will include coordination the investigation.

3. INVESTIGATION

- a. Begin setting up the Command Post/Operation Base away from the person's residence. Know the specific responsibilities of:(1) Command Post Supervisor; (2) Media Specialist; (3) Search Coordinator; (4) Investigative Coordinator; (5) Communication Officer; (6) Support Unit Coordinator; (7) Two Liaison Officers: (a) One at command post; and (b) One at victim's residence. The role of the liaison at the home will include facilitating support and advocacy for the family.
- b. Establish the ability to "trap and trace" all incoming calls. Consider setting up a separate telephone line or cellular telephone for agency use and follow up on all leads.
- c. Compile a list of known sex offenders in the region.
- d. In cases of infant abduction, investigate claims of home births made in that area.
- e. In cases involving children, obtain any child protective agency records for reports of abuse on the child.
- f. Review records for previous incidents related to the missing person and prior police activity in the area, including prowlers, indecent exposure, attempted abduction calls, etc.
- g. Obtain the missing person's medical and dental records, fingerprints and DNA when practical or within thirty (30) days.
- h. Create a Missing Persons' Profile with detailed information obtained from interviews and records from family and friends describing the missing person's health, relationships, personality, problems, life experiences, plans, equipment, etc.
- i. Update the NCIC file, as necessary with any additional information regarding the missing person, suspect(s), or vehicle(s).

- i. Interview anyone who may have been in the area, such as:
 - (1) Delivery personnel;
 - (2) Employees of gas, water, electric, and cable companies;
 - (3) Taxi drivers;
 - (4) Post office personnel;
 - (5) Sanitation workers, etc.

- j. For persons under age of 21, contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.

- k. Determine if outside help is necessary and utilize local, state and federal resources related to specialized investigative needs, including:
 - (1) Crime Victim Advocates;
 - (2) Minnesota Bureau of Criminal Apprehension;
 - (3) Federal Bureau of Investigation;
 - (4) County Attorney;
 - (5) Customs Investigative Services;
 - (6) Minnesota State Patrol;
 - (7) Minnesota Crime Alert Network;
 - (8) Available Search and Rescue (SAR) Resources:
 - (a) Ground/Air searches- Rescue Squad, State Patrol Helicopter and other aircraft, etc.;
 - (b) Canine assistance; and
 - (c) Water and underwater searches, rescue squads, etc.
 - (9) Investigative Resources:
 - (a) Child interviewing;
 - (b) Polygraph;
 - (c) Profiling/behavioral analysis;
 - (d) Minn. Sex and Violent Crime Analysis Programs;
 - (e) Crime analysis/computer assistance;
 - (f) Forensic artistry/crime scene and evidence processing; and
 - (g) Memory retrieval.
 - (10) Interpretive Services;
 - (11) The Department of Natural Resources;
 - (12) Telephone Services (traps, traces, etc.); and
 - (13) Media assistance (local and national).

- l. Secure electronic communication information such as the missing person's cell phone number, email address(es) and social networking site information.
- m. Appoint an officer who shall be responsible to communicate with any family/reporting party or their designee and who will be the primary point of contact for the family/reporting party or designee. Provide contact information and the family information packet (if available) to the family/reporting party or designee.
- n. Provide general information to the family/reporting party or designee about the handling of the missing person case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect the ability to locate or protect the missing person or to apprehend or prosecute any person(s) criminally in the disappearance.

*****MISSING FOR OVER 30 DAYS*****

If the person remains missing after thirty (30) days from entry into NCIC, the local law enforcement agency will be contacted by the BCA Missing and Unidentified Persons Clearinghouse to request the following information (if not already received):

- a. DNA samples from family members and, if possible, from the missing person.
- b. Dental information and x-rays.
- c. Additional photographs and video that may aid the investigation or identification.
- d. Fingerprints.
- e. Other specific identifying information.

This information will be entered into the appropriate databases by BCA Clearinghouse personnel. If the person is still missing after 30 days, review the case file to determine whether any additional information received on the missing person indicates that the person is endangered and update the record in NCIC to reflect the status change.

4. PROLONGED INVESTIGATION (endangered/abducted)

- a. Develop a profile on the possible abductor.
- b. Consider the use of a truth verification devices for the parents and other key individuals.
- c. Re-read all reports and transcripts of interviews, revisit the crime scene, review all photographs and videotapes, re-interview key individuals, and re-examine all physical evidence collected.
- d. Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone of interest identified in the investigation.
- e. Periodically check pertinent sources of information about the missing person for any activity such as phone, bank, internet or credit card activity.
- f. Develop time-line and other visual exhibits.
- g. Critique results of the on-going investigation with appropriate investigative resources.
- h. Arrange for periodic media coverage.
- i. Consider utilizing rewards and crime stopper programs.
- j. Update NCIC Missing Person File information, as necessary.
- k. Re-contact the National Center for Missing and Exploited Children(NCMEC) for age progression assistance.
- l. Maintain contact with the family and/or the reporting party or designee as appropriate.

5. RECOVERY/CASE CLOSURE

Alive

- a. Verify that the located person is the reported missing person.

- b. If appropriate, arrange for a comprehensive physical examination for the victim.
- c. Conduct a careful interview of the person, document the results of the interview, and involve all appropriate agencies.
- d. Notify the family/reporting party that the missing person has been located. (In adult cases, if the located adult permits the disclosure of their whereabouts and contact information, the family/reporting party may be informed of this information).
- e. Dependent on the circumstances of the disappearance, consider the need for reunification assistance, intervention, counseling or other services for either the missing person or family/reporting party.
- d. Cancel alerts (Minnesota Crime Alert, AMBER Alert, etc), remove the case from NCIC (as required by MN STAT 299C.53 subd. 2) and other information systems, and remove posters and other publications from circulation.
- e. Perform constructive post-case critique. Reassess the procedures used and update the department's policy and procedures as appropriate.

Deceased

- a. Secure the crime scene.
- b. Contact coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
- c. Collect and preserve any evidence at the scene.
- d. Depending upon the circumstances, consider the need for intervention, counseling or other services for the family/reporting party or designee.
- e. Cancel alerts and remove case from NCIC and other information systems, remove poster and other publications from circulation.

- f. Perform constructive post-case critique. Reassess the procedures used and update the department's policy and procedures as appropriate.

This 128 Section amended pursuant to Resolution #1168/11 of the Fond du Lac Reservation Business Committee on May 24, 2011.

This Section 128 amended pursuant to Resolution #1075/14 of the Fond du Lac Reservation Business Committee on February 26, 2014.

This Section 128 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

129.00 **COMMUNITY NOTIFICATION OF REGISTERED SEX OFFENDERS**

129.01 **POLICY**

It is the policy of this department to protect the public by disclosing information on predatory offenders residing in this agency's community. This agency will decide what information to disclose and who to disclose it to based on the level of danger posed by the offender, the offender's pattern of offending behavior and the needs of community members to enhance their individual and collective safety.

129.02 **DEFINITIONS**

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

2. **Offender Risk Level** means the level of notification is governed by the level of risk assigned by the DOC. Three possible risk levels can be assigned to an offender. They are:
 - Level 1 - Low Risk of re-offending.
 - Level 2 - moderate risk of re-offending.
 - Level 3 - high risk of re-offending.

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

129.03 **REGISTRATION PROCEDURES**

For questions concerning predatory offender registration refer to the Bureau of Criminal Apprehension (BCA)'s Predatory Offender Registration website at www.dps.state.mn.us/bca for

detailed information, or contact the Predatory Offender Unit (BCA-POR) by calling (651)793-7070 or 1-888-234-1248.

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

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

- If the offender is already registered, complete a *Change of Information Form* included on the BCA's website at www.dps.state.mn.us/bca.
- If the offender is not registered, complete a *Predatory Offender Registration Form* included on the BCA's website at www.dps.state.mn.us/bca.
- If the offender is from another state, contact the state (information for each state is listed on the BCA's website at www.dps.state.mn.us/bca) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.

It is recommended the agency verify the address of offenders living in their community.

- If the offender is not living at the registered address, contact the BCA-POR to determine if a *Change of Address Form* was submitted. If it was not, the offender may be charged with failure to notify authorities of a change of residence. To make this charge, contact the BCA-POR to request a prosecution packet. Submit the packet to the county attorney's office to file a formal charge.

129.04 COMMUNITY NOTIFICATION

1. For questions regarding community notification of the risk level assigned to an offender contact the Risk Assessment/Community Notification Unit of the Department of Corrections (DOC/RA/CN Unit) at 651-361-7340 or at notification.doc@state.mn.us. The DOC will answer questions

about the notification process and agency responsibilities. The DOC is also available to assist agencies in conducting public notification meetings when an offender subject to notification moves into a law enforcement jurisdiction.

2. **Notification Process**

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

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

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

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

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

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

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

3. **Health Care Facility Notification**

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

4. **Specialized Notification**

- a. Offenders from Other States and Offenders Released from Federal Facilities Subject to Notification.
 - If local law enforcement agency learns a person under its jurisdiction is subject to registration and desires consultation on whether or not the person is eligible for notification, the agency must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform law enforcement that it may proceed with community notification in accordance with the level assigned by the other state.

- If DOC determines that the governing law in the other state is not comparable, community notification by law enforcement may be made consistent with that authorized for risk level 2.
- In the alternative, if a local law enforcement agency believes that a risk level assessment is needed, the agency may request an end-of-confinement review. The local law enforcement agency shall provide to the DOC necessary documents required to assess a person for a risk level.

b. **Victim Notification**

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

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

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

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

c. **Homeless Notification Process**

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

This Section 129 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

130.00 CRIMINAL CONDUCT ON SCHOOL BUSES

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

130.02 PROCEDURE

The Fond du Lac Law Enforcement Services shall:

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

This Section 130 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

131.00 MOTOR VEHICLE STOPS

PURPOSE: It is the purpose of this policy to establish guidelines for stopping and approaching motorists in a manner that promotes the safety of the officer and the motorist.

131.01 POLICY

Although stopping motorists on the highway for traffic violations or other purposes is often considered a routine function of patrol officers, it is one that has been demonstrated to be potentially dangerous for both officers and motorists even during apparently "routine" situations. Therefore, it is the policy of this department that motor vehicle stops shall be performed professionally and courteously, and with a view towards educating the public about proper driving procedures while consistently recognizing and taking the necessary steps to minimize the dangers involved in this activity for the officer, the motorist and other users of the highway.

131.02 PROCEDURES

1. Stopping and Approaching Traffic Violators: The following procedures are to be followed whenever possible. It is recognized that varying conditions such as roadway construction, volume of traffic, and the urgency of making vehicle stops may require officers to adjust these procedures to particular conditions.
 - a. An officer shall perform vehicle stops only when they have articulable reason to do so.
 - b. Once an initial decision has been made to stop a motorist, the officer shall select an area that provides reasonable safety, avoiding curves, hills, heavily trafficked and poorly lit areas and roads without shoulders. Whenever possible, the officer shall also avoid the use of private drives, business locations and areas where a large volume of spectators are likely to gather.
 - c. When a location has been selected for the stop, the officer shall notify the communications center of its nature-providing unit location, a description of the vehicle, vehicle tag number and the number of occupants.

At the officer's discretion or dispatcher's request, additional information may be exchanged.

- d. At the desired location, the officer should signal the operator to stop at the far right of the roadway or at the safest shoulder by activating the overhead emergency lights and siren as necessary.
 - (1) On multilane roads, the officer may facilitate movement to the right shoulder by gradually changing lanes behind the violator until the right side of the roadway is reached.
 - (2) Should the violator stop abruptly in the wrong lane or location, the officer should instruct him to move by using the appropriate hand signals or by activating the vehicle's public address system.
- e. Once properly stopped, the officer should position the police vehicle about one car length behind the violator's vehicle and at a slight angle, with the front approximately 2 feet to the traffic side of the violator's vehicle.

At night, the spotlight should not be used to direct the violator but may be used to illuminate the vehicle's interior once stopped. The patrol vehicle should use its low beams if high beams would blind oncoming motorists.

- f. When exiting the patrol vehicle, the officer should be particularly alert to suspicious movements or actions of the vehicle operator or passengers.
- g. Approaching the vehicle, the officer should pay particular attention to the furtive movements/surroundings.

2. Issuing Citations

- a. When preparing citations, the officer should position paperwork and related materials in a manner that allows him to maintain vantage over actions of the violator and other occupants.

3. Making High-Risk Vehicle Stops. The following procedures may be employed when an officer initiating a vehicle stop has reason to believe that the occupants may be armed and dangerous:

- a. When planning to stop the suspect vehicle, the officer shall notify the communications center, describe the nature or reason for the stop, provide information on the vehicle, tag number and number of occupants, and request appropriate assistance to make the stop.
- b. An officer should not attempt high risk vehicle stop alone unless back-up units will be available in an appropriate amount of time or the urgency of the situation demands immediate action.
- c. After selecting an appropriate location and with adequate support units in position, the officer should signal the suspect to stop.
- d. Officer should position their vehicles approximately in positions that will maximize opportunities for cover and in a manner that will illuminate the interior of the vehicle to the occupants' disadvantage.
- e. The officer initiating the stop, or the officer with the best observation point should issue verbal commands to vehicle occupants through the vehicle's public address system, if available. Only one officer should issue commands.
- f. Once the suspect vehicle has stopped, officers should exit their vehicles quickly and assume positions of cover.
- g. [RESERVED]
- h. The operator of the suspect vehicle should be ordered in separate commands to do the following: lower their window, remove the ignition keys with their left hand, drop them on the ground, open the door from the outside, step out of the vehicle, turn completely around, face away from the officers, walk backward until commanded to stop and lie face down on the ground with hands stretched far to the sides and handcuffed. Subsequent occupants should be similarly commanded until all are handcuffed and searched.
- i. With appropriate cover, officers should then approach the suspect vehicle to inspect the passenger compartment and trunk.

6. Stopping Oversize and Overweight Vehicles. In the event an officer needs to stop commercial and similar oversize or overweight vehicles, the following procedures should be followed:
 - a. Select a location for the stop that provides enough room for the vehicle and sufficient stability to support the vehicle's weight, and allow the operator sufficient time and distance to make the stop.
 - b. Approach to the back of the rear most position and order the driver to the rear of the vehicle, using the driver's outside mirror to observe the driver and activity in the cab.
 - c. Never climb onto the vehicle to make contact with the operator. Maintain a position to the rear most part of the vehicle.

This Section 131 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

132.00 MOBILE VIDEO/AUDIO RECORDING EQUIPMENT

PURPOSE: It is the purpose of this policy to provide officer with guidelines for the use of mobile video and audio recording equipment.

132.01 **POLICY**

Mobile video/audio recording (MVR) equipment has been demonstrated to be of value in the prosecution of traffic violations and related offenses, in evaluation of officer performance as well as in training. In order to maximize the utility of this equipment in these and related areas, officer shall follow the procedures for MVR equipment use as set forth in this policy.

132.02 **PROCEDURES**

1. Program Objectives: The department is equipped in-car video/audio recording systems in order to accomplish several objectives, including:
 - a. Accurate documentation of events, actions, conditions and statements made during arrests and critical incidents, so as to enhance officer reports, collection of evidence and testimony in court; and
 - b. The enhancement of this agency's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for investigative purposes, as well as for officer evaluation and training.
2. Operating Procedures. Officers shall adhere to the following procedures when utilizing MVR equipment:
 - a. MVR equipment installed in vehicles is the responsibility of the officer assigned to that vehicle and will be maintained according to manufacturer's recommendations. Tampering with or disabling the equipment will result in disciplinary action in accordance with policy.
 - b. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of their immediate supervisor as soon as possible.

- c. MVR Equipment will be automatically activate when the vehicle's emergency warning devices are in operation. The equipment may be manually deactivated during non-enforcement activities such as when protecting scenes from other vehicle traffic.
- d. Where possible, officers should ensure that MVR equipment is operating in order to record traffic stops or other enforcement actions. In so doing they will ensure that:
 - (1) The video recorder is positioned and adjusted to record events; and
 - (2) The MVR is not deactivated until the enforcement action is completed; and
 - (3) Their wireless microphone is activated in order to provide narration with the video recording to explain the reason for their current or planned enforcement action.
- e. Where possible, officers shall also use their MVR equipment to record:
 - (1) The actions of suspects during interviews, when undergoing sobriety checks or when placed in custody if the recording would prove to be useful in later judicial proceedings, and
 - (2) The circumstances at crime and accident scenes or other events such as the confiscation and documentation of evidence or contraband.
- f. The officer shall not erase, reuse or in any manner alter MVR tapes.
- g. Officers will note in incident, arrest and related reports when video/ audio recordings were made during the incident in question.

3.MVR Control and Management

- a. Video containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safe-guarded as others forms of evidence. As such these videos will:

- (1) Be subject to the same security restrictions and chain of evidence safeguards as detailed in this agency's evidence and control policy; and
 - (2) Not be released to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe storage, and
 - (3) Will not be released to other than bona fide criminal justice agencies without prior approval of the designated command officer.
- b. Video not scheduled for court proceedings or other adversarial or departmental uses shall be maintained for a minimum period authorized by law. All videos shall be maintained in a manner that allows efficient identification and retrieval.
4. Supervisory Responsibilities. Supervisory personnel who manage officers equipped with MVR equipment shall ensure that:
- a. All officers follow established procedures for the use and maintenance of MVR equipment, handling of video/audio recordings and the completion of MVR documentation; and
 - b. On at least a bimonthly basis, they randomly review videos and recordings to assist in periodic assessment of officer performance, determine whether MVR equipment is being fully and properly used and to identify material that may be appropriate for training; and
 - c. Repairs and replacement of damaged or non-functional MVR equipment is performed; and
 - d. All statistical reporting requirements are being completed as required to ensure adequate program evaluation.

This Section 132 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

133.00 MAJOR CRIME SCENES

PURPOSE: The actions taken by patrol and investigative officers at crime scenes often determine the course and success of a criminal investigation. Initial responding officers play the lead role by protecting the crime scene, rendering emergency services and initiating the investigation. Thus, it is the purpose of this policy to provide officers with guidelines for responding to and dealing effectively with the operational demands at crime scenes.

133.01 POLICY

It is the policy of this law enforcement department that all officers understand and follow applicable procedures established herein to effectively protect, collect and preserve evidence of a crime and conduct initial investigative and other essential tasks at major crime scenes.

133.02. PROCEDURES

1. Initial Response. Initial responding officers shall initiate the preliminary investigation and perform tasks as designated below until otherwise directed by a superior officer specifically assigned to criminal investigations.
 - a. In transit to crime scenes, officers shall be cognizant of suspects/vehicles that may be in flight.
 - b. Upon arrival, verify that a crime has been committed and relay essential information to communications.
 - c. Administer first aid and/or summon emergency medical assistance if required and take those steps necessary to protect victims or others.
 - d. Arrest the perpetrator if at the scene. A decision to leave the crime scene to arrest or pursue the perpetrator should be made based on weighing the immediate needs of victims and others against the safety of the public if the perpetrator were allowed to escape.

- e. Provide communications with such information as:
 - (1) Nature of the crime committed;
 - (2) Description of the perpetrator and mode/ direction of flight;
 - (3) Description of any vehicle used by the offender and any accomplices;
 - (4) Use of firearms or other deadly weapons; and
 - (5) Any support required at the crime scene.

- f. Identify any witnesses to the crime scene, secure their identities and request that they remain present at the crime scene until they can be interviewed.
 - (1) Where reasonably possible, obtain the identities on any other persons who were present upon arrival at the crime scene.
 - (2) Note the license tags of vehicles parked near the crime scene and be aware of suspicious persons on hand at or near the crime scene.

- g. Provide superior officers and any other investigative personnel arriving on the scene with complete information of the offense and the measures taken this far by officers and others.

2. Preservation of the Crime Scene

- a. Responding officers shall enter crime scenes only for purposes of siding victims or bystanders in need of immediate assistance, apprehending perpetrators or securing the area. Other entries shall be permitted only under direction of a supervisor.

Officers making initial entries for the above purposes shall, where feasible, avoid touching, walking upon, moving objects or otherwise altering or contaminating the crime scene.

- b. Define the boundaries of the crime scene to include all areas that may reasonably be searched for evidence. As necessary, considering the nature and seriousness of the crime, officers should:
 - (1) Request backup assistance to restrict access to the crime scene and control any onlookers;
 - (2) Erect barricade tape, rope or cordon off, lock otherwise secure the immediate crime scene and restrict access to defined crime perimeters; and
 - (3) Record any alterations made at the crime scene due to emergency assistance to victims, the actions of persons reporting the crime, the handling of any items of evidentiary value, or other actions.
 - c. Restrict all persons from the crime scene who are not directly involved in the investigation. In cases of homicides or other major crimes the officer-in-charge (OIC) shall ensure that the identity of all persons entering the crime scene is recorded.
 - d. Homicides and other major crime scenes should be approached only as needed in a single defined line in order to avoid destruction of footprints and other impressions and the contamination of scent trails that may be useful in canine searches. The "place last seen" of kidnapped or missing persons should also be protected in a similar manner.
3. Collection of Evidence. Unless exigent circumstances exist or authorization of a supervisory officer is received, initial responding officers at major crime scenes shall not engage in collection of items of potential evidentiary value. Officers may engage in the following tasks as directed by the OIC.
- a. The chain of possession of all evidence shall be clearly and completely documented in accordance with agency policy beginning with initial collection, packaging and labeling at the crime scene.

- b. Officers shall search the crime scene in a manner or method prescribed by the OIC for any items that may establish how the crime was committed or who committed the crime. This may include but is not limited to:
 - (1) Unusual objects or objects found in unexpected or unusual locations; and
 - (2) Weapons, tools, clothing, stains, blood spatters, fingerprints, footprints, tire or tool mark impressions, broken glass, fibers, soil or other items or substances.
 - c. Officers shall comply with this agency's policy and procedures on "Evidence Control" for purposes of properly photographing, preserving, packaging and labeling criminal evidence.
4. Interviewing Witnesses. Witnesses at the crime scene shall be identified and preliminary interviews conducted as soon as possible. As soon as possible, the neighborhood surrounding the crime scene should be canvassed in order to identify additional witnesses or other who may have some knowledge of the crime. The purpose and scope of these interviews is to gather as much basic information as possible about the crime at the earliest point possible in order to identify the perpetrator and establish the basis for the follow-up investigation.
5. Crime Scene Reporting. Officers conducting the preliminary and follow-up investigations shall complete appropriate reports in accordance with agency policy. At a minimum, reports shall include:
- a. Date and time of arrival at the scene;
 - b. Any relevant weather or situational conditions at the scene to include the status of the crime scene upon arrival (e.g., fire, crowds, and initial observations);
 - c. How the crime was discovered and reported and the relationship of reporting individuals to victims or others if appropriate;
 - d. Physical evidence discovered and officers responsible for collection (special note should be made of any valuables collected at the scene, such as currency or jewelry);
 - e. Name, address and telephone number, or other appropriate identification of witnesses to the crime;

- f. Results of interviews with victims and witnesses, particularly including the identity or best possible description of suspects, method of operation, means of escape and any other pertinent identifying information;
- g. Diagrams, sketches, photographs video tape or other similar information made at the scene or the identity of officers or civilians who made such recordings; and
- h. Recommendations for further investigation such as the names of witnesses or others who may be able to provide additional information.

134.00 EVIDENCE/PROPERTY CONTROL

PURPOSE: The purpose of this policy is to provide procedural guidelines for the proper storage and disposition of items of evidence/property obtained during the course of investigating complaints. Special emphasis is placed on limiting access to the property storage facility and maintaining a proper documented chain of custody.

134.01 POLICY

This policy applies to all employees of the Fond du Lac Law Enforcement Department and to all types of property (found property, recovered stolen property, property seized as evidence, property for safekeeping, etc.).

134.02 DEFINITIONS

1. Property Room: includes both the temporary storage area and secure evidence room.
2. Temporary Storage Location: refers to a set of small lockers outside evidence room, which is used to store evidence/property for a brief period of time (less than 48 hours) prior to processing.
3. Evidence Room: refers to room with very limited access which has been set aside for the storage of evidence/property.

134.03 TEMPORARY STORAGE

1. Items of evidence/property acquired by officers of the Fond du Lac Law Enforcement Division is to be stored in a temporary storage location after being packaged, labeled and recorded using the appropriate Division form(s).
2. The individual placing the evidence/property in the temporary storage area is responsible for processing the items in the manner below.

134.04 PROCESSING

1. Regarding "found" property and property held for "safekeeping", the officer who receives the property is responsible for the immediate completion of an evidence/ property control log.

The property is then placed in the temporary storage area. The complete evidence/property control log is placed in the wall mounted storage unit located on side of the evidence room, numbered key will then be dropped into the lock box.

Found property and property held for safekeeping may be released from the evidence/property room by the access key holder. Persons claiming such properties are required to sign the appropriate evidence/property control log.

Note: Once property is placed into evidence/property room, it can only be released by the access key holder.

For all other categories of property, as soon as reasonably possible upon of acquisition of the evidence/property, but under no circumstances past the end of officer's shift, the items are to be properly packaged and labeled. Packaging and labeling materials will be stored in main office for this purpose.

An evidence/property control log is to be completed on all property being held for any reason. Once processed, the property is left in wall mounted storage unit, numbered key is placed into the lock box to await transfer into evidence storage.

134.05 STORAGE

No items of evidence/property are to be stored in any area other than the property room. The office, records clerk office, etc. lack sufficient security to maintain the chain of evidence/control.

Exceptions:	Bicycles	(that are not items of evidence)
	Perishables	(requiring refrigeration, etc.)
	Large Items	(vehicles, barrels, etc.)
	Hazardous Materials	(alternative storage is required)
	Damaged property	(leaky batteries, kegs, etc.)

Recorded Materials (audio/video tapes being used
in active, ongoing
investigations)

An evidence property control log must be completed on all items of evidence/property regardless of their storage location.

134.06 ACCESS

The door to the property/evidence room is to be kept locked at all times when room is unoccupied.

To provide the best possible security, only one key will be available to gain access to the evidence room. The physical key will be retained by the Chief Law Enforcement Officer or his/her designee, who is responsible for the proper placement, storage and disposition of all evidence/property. All other access will be at the discretion of the Chief Law Enforcement Officer.

134.07 DISPOSITION

Evidence/property will be retrieved and/or released from the evidence room during normal office hours only: 8:00 am - 4:30 pm, Monday-Friday (excluding holidays). Persons requesting release of property outside of these hours should be advised to make arrangements during normal office hours.

Officers requesting evidence for court or other legitimate purposes and office staff requiring access to archived records should make the appropriate arrangements with the access key holder. Individuals will be required to sign for the property that they remove to maintain the proper chain of evidence.

Citizens and business persons claiming property, which can be released, are required to sign the appropriate evidence/property control log.

After sixty (60) days, found property will be considered property of the Fond du Lac Law Enforcement Department.

This Section 134 adopted pursuant to Resolution #1091/04 by the Fond du Lac Reservation Business Committee on April 27, 2004.

This Section 134 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

135.00 PROPERTY SEIZED FOR ADMINISTRATIVE FORFEITURE

It shall be policy of the Fond du Lac Law Enforcement that all employees of the agency, all employees assigned to another law enforcement agency's task force, and all employees assigned from an outside law enforcement agency to a task force in which this agency serves as the fiscal agent, shall follow all state, federal and tribal laws pertaining to the processing of property seized for forfeiture. Training will be provided by the employing law enforcement agency in consultation with the prosecuting authority to officers who may exercise the use of administrative forfeiture in performance of their assigned duties. Such training is to be conducted whenever the agency policy is changed or modified based upon administrative directives, legislative changes or relevant court decisions. Training may include, but is not limited to, agency policy, directives, or electronic or traditional classroom education.

135.01 DEFINITIONS

1. CASH: Money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including, but not limited to, gift cards, debit cards, gift certificates or other negotiable financial instruments.
2. CONVEYANCE DEVICE: A device used for transportation. The term "conveyance device" includes but is not limited to a motor vehicle, trailer, snowmobile, airplane, or vessel and any equipment attached to it. The term "conveyance device" does not include property, which is, in fact, itself stolen or taken in violation of the law.
3. FIREARMS/AMMUNITION/FIREARMS ACCESSORIES: A device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories including but not limited to holsters, gun cases, firearm optics, suppression devices, cleaning supplies, etc.
4. FORFEITURE: The process by which legal ownership of an asset is transferred to a government or other authority.
5. JEWELRY/PRECIOUS METALS/PRECIOUS STONES: The term "precious metals/precious stones" includes items of jewelry such as rings, necklaces and watches that reasonably appear to be made

of precious metals or precious stones. Precious metals include, but are not limited to, gold, silver, platinum, iridium and palladium. Precious stones often referred to as gemstones, including but not limited to diamonds, emeralds and rubies.

6. FORFEITURE/SEIZED PROPERTY REVIEWER: An agency employee is responsible for reviewing all forfeiture cases and is the liaison between the agency and prosecutor's office.
7. SEIZURE: The act of law enforcement officials taking property, including cash, vehicles, etc., that has been used in connection with or acquired by illegal activities.

135.02 FORFEITURE AND FOND DU LAC BAND MEMBERS

Band members on the Fond du Lac Reservation are not subject to forfeiture proceedings established under Minnesota statute, but are subject to the ordinances of the Fond du Lac Band as enforced through the Fond du Lac Tribal Court.

135.03 SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE

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

1. All money, precious metals and precious stones found in proximity to:
 - a. Controlled substances;
 - b. Forfeitable drug manufacturing or distributing equipment or devices; or
 - c. Forfeitable records of manufacture or distribution of controlled substances.
2. All conveyance devices containing controlled substances with retail value of \$100 or more if possession or sale of the controlled substance would be a felony under Minn Stat. Ch. 152.

3. All firearms, ammunition and firearm accessories found:
 - a. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance.
 - b. On or in proximity to a person from whom a felony amount of controlled substance is seized; or
 - c. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minn. Stat. Ch. 152.

Situations in which forfeiture should not be pursued:

Seizure of property not listed above must be processed, reviewed and approved by the unit supervisor.

135.04 PROCESSING SEIZED PROPERTY FOR FORFEITURE
PROCEEDINGS

1. When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:
 - a. The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, the location of the seizure, and the date of seizure. Administrative forfeiture notices are NOT to be given for assets listed under Minn. Stat. § 609.5314 if the retail value of the asset exceeds \$50,000.00
 - b. A receipt for the item(s) seized.
2. The Notice form also contains information in English, Hmong, Somali, and Spanish concerning the right to obtain judicial review and the procedure under Minn. Stat. § 609.5314 to obtain it. The form must be dated and signed by the peace officer conducting the seizure.
3. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency at secure facility.

4. The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports to the Lieutenant as soon as feasible.
5. The peace officer conducting the seizure shall inform the Lieutenant of the estimated retail value of the drugs found in proximity to the asset seized.

135.05 CASH

1. Peace officers shall not seize cash having an aggregate value less than \$100.00, unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.
2. All forfeitable cash seized will be turned over to the property/evidence room as soon as practicable after the seizure.
3. Prior to deposit with the Lieutenant, peace officers shall examine all cash seized to determine whether it contains any buy funds.
4. Peace officers seizing cash shall also prepare a property inventory. If cash is seized from multiple individuals, a property inventory receipt will be completed for each individual. The agency property inventory receipt shall specify the total amount of cash seized from each individual. The agency property inventory shall also contain a detailed description of all checks, money orders and/or traveler's checks or other financial instruments.
5. Peace officers conducting the seizure shall provide a copy of the completed property inventory receipt to the Lieutenant.
6. It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

135.06 JEWELRY/PRECIOUS METALS/PRECIOUS STONES

1. Peace officers seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt prior to inventorying the items. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture/Seized Property Reviewer.
2. Peace officer seizing jewelry, precious metals and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

135.07 CONVEYANCE DEVICE

1. Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved facility.
2. Peace officer shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable reports forms and distribute them appropriately.

135.08 FIREARMS, AMMUNITION AND FIREARM ACCESSORIES

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

135.09 CASE FILE STATUS

The Lieutenant shall forward all changes to forfeiture status to the peace officer who initiated the case.

135.10 REPORT WRITING

1. All reports dealing with seized property will be completed within 24 hours of the seizure when practicable.
2. Whenever an officer confiscates or seizes currency exceeding \$100.00 in value, or cash in excess of \$100.00 in drug related

seizures, an officer shall be called to the location of the confiscation or seizures to verify the amount seized and provide a receipt to the party the property is taken from, or to the tenant/property owner. The receipt for the amount taken shall be signed by the confiscating officer and a verifying supervisor. The carbon copy of the receipt shall be property inventoried with the currency.

3. In executing a search warrant, a receipt is a normal requirement if taking money or property. The last page of search warrant recording property and/or currency taken will serve in lieu of the separate receipt. The search warrant shall contain the signature of the seizing officer and a verifying officer when currency over \$100.00 in value is confiscated or seized.

4. The Notice of Seizure and Intent to Forfeit Property form that is completed for currency seized will serve in lieu of the separate receipt. The copy of the Notice of Seizure shall contain the signatures of the seizing officer and a verifying officer when currency over \$100.00 in value is seized.

This Section 135 adopted pursuant to Resolution #1168/11 by the Fond du Lac Reservation Business Committee on May 24, 2011.

This Section 135 amended pursuant to Resolution #1220/15 of the Fond du Lac Reservation Business Committee on July 8, 2015.

136.00 SUPPORTING DOCUMENTATION FOR PROPERTY HOT FILE RECORDS

Carlton County Sheriff's Department or St. Louis County Sheriff's Department may enter records on behalf of the FDL Police Dept pursuant to a holder of records agreement.

VEHICLE FILE

Before entering a stolen or felony vehicle record into MNJIS/NCIC you should:

1. Obtain a theft report describing the stolen item including the serial number (SER) or owner applied number (OAN).
2. Do a registration check with the state that the vehicle is registered with and print out a hard copy of the registration to attach to the record.
3. Enter the record into MNJIS/NCIC using the pre-formatted screen. Make sure to pack the record with as much information about the vehicle as is available. Also verify the NCIC codes as they are not always the same as what you see on the copy of the registration.
4. Query MNJIS/NCIC to verify entry and to obtain a copy of the record to be attached to the record.
5. Follow procedures for the second party check.

STOLEN GUNS, ARTICLES, BOATS AND SECURITIES

Before entering a stolen record into MNJIS/NCIC you should:

1. Obtain a theft report describing the stolen item including the serial number (SER) or owner applied number (OAN).
2. If entering a boat, do a registration check with the state that the boat is registered with and print out a hard copy of the registration to attach to the record.
3. Enter the record in MNJIS/NCIC using the pre-formatted screen. (Boats and securities will only be entered into NCIC.) Make sure to pack the record with as much information about the item as is available.
4. Query MNJIS/NCIC to verify entry and to obtain a copy of the record to be attached to the record.
5. Follow procedures for the second party check.

This Section 136 adopted pursuant to Resolution #1075/14 by the Fond du Lac Reservation Business Committee on February 26, 2014.

137.00 SUPPORTING DOCUMENTATION FOR IDENTITY THEFT POLICY

Carlton County Sheriff's Department or St. Louis County Sheriff's Department may enter records on behalf of the FDL Police Dept pursuant to a holder of records agreement.

Before an entry can be made in the Identity Theft File, an official complaint (electronic or hard copy) must be recorded and on file at our law enforcement agency. Our agency may make an NCIC Identity Theft entry only if we are the agency that takes the identity theft complaint and the following criteria are met:

1. Someone is using a means of identification of the victim.
2. The identity of the victim is being used without the permission of the victim.
3. The victim's identity is being used or intended to be used to commit an unlawful activity.
4. The victim must sign a consent waiver, which can be found on the CJDN Secure site, prior to the information being entered into the Identity Theft file.
5. Information on deceased persons may be entered into the file if it is deemed by the police officer that the victim's information has been stolen. No consent form is required with the entry of deceased person information.
6. If the Identity Theft file is going to contain the Social Security Number of the victim, our agency is required to inform the individual of this fact and they must sign the "Notice about Providing Your Social Security Number" form, which can be found on the CJDN Secure site.

This Section 137 adopted pursuant to Resolution #1075/14 by the Fond du Lac Reservation Business Committee on February 26, 2014.

138.00 DATA PRACTICES - CLASSIFICATION & DISSEMINATION

PURPOSE: To establish procedures and guidelines that meet the requirements within the Minnesota Government Data Practices Act and other applicable laws regarding gathering, creating, storing and disseminating data by this Agency.

138.01 POLICY

It is the policy of this Agency to comply with the obligations set forth in Chapter 13, the Minnesota Data Practices Act and other applicable laws regarding data collection, sharing, and retention. All government data is considered public unless protected by the Minnesota Government Data Practices Act, statute or federal law. This Agency's personnel may be disciplined and subject to civil and/or criminal penalties may be imposed for violations of these laws.

138.02 PERSONNEL DATA

Pursuant to Minn. Stat. sec. 13.43, personnel data is considered private except for:

1. Name, employee ID number (NOT social security number), salary, pension, title, work location, work phone, education and employment dates, among other specifically enumerated items found in this provision.
2. Inquiries of IAD investigations, district investigations and background checks constitute private data. Requests shall be directed to the Director of Internal Affairs.
3. Requests for other personnel data should be referred to the Fond du Lac Human Resources Director with the Chief of Police copied.

138.03 CRIMINAL INVESTIGATIVE DATA

The following information contained in criminal investigations is always public, regardless if the case is active or inactive:

1. Request for Service Data (Minn. Stat. sec. 13.82, subd. 3):
 - a. The nature of the request/activity complained of;
 - b. Name/address of individual making the request unless identity is Protected Identities 138.03 (4)(d) below;
 - c. Time/date of the request for complaint;
 - d. The response initiated and response/incident number.

2. Response or Incident Data (Minn. Stat. sec. 13.82, subd. 6)(including traffic accident data):
 - a. Date, time and place of responses;
 - b. Agencies involved;
 - c. Any vehicle pursuit;
 - d. Resistance encountered;
 - e. Any weapons use;
 - f. Brief factual reconstruction;
 - g. Name and addresses of witnesses/victims unless it would reveal identity of those listed as Protected Identities 138.03 (4)(d) below;
 - h. Name of health care facility victims were transported to and their medical status;
 - i. Date of birth of those involved in a traffic accident;
 - j. Seat belt use;
 - k. Alcohol concentration of drivers (but not PBT result).

3. Arrest Data (Minn. Stat. sec. 13.82, subd. 2) The following is public:
 - a. The charge, arrest or search warrants, or other legal basis for the action;
 - b. Whether person is incarcerated and where;
 - c. Basis for transfer of custody of arrestee;
 - d. Date, time, legal basis for release;
 - e. Name, age, address and sex of any adult released;
 - f. See Section 138.05 (below) for juvenile suspect and arrest data;
 - g. The manner in which the agency received the information unless it would reveal the identity of those listed as Protected Identities 138.03 (4)(d) below;
 - h. Response or incident report number;

4. Protected Identities and Data (Minn. Stat. sec. 13.82, subd. 8, 9, 10, 11, 17). Information identifying the following

people are always considered non-public data and may not be released:

- a. Vulnerable adult;
 - b. Child Abuse victims;
 - c. Undercover law enforcement officers;
 - d. Victim of criminal sexual conduct;
 - e. Mandatory reporters;
 - f. Informants;
 - g. Witnesses or victims who have requested not to be identified for safety reasons;
 - h. Juvenile witnesses if the agency determines the need for protecting their identity;
 - i. Photos that offend common sensibilities;
 - j. Complainants of real property as described in Minn. Stat. sec. 13.44 subd. 1.
5. Active Criminal Investigation Data (Minn. Stat. sec. 1382, subd. 7) is the non-public information that is collected to prepare a case against a person and is classified confidential. To ensure the integrity of the investigation, this data may only be accessed by Fond du Lac Police Department personnel with a "right to know" and exchanged with other law enforcement agencies in furtherance of the investigation.
6. Inactive Criminal Investigation Data (Minn. Stat. sec. 13.82, subd. 7) becomes inactive upon the occurrence of any of the following events:
- a. A decision by the agency or appropriate prosecutorial authority not to pursue the case;
 - b. Expiration of the time to bring a charge or file a complaint under the applicable statute of limitations;
 - c. Exhaustion of, or expiration of, all rights of appeal by a person convicted on the basis of the investigation data.

Inactive criminal investigation data is public unless it would jeopardize another investigation (by any law enforcement agency) or identify a person classified as a Protected Identities 138.03 (4)(d) above.

Data determined to be inactive under this section is reclassified as confidential if the agency or appropriate prosecutorial authority decides to reopen the investigation.

7. Miscellaneous:

- a. Booking photos are public, but can be temporarily withheld during investigation (Minn. Stat. sec. 13.82, subd. 26);
- b. 911 audio is private data on the person making the call (13.82, subd. 4). The transcripts are public, except for that data which identifies those listed in Protected Identities 138.03 (4) (d) (above).
- c. Medical records are private with limited exceptions. (Minn. Stat. sec. 13.384, subd. 3);
- d. Medical examiner summary regarding cause of death and whether an autopsy was performed and inconclusive is public data, but the remaining report itself is not. (Minn. Stat. sec. 13.83, subd. 2 and 4);
- e. Investigative evidence presented in court shall be public (Minn. Stat. sec. 13.82, subd. 7);
- f. At the discretion of the Public Information Officer, private or confidential data may be released to aid law enforcement, promote public safety, and/or dispel widespread rumors (Minn. Stat. sec. 13.82, subd. 15).

138.04 ACCIDENT REPORTS

1. Minn. Stat. sec. 169.09, subd. 13 provides that accident reports are confidential with limited use (federal/state for accident analysis; individuals involved or their limited representative) and are not discoverable in court or allowed as evidence.
2. The complete crash report may be provided to an individual involved (driver, passenger, owner of vehicle, who sustained physical harm or economic loss) in the incident or their representative.
 - a. Written requests from insurance carriers and legal counsel may acquire an accident report without a signed release. The representative must:
 - (1) Make the request in writing;
 - (2) Identify the party they represent;
 - (3) Date, time, ICR or other information to identify the incident; and
 - (4) State they represent a person involved in the incident.

- b. All other data collected as part of a criminal investigation is classified under Section 138.03.
3. See Section 138.05 for juvenile data.
4. If the requester is not involved in the accident, the requester may access only the public portion of the crash report as defined in this section is considered "response or incident data".

138.05 DATA ON JUVENILES

1. Records on juvenile suspects and arrestees must be kept separate from other records. (Minn. Stat. 260B.171 subd. 5)
2. Parents of minors are entitled to data pertaining to their child. It is assumed parents are entitled to access unless there is a state law or court order such as divorce, separation, etc., to the contrary.
3. Only the age and gender of a juvenile arrested is public. (Minn. Stat. sec. 260B.171).
4. Identifying information on juveniles involved in accident reports is public including any driver at least 16 years of age who was issued a traffic citation. If the juvenile was under 18 is charged with a crime where if committed by an adult would result in arrest, only the age and gender of the juvenile is public (Minn. Stat. sec. 260B.171 subd. 5, Minnesota Stat. sec. 260B.255).
5. FDLPD will make reasonable efforts to contact the parent or guardian when a juvenile is issued a traffic citation (Minn. Stat. sec. 260B.255).
6. The sharing of juvenile data with school districts is covered by Minn. Stat. 13.32 subd. 3d,8.
7. Also see section 138.03 (4) (d) above, Protected Identities.

138.06 DVS DATABASE

1. Information derived from the DVS database is addressed in federal law (18 U.S.C. 2721) and state law (Minn. Stat. sec. 171.12 and Minn. Stat. sec. 168.346), which provides it shall

only be used by law enforcement agency to "carry out its functions".

2. Law enforcement agency functions are found under Minn. Stat. sec. 299D.03 and include:
 - a. Enforcing provisions of the law relating to protection and use of trunk highways;
 - b. Serving warrants related to motor vehicle crimes;
 - c. Exercising criminal jurisdiction on trunk highways; and
 - d. Making arrests for crimes committed in their presence.
3. Any use of the DVS database that does not serve a statutorily-stated law enforcement agency function is prohibited.
4. Personal information on a driver's license (including DL numbers, picture, etc.) shall not be knowingly disclosed.

138.07 SUMMARY DATA

1. Summary data means statistical records and reports derived from existing data on individuals but in which individuals are not identifiable (Minn. Stat. sec. 13.02 subd. 19; 13.05 subd. 7) All requests will be forwarded to the agency designee (District/Section Commander) for action.
2. Upon request and approval, this agency will prepare summary data from private or confidential data. Within 10 days of the receipt of the request, the agency designee will inform the requesting party of the estimated cost to provide the summary data, or will provide a written statement describing a time schedule for the preparation including reasons for time delays, or will provide a written statement to the requesting party stating why the agency has determined that access would compromise the private, confidential or security data. The agency will charge the requesting party costs associated with the preparation of summary data. The agency will provide an estimate of the fee to the requesting party before preparing the summary and may require payment in advance of the preparation.
3. The responsible authority shall prepare summary data in a reasonable period of time from private or confidential data on individuals upon the request of any person if the request is

in writing and the cost of preparing the summary data, including redaction, is borne by the requesting person.

138.08 MANAGING INFORMATION REQUESTS

1. The District/Section Commander is the designee for data management at their respective levels.
2. Persons shall be permitted to inspect public government data without charge onsite, and if requested, shall be provided an explanation of the meaning of the data. Data inspection hours are 8:30 to 4:30 on normal business days. (Minn. Stat. sec. 13.03, subd. 3).
3. All requests for copies/electronic transmission of data will be made in writing and answered immediately or within ten (10) days. Persons making a request for public data are not required to identify themselves. All private data that is dependent on identity (e.g., crash record) requires proper identity.
4. Prior to inspection or reproduction of any data, the requestor should fill out the Information Request and Receipt form (Addendum 1) and the agency designee must approve the request by determining that the data classification permits release before the data is provided.
5. If the data classification prohibits release, the designee shall advise the requestor so and state the actual provision classifying the data. The advice shall be verbal at the time of the request. If disputed, or requested the reason and statute may be reduced to writing as soon as practicable.
6. The classification of data maintained by the agency will change as required by judicial, statutory, or administrative rule action which supersedes prior classifications and department policy.
7. Private data will not be disseminated unless the individual subject of the data has given informed consent (signed release) to a third party under Minn. Stat. 1305, subd. 4d(1-7), which required that it:
 - a. Be in plain language and dated;
 - b. Specifically identifies the particular person/agency that is authorized to release the data;

- c. Specifically identifies the nature of the information to be released;
 - d. Specifically identifies the person/agencies who may receive the information;
 - e. Specifically identifies the purpose for which the information may be used now and in the future;
 - f. Specifically identifies the expiration of the authorization which should not be more than a year;
 - g. Crash report exception under 138.04.
8. Fees are authorized to recoup the cost of providing copies of data, but with certain restrictions:
- a. The agency cannot charge for separating public data from non-public data.
 - b. Only one copy of each original document will be provided.
 - c. For requests involving 100 black/white pages or less, a \$0.25 per sheet rate applies instead of the actual cost (no extra charge for research/retrieval/postage). Minn. Stat. 13.03, subd. 3c.
 - d. For requests over 100 pages, actual costs for searching/retrieval/copying shall apply. (If the person is the subject of the data, he or she is only charged for searching/retrieval.) For these requests, the DPS Worksheet provided by FAS shall be used.
 - e. Accident reports are \$5.00 a copy for authorized individuals only (Minn. Stat. 169.09, subd. 13).
 - f. Commercial users (those who request access to more than five incident reports a month in one location) may be charged a fee for that access not to exceed \$0.50 a report.
 - g. Payment is to be collected at the time copies are provided or prior to electronic transmittal. Checks/money orders shall be made payable to the Department of Public Safety. No cash shall be accepted.
 - h. When data consists of several classifications, only the portion of the data eligible for release shall be released with the other portions redacted.
 - i. When a request for information is received from the media, the Office of Communications shall be notified.
 - j. When a request for data relates to budget, expenditure or payroll records, the request shall be referred to the Office of Fiscal and Administrative Services.
 - k. Requests for department-wide data or any questions, complaints or problems concerning data practices shall be brought to the attention of the District/section Commander

and referred to the Data Practices Compliance Official or his/her designee in the event of an absence.

This Section 138 adopted pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

139.00 IMPARTIAL POLICING POLICY

139.01 POLICY

It is the policy of the Fond du Lac Law Enforcement to reaffirm our commitment to impartial policing and to reinforce procedures that serve to assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

139.02 DEFINITIONS

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

- a. the behavior of that individual; or
- b. information that leads law enforcement to a particular individual who has been identified as being engaged in or having been engaged in criminal activity.

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

139.03 PROCEDURES

1. Policing impartially, not racial profiling, is standard procedure for this agency, meaning:

- a. investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by peace officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution and peace officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures;
- b. except as provided in paragraph c below, peace officers shall not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion or probable cause; and

- c. peace officers may take into account the descriptors in (b) above based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals and this information may be used in the same manner officers use specific information regarding age, height, weight, etc. about specific suspects.
2. In an effort to prevent the perception of biased law enforcement, peace officers shall:
 - a. be respectful and professional;
 - b. introduce or identify themselves to the citizen and state the reason for contact as soon as practical unless providing this information will compromise the officer or public safety;
 - c. ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
 - d. attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact, including relevant referrals to other agencies when appropriate;
 - e. provide their name and badge number when requested, preferably in writing or on a business card; and
 - f. explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).
3. Supervisors shall ensure all personnel in their command are familiar with the content of this policy and are in compliance.

This Section 139 adopted pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

140.00 POLICE CANINE TRACKING POLICY

Police canines are available to track missing persons or suspects, or to locate evidence that investigating officer has reason to believe has been abandoned or hidden in a specific open area. Such searches are subject to the following conditions and limitations:

1. When officers are pursuing suspects and contact with the suspect is lost, the officer, prior to summoning a canine team shall:
 - a. Stop and pinpoint the location where the suspect was last seen;
 - b. Shut off engines of vehicles in the area if possible; and
 - c. Avoid vehicle or foot movement in the area where the suspect or subjects were last seen.

2. Canines used for tracking persons should remain on a leash of sufficient length to provide a reasonable measure of safety to the subject of the search without compromising the canine's tracking abilities.

3. Canine teams may be used to locate small children, the elderly, or those suffering from mental impairment if there is a reasonable suspicion of foul play or a belief that serious bodily harm or death may occur if the person is not located immediately. Where the use of a canine is deemed necessary, the risk of attack to the subject shall be explained to the parent, guardian, or next of kin and their approval obtained to use the dog.

4. Prior to tracking, on scene police personnel shall:
 - a. Secure the perimeter of the area to be searched.
 - b. Secure the integrity of the area to be searched by keeping all personnel out of the area.
 - c. Protect all items of clothing that will be used for scent from being handled.

This Section 140 adopted pursuant to Resolution # 1120/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

141.00 K-9 NARCOTIC DETENTION POLICY

141.01 PROHIBITED ACTS

1. Service canines will be utilized for detection purposes only. Handlers will not agitate their canine nor administer aggression training. Handlers will not allow any other person to agitate the canine or administer aggression training. Handlers will not allow the canine to be used to intimidate any person.
2. A service canine shall not conduct person searches of humans.
3. Searches of a passenger compartment of common carriers by the canine team may be conducted only after all passengers have been removed from the passenger area. The canine handler will obtain the consent of the common carrier or its agents, unless a warrant exception applies.
4. Canine handlers will not allow service canines to be used for breeding purposes.
5. A handler's family members are not to be left to care for a handler's service canine on an extended basis in the absence of the handler, without prior approval from the K-9 supervisor, Chief of Police, and/or Director. Handlers will take measures to ensure that the canine is not a detrimental factor in the family's safety.
6. Handlers will not expose their service canine to any area where the handler has prior knowledge of a methamphetamine lab.

141.02 RESPONSIBILITIES OF THE CANINE HANDLERS

All existing policies and procedures regarding the conduct of the Fond du Lac Police Department or its officers shall remain in effect. In addition, the following responsibilities outline the duties of the handler and the care of the service canine. Violation of these policies may result in termination of their assignment as a canine handler and other actions as appropriate.

1. Handlers will be responsible for the actions and the uses of their service canine while in performance of duty and during off duty hours.

2. Handlers will ensure that all uses of the service canine will not unnecessarily endanger the handler, canine or any other party.
3. Upon arrival of the service canine team, the officer in control of the scene shall furnish all pertinent information, facts and details of the call to the handler. The final decision shall be the responsibility of the handler for determining whether the circumstances justify the legal use, deployment and safety of the service canine.
4. Utilization of the service canine team shall be limited to the scope of training received by the canine team and consistent with service policies and procedures.
5. Handlers will make every effort to ensure that their service canine is not physically or mentally abused by anyone.
6. Handlers will maintain an accurate record of training, deployment and seizures of their service canine and submit the required reports to the K-9 supervisor.
7. Handlers will take steps to make sure their assigned service canine will be kept in peak condition, including bathing. This includes, but is not limited to the following:
 - a. Maintaining accurate health and immunization records, including all vaccinations and medications prescribed by a veterinarian.
 - b. Ensuring veterinarian check-ups are performed as needed, or so indicated by abnormal canine behavior, illness or injury.
 - c. Arranging for proper care and treatment of the service canine during the handler's absence.
 - d. Daily grooming and exercise of the service canine.

141.03 SERVICE CANINE SECURITY AND SAFETY

- a. Home Security
 - (1) Handlers will use diligence to ensure a healthy, safe environment for their assigned service canine.

- (2) Periodic health and safety inspections may be conducted to ensure compliance. Any noted deficiencies will be corrected in a timely manner.

b. Operational Security

Generally, deployment of service canine will be done on leash, so as to minimize endangering the service canine, other officers, or innocent third parties. The following exceptions may, or may not be in order, depending on the circumstances:

- (1) Interior vehicle searches;
- (2) Interior building searches;
- (3) Open area searches;
- (4) Special circumstances as determined by the handler.

c. Vehicle Security

- (1) While in service vehicle, the canine will be isolated from the driver's area and secured in a proper manner;
- (2) When canine is in the vehicle, the vehicle shall be free of unsecured items;
- (3) Handler's will inspect and ensure replacement of worn or defective canine equipment.

141.04 CANINE INJURY

In the event an injury causing temporary or extended incapacitation of the service canine, the handler will immediately report the injury to the K-9 supervisor, Chief of Police, and the Director, and the following will be initiated:

1. An appropriate veterinarian examination will be arranged by the handler as soon as possible with the findings and recommendations forwarded to the K-9 supervisor.
2. An initial investigation will be conducted by the K-9 supervisor to determine the cause of the injury, incapacitation or negligence, if any. The K-9 supervisor will forward a report to the Chief of Police and Director.

141.05 BITE/SCRATCH INCIDENTS

The following procedures will be followed in case of any bite incident, or allegation regarding the service canine. (Any incident, which inflicts injury to a canine handler or instructor during normal rewarding practices or training exercises, is not to be reported as a bite incident.

1. The handler will report the bite incident to the K-9 supervisor.
2. Ensure that medical treatment is provided to the party without exception, if refused, make sure the refusal is well documented.
3. All bites, injuries, or alleged bites and injuries, will be photographed immediately following first aid treatment.
4. Arrange for a veterinarian examination of the service canine as soon as possible to establish if the incident was caused by a health problem.
5. Any service canine involved in a bite incident must be removed from service, pending evaluation as to the reason for the bite, and any necessary corrective action completed by a service canine trainer, if warranted.
6. The first line supervisor must ensure that all witnesses are interviewed and reports forwarded to the K-9 supervisor, Chief of Police and Director.
7. A complete investigation will be conducted by the K-9 supervisor to determine the cause of the incident or negligence, if any.

141.06 MISSING/LOST CANINE

In the event a service canine has been determined to be missing, the handler will immediately conduct a search of the immediate area of last contact. If not recovered, the handler will notify the K-9 supervisor, reporting the location and circumstances of the disappearance and will initiate the following:

1. Arrange for and coordinate an area search utilizing on-duty manpower available.

2. Notify law enforcement agencies of the loss and solicit assistance, when appropriate.
3. Notify the local animal control officers, if any, of the loss and furnish a description of the service canine.
4. If the service canine is not located, ensure a physical check of all local animal control offices is conducted by the handler on a daily basis for an appropriate period.
5. The handler will provide a memorandum including all circumstances of the loss to the K-9 supervisor to determine the cause of the loss or death. The K-9 supervisor's recommendation will be forwarded to the Chief of Police and Director.

141.07 RESPONSIBILITIES OF THE CANINE HANDLER

The general duties of the K-9 handler consist of, but are not limited to, the following:

1. Work directly under the guidance of the Chief of Police and Director.
2. Compiles reporting data, assists in investigations and after action, reports as directed by the Chief of Police and Director.
3. Coordinates all the training activities through liaison with Chief of Police and Director.
4. Provides service canine and handler certification and training as prescribed by policy and accurate court required canine and handler documentation.
5. Researches, develops and makes recommendations on program needs to the K-9 supervisor, Chief of Police and Director for possible implementation.
6. Maintains operational integrity of the canine program.
7. Monitors and ensures compliance with the policies, certifications and training requirements.
8. Provides training material and equipment necessary for the accomplishment of the service canine mission.

141.08 CERTIFICATION

1. All service canine handlers must be re-certified by USPCA annually for proficiency in detecting controlled substances.
2. Any canine team failing to certify annually will be removed from service until such certification is acquired.
3. A copy of certification will be forwarded to the K-9 Supervisor.

141.09 TRAINING

Each service canine team shall conduct maintenance training for a minimum of twelve (12) hours per month on official duty time. Maintenance training will be devoted exclusively to organized training in the detection of controlled substances. Each service canine and handler shall conduct two-week handler's course to maintain handler and canine.

141.10 TRANSFER OR RETIREMENT OF A SERVICE CANINE

1. A handler may resign from the canine unit at their own discretion, but shall submit, in writing, the reasons why and desired effective date to the K-9 supervisor, Chief of Police and Director.
2. The K-9 supervisor, Chief of Police and Director will determine the procedural requirements for retirement and the disposition of the service canine. In any event, Fond du Lac Police Department will make all available efforts to offer the service canine to its handler, if so desired.

141.11 CANINE UNIT MANDATORY EQUIPMENT

Each handler must have:

1. One take home marked squad with an in-car canine kennel.
2. A lockable container for narcotics.
3. One leash (handler's preference).
4. One no-spill canine water bowl and feeding dish.
5. Any canine gift (handler's preference).
6. One 6 x 12 metal canine kennel along with cement slab.

7. One portable canine kennel.
8. Collars for canine.
9. Any training aid needed for success of canine and handler.

This Section 141 adopted pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

142.00 SOCIAL MEDIA POLICY

142.01 PURPOSE

The purpose of this policy is to outline expectations of officers with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of this department.

142.02 POLICY

Officers shall not use any form of social media or social networking, including Facebook, Twitter, MySpace, LinkedIn, Foursquare, Gowalla Police Pulse, The Squad Room, Usenet groups, online forums, message boards or bulletin boards, blogs and other similarly developed formats, in any way so as to tarnish the department's reputation. As officers of this department, you are embodiments of our mission. It is vital that each officer accept their role as ambassadors of the department, striving to maintain public trust and confidence, not only in their professional actions, but also in their person and online actions. 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 our mission. By virtue of your position of peace officer, you are held to a higher standard than general members of the public, and your online activities should reflect such professional expectations and standards. Any online actions taken that detract from the mission of the department, or reflect negatively on your position as peace officer, will be viewed as a direct violation of this policy.

142.03 DEFINITIONS

1. Social Media: a variety of online sources that allow people to communicate, share information, share photos, share videos, share audio and exchange text and other multimedia files with others via some form of online or cellular network platform.
2. Social Networking: using such Internet or mobile formats as Facebook, Twitter, MySpace, LinkedIn, Foursquare, Gowalla Police Pulse, The Squad Room, Usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, to communicate with others using the same groups while also networking with other users based upon similar interests,

geographical location, skills, occupation, ideology, beliefs, etc.

3. Mobile Social Networking: social networking using a mobile phone or other cellular based device.
4. Internet: a computer network consisting of a worldwide network of computer networks that use the TCP/IP network protocols to facilitate data transmission and exchange.
5. World Wide Web: computer network consisting of a collection of Internet sites that offer text and graphics and sound and animation resources through the hypertext transfer protocol.
6. Blog: a series of entries, written by either one person or a group of people, in an online journal, usually posted in chronological order, like a diary. Blogs can allow comments on entries or not.
7. Blogging: to read, write or edit a shared online journal. Blogging can also encompass the act of commenting--and engaging with other commenters--on any blog, including one operated by a third party.
8. Post: an item inserted to a blog or an entry to any type of computerized bulletin board or forum.
9. Posting: the act of creating, uploading, editing or adding to any social media outlet. This includes text, photographs, audio, video or any other multimedia file.
10. Forum: an online discussion site.
11. Comments: responses to a blog post, news article, social media entry or other social networking post.
12. Commenting: the act of creating and posting a response to a blog post, news article, social media entry or other social networking post. Commenting can also entail the act of posting an original composition to an unrelated post or article.
13. Avatar: a computer user's representation of himself/herself, or an alter ego.
14. Identify: an online identity, Internet identity or Internet persona that a social networking user establishes. This can be a real name, an alias, a pseudonym or a creative description.

15. Handle: the name of one's online identity that is used most frequently. It can also be the name of one's Twitter identity.
16. User Name: the name provided by the participant during the registration process associated with a Web site that will be displayed publicly on the site.

142.04 RULES AND REGULATIONS

1. Officers are prohibited from using department computers or cell phones/devices for any unauthorized purpose, including participation in social media or social networking.
2. Officers are prohibited from using any social media or social networking platform while on duty, unless permission is granted for investigative or public information purposes.
3. Unless granted explicit permission, officers of this department are prohibited from posting any of the following on any social networking platform, either on their own sites, the sites of others known to them, the site of others unknown to them, news media pages, or other information exchange forums:
 - a. Any text, photograph, audio, video, or any other multimedia file related to any investigation, both current and past, of this department.
 - b. Any text, photograph, audio, video, or any other multimedia file related to any past or current action of this department, either in homage or critique.
 - c. Logos, badges, seals, uniforms, vehicles, equipment or any item or symbol that is affiliated with this department.
 - d. Any item, symbol, wording, number, likeness or material that is identifiable to this department.
 - e. Any text, photograph, audio, video, or any other multimedia file that is related to any occurrence within the department.
4. Officers who choose to maintain or participate in social media or social networking platforms while off duty shall conduct themselves with professionalism and in such a manner that will not reflect negatively upon the department or its mission. In the

course of operating or participating in such venues, the following rules shall apply:

- a. Unless explicitly granted permission by the department, officers shall not identify themselves, in any way, as an employee of this department.
- b. Officers shall not use any reference to infer they are employees of this department during social media or social networking participation or maintenance.
- c. Officers will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that identifies the officer as an employee of this department.
- d. Officers will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflect negatively upon the department.
- e. Sexually graphic or explicit material of any kind shall not be posted by the officer on any form of social media or social networking site.
- f. Sexually graphic or explicit material posted by others to the officer's social media or social networking sites shall be immediately removed by the officer.
- g. Weaponry, owned by this department and/or owned personally or privately, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote or glorify violence.
- h. Any text, photograph, audio, video or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the officer's views on the public shall not be detrimental to the department's mission, nor shall it in any way undermine the public's trust or confidence in this department.
- i. Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the

officer's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence in this department.

5. Unless serving as an explicitly permitted tool of public information or community outreach, no officer shall use their rank and/or title in any social media or social networking activity, including inclusion of said rank and/or title into the officer's online identity or avatar.
6. Officers who are brought under administrative or internal investigation related to their performance, functionality or duties as a peace officer may be ordered to provide the department, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.
7. If requested, any officer shall complete an affidavit attesting to all the social media and social networking platforms in which they participate or maintain.
8. Any candidate seeking employment with this department shall complete an affidavit attesting to all the social media and social networking platforms in which they participate or maintain. The candidate shall be required to provide the designated background investigator with access to the social networking platforms in which they participate or maintain.

This Section 142 adopted pursuant to Resolution #1220/15 by the Fond du Lac Reservation Business Committee on July 8, 2015.

143. **[RESERVED]**

144. REPORT OF SEXUAL ASSAULT POLICY

144.01 PURPOSE

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

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

144.02 POLICY

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

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

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

144.03 DEFINITIONS

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

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

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

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

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

5. **Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:
 - a. spouses or former spouses;
 - b. parents and children;
 - c. persons related by blood;
 - d. persons who are presently residing together or who have resided together in the past;
 - e. persons who have a child in common regardless of whether they have been married or have lived together at any time;
 - f. a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
 - g. persons involved in a significant romantic or sexual relationship.

7. **Sexual Assault Medical Forensic Examination:** An examination of a sexual assault victim by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.
8. **Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota; the Fond du Lac Band of Lake Superior Chippewa also provides sexual assault and domestic violence advocates. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
9. **Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
10. **Vulnerable Adult:** any person 18 years of age or older who:
 - a. is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;
 - b. receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
 - c. receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or

- d. regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - (1) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - (2) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

144.04 PROCEDURES

1. Communications Personnel Response/Additional Actions by Responding Officers

Communications personnel and/or law enforcement officers should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- a. Suggest that the victim not bathe, or clean him or herself in any way if the assault took place within the last seventy-two (72) hours.
- b. Recommend that if a victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
- c. Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing (per department policy).
- d. Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.

2. Initial Officer Response

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

- a. Carefully explain the reason for any question asked to ensure that the victim does not think that the officer is blaming him or her for the assault.
- b. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- c. The officer shall attempt to determine the location/jurisdiction where the assault took place.
- d. Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- e. Officers are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. The officer should offer to contact local victim advocate on behalf of the victim.
- f. Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- g. Ensure that the victim knows they can go to a designated facility for a forensic medical exam, and that the exam will not be paid for by the county, whether they have insurance or not (see Section 7(a)(1)). Offer to arrange for transportation for the victim.
- h. Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- i. Request preferred contact information for the victim for follow-up.

3. Victim Interviews

This agency recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question and answer interviewing format with questioning nondirective as possible to elicit spontaneous responses.

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

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

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

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

a. Minors and Vulnerable Adults

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

- (1) Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
 - (A) Ensuring the safety of the victim;
 - (B) Ensuring the scene is safe;
 - (C) Safeguarding evidence where appropriate;
 - (D) Collecting any information necessary to identify the suspect; and
 - (E) Addressing the immediate medical needs of individuals at the scene.

- (2) Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- (3) Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute 626.556 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minn. Stat. 626.556 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

- (4) Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
- (5) The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.

b. Victims of Domestic Abuse

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

5. Protecting Victim Rights

a. Confidentiality: Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat section 13.82, subd. 17(b)

b. Crime Victim Rights: Officers must provide the following information to the victim:

(1) Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat section 611A.02, subd. 2(b).

(2) If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat section 629.341, subd. 3.

(3) The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611 A.27, subd. 1.

(4) Pursuant to Minn. Stat 611 A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.

c. Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling the follow up.

- d. Language access: All officers shall follow agency policy regarding limited English proficiency.
- e. When a decision is made not to forward a case to a prosecutor for charging, the officer should contact the victim to let him or her know and to explain the reasons.

6. Evidence Collection

a. Considerations for Evidence Collection

Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:

- (1) Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
- (2) Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- (3) In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- (4) If the victim has declined a medical forensic exam, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

7. Sexual Assault Medical Forensic Examinations

- a. Prior to the sexual assault medical forensic examination the investigating officer should do the following:
 - (1) Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both

their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.

- (2) Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
 - (3) Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
 - (4) Ask the victim for a signed release for access to medical records from the exam.
- b. Officers should not be present during any part of the exam, including during the medical history.
 - c. Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

8. Contacting and Interviewing Suspects

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

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

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

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

- a. Prior to or immediately after the preliminary suspect interview, photograph any injuries.

- b. Determine whether a sexual assault medical forensic examination should be conducted.
- c. Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
- d. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - (1) Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - (2) Collect biological and trace evidence from the suspect's body;
 - (3) Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
 - (4) Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - (5) Document the suspect's relevant medical condition and injuries.

10. Role of the Supervisor

Supervisors may do the following:

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

11. Case Review/Case Summary

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- a. Case dispositions
- b. Decisions to collect evidence
- c. Submissions of evidence for lab testing Interviewing decisions
- d. Interviewing decisions.

This Section 144 adopted pursuant to Resolution #1338/19 by the Fond du Lac Reservation Business Committee on November 13, 2019.

145 EYEWITNESS IDENTIFICATION PROCEDURES

145.01 Policy

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

145.02 Purpose

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

145.03 Definitions

1. **Show-up:** The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.
2. **Line-up:** The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.
3. **Photo Array:** A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.
4. **Administrator:** The law enforcement official conducting the identification procedure.

5. **Blinded Presentation:** The administrator may know the identity of the suspect, but does not know which photo array member is being viewed by the eyewitness at any given time.
6. **Confidence Statement:** A statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.
7. **Filler:** A live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.
8. **Sequential:** Presentation of a series of photographs or individuals to a witness one at a time.
9. **Simultaneous:** Presentation of a series of photographs or individuals to a witness all at once.

145.04 Procedure

1. Show-ups

The use of show-ups should be avoided whenever possible in preference to the use of a lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability.

- a. Document the witness's description of the perpetrator prior to conducting the show up.
- b. Conduct a show-up only when the suspect is detained within a reasonable time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.

- e. Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- f. Do not conduct the show-up with more than one witness present at a time.
- g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
- h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- i. Do not present the same suspect to the same witness more than once.
- j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- l. Ask the witness to provide a confidence statement.
- m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- n. Videotape the identification process using an in-car camera or other recording device when feasible.
- o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

Line-up and Photo Array Procedures

2. Basic Procedures for Conducting a Line-up or Photo Array

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.
- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.

- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure.

You will be asked to look at a series of individuals.

The perpetrator may or may not be present in the identification procedure.

It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

I don't know whether the person being investigated is included in this series.

Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.

You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.

The individuals are not configured in any particular order.

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

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

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

- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.

- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

3. Photographic Arrays

- a. Creating a Photo Array
 - i. Use contemporary photos.
 - ii. Do not mix color and black and white photos.
 - iii. Use photos of the same size and basic composition.
 - iv. Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
 - v. Do not include more than one photo of the same suspect.
 - vi. Cover any portions of mug shots or other photos that provide identifying information on the subject - and similarly cover other photos used in the array.
 - vii. Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features

themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.

- viii. Fillers should not be reused in arrays for different suspects shown to the same witness.

b. Conducting the Photo Array

- i. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.

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

- (1) Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).

- (2) The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.

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

- c. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.

- d. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

4. Line-ups

- a. Conducting the Line-up
 - i. Live line-ups shall be conducted using a blind administrator.
 - ii. Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
- b. The primary investigating officer is responsible for the following:
 - i. Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
 - ii. Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if he or she is incarcerated at a detention center.
- c. Making arrangements to have persons act as fillers.
- d. Ensuring that the suspect's right to counsel is scrupulously honored and that he or she is provided with counsel if requested. Obtaining proper documentation of any waiver of the suspect's right to counsel.
- e. Allowing counsel representing the suspect sufficient time to confer with his or her client prior to the line-up and to observe the manner in which the line-up is conducted.

145.05 References

Sequential Photo Display Form

This Section 145 adopted pursuant to Resolution #1463/20 on October 21, 2020.

Sequential Photo Display Form

SEQUENTIAL PHOTO DISPLAY FORM (Witness Side)

Dept.: _____ C.N.: _____ OFFENSE: _____ Lineup ID# _____

WITNESS: _____ DOB _____ ADMINISTRATOR: _____

DATE: _____ TIME: _____ INVESTIGATOR ASSIGNED: _____

READ TO WITNESS BEFORE PHOTO DISPLAY:

___ 1. I am about to show you a set of photos. The person who committed the crime [or: _____] may or may not be included.

(SELECT ONE OF THESE OPTIONS AND READ.)

- ___ 2. (IA) I do not know whether the person being investigated is included **OR**
- ___ 2. (FE) I do not know the order of the photos.
- ___ 3. Even if you identify someone during this procedure, I will continue to show you all photos in the series.
- ___ 4. Keep in mind that a photo may be an old one. Some things, like hair styles, can be changed, and skin colors may look slightly different in photographs.
- ___ 5. You should not feel you have to make an identification. It is just as important to clear innocent persons as it is to identify the guilty. Whether or not you identify someone, the investigation will continue.
- ___ 6. You will see only one photo at a time. They are not in any particular order. Take as much time as you need to look at each one. You should avoid discussing this procedure or the results with any other potential witness in the case.

Please initial here if you understand these instructions. _____

(WITNESS TO INITIAL)

TO BE COMPLETED BY WITNESS AFTER PHOTO DISPLAY:

The sequential photo lineup I was shown consisted of ___ photos.

- I am unable to select any photo as being the person(s) who _____.
- I have selected photo(s) # _____ as the person who _____.

(IF SELECTION MADE) How certain are you of your identification?

_____ Date: _____ Time: _____

Witness signature

(Have witness sign and date any photo picked and attach to this report.)

SEQUENTIAL PHOTO DISPLAY FORM
(Administrator Side)

C.N. _____ **Witness:** _____ **Lineup ID #** _____
Administrator does does not know identity of suspect.

Instructions to administrator (READ BEFORE SHOWING PHOTO DISPLAY):

A sequential photo lineup must either be presented by an *independent administrator* [IA] (a person who does *not* know the identity of the suspect) or, if unavailable, a *functional equivalent* [FE] method must be used. Functional equivalent means (1) that the administrator cannot see and does not know the order of the photos and (2) that the witness knows the administrator does not know the order. Before beginning the photo display, determine which of these two methods is used (IA or FE), select the appropriate instruction # 2 and cross out the inapplicable # 2.

Fill out the case information on the top of the form. Read instructions on reverse side to witness and have witness initial at end. Show photos one at a time. Only one photo at a time may be visible. As each photo is displayed, ask "Is this the person who [insert crime]?" If yes, ask, "How certain are you of your identification?" Even if identification is made, continue showing remaining photos. After all photos have been displayed, repeat display ONLY if witness requests it. In any repeat, ALL photos must be displayed in the same sequence, even if the witness only requests to see a particular photo or photos again.

Ask witness to complete witness portion of the form and sign it. If any selection is made, have the witness sign and date the photo (or photos) selected. The photo display used must be preserved. (Attach copy to this form.) BE CAREFUL NOT TO PROVIDE ANY FEEDBACK TO WITNESS ON EITHER IDENTIFICATION OR NON-IDENTIFICATION.

After witness has completed witness portion of the form, complete administrator portion of the form. This includes asking the certainty question, administrator observations and number of times display was shown. Departmental policy may also require a standard supplementary report.

To be completed during and after photo display:

Comments made by the witness to any photograph during the photo display (note photo #):

(If identification made) How certain are you of your identification?

Additional observations by administrator (e.g., any physical response or other comments by witness):

Sequential lineup was shown once / _____ times
Date: _____ Time: _____

Administrator's signature

Have witness complete front side. Attach copy of photo display used. Have witness sign and date any photo picked.

146.00 PROMOTION PROCESS

146.01 PURPOSE

The purpose of this policy is to provide guidelines for promotion or reorganization within the police Department, and is designed as a guide for promotion or job duty changes to those currently employed with Fond du Lac Police Department. All new hires to the police department will need to follow FDL Human Resources policy and procedures for new employees.

146.02 DEFINITIONS

1. Chief shall mean the chief law enforcement officer.
2. Promotion positions shall include K9 officer, Sergeant, Investigator, lieutenant, office administrator.

146.03 RATIONALE

Certain positions within the police department (promotion positions) are critical positions and need staff with specific knowledge, training and experience.

146.04 PROCEDURES

- Promotion positions will be posted internally for 10 working days at the police department in a public location accessible to all staff.
- The chief will email all police department staff notifying them of the position and create a confidential list of all those interested in the position.
- A copy of the job description and eligibility requirements will be posted.
- If more than one person applies for a posted position, all eligible will be interviewed. If only one applicant signs up the chief may repost the position or appoint the only applicant to the position without further process.
- Members of the citizen review board will be requested to participate in the promotion process.

This Section 146 adopted pursuant to Resolution #1026/21 on January 27, 2021.

147.00 SMALL UNMANNED AERIAL SYSTEM (SUAS) OPERATIONS

147.01 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of a small Unmanned Aircraft System (sUAS) and for the storage, retrieval and dissemination of images and data captured by the sUAS.

147.02 DEFINITIONS AND ACRONYMS

Definitions related to this policy include:

1. **Crewmember (sUAS)** - A person assigned to perform an operational duty during operations. A sUAS crewmember includes the Remote Pilot in Command, Person Manipulating the Controls, Sensor Operator and Visual Observers, but may include the Program Coordinator, Chief Pilot or other persons as appropriate or required to ensure safe operation of the sUAS.
2. **Crew Resource Management (CRM)** - The effective use of all available resources including human, hardware, software, and information resources.
3. **CFR** - Code of Federal Regulations.
4. **FAA** - Federal Aviation Administration.
5. **FAR** - Federal Aviation Regulations.
6. **National Airspace System (NAS)** - The network of United States airspace: air navigation facilities, equipment, services, airports or landing areas, aeronautical charts, information/services, rules, regulations, procedures, technical information, manpower, and material. Included are system components shared jointly with the military.
7. **Person Manipulating the Controls** - A person who is controlling a sUAS under the direct supervision of a RPIC.
8. **Remote Pilot in Command (RPIC)** - A person who, through skill, training and knowledge, holds a remote pilot certificate with a small Unmanned Aircraft System (sUAS) rating issued by the FAA and has the final authority and responsibility for the operation and safety of a sUAS operation conducted under 14 CFR part 107.
9. **Safety Risk Management (SRM)** - A formalized, proactive approach to system safety. SRM is a methodology that ensures hazards are identified; risks are analyzed, assessed, and prioritized; and results are documented for decision makers to transfer, eliminate, accept, or mitigate risk.
10. **Scheduled Maintenance (Routine)** - The performance of maintenance tasks at prescribed intervals.
11. **Small Unmanned Aircraft System (sUAS)** - A small unmanned aircraft and its associated elements (including communication links and the components that control the small) that are required for the safe and efficient operation of the small unmanned aircraft in the NAS, including launch and recovery systems and equipment.
12. **Sensor Operator (SO)** - A sUAS crewmember that employs airborne sensors in manual or computer-assisted modes to actively and/or passively acquire, track and monitor airborne,

maritime and ground objects. Additionally, SO's may also be responsible for the associated duties of a VO, as briefed by the RPIC, if a VO is utilized or required for the mission.

13. **Unmanned Aircraft (UA)** - An Aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.
14. **Unscheduled Maintenance (Non-Routine)** - The performance of maintenance tasks when mechanical irregularities occur.
15. **Visual Line of Sight (VLOS)** - Means that any sUAS Crewmember is capable of seeing the aircraft with vision unaided by any device other than corrective lenses, spectacles or contact lenses, in order to know the sUAS's location, determine the UA's attitude, direction of flight, observe the airspace for other air traffic or hazards, and determine that the sUAS does not endanger the life or property of another.
16. **Visual Observer (VO)** - A person who is designated by the Remote Pilot in Command to assist the RPIC and/or the Person Manipulating the Controls of the sUAS to see and avoid other air traffic or objects aloft or on the ground.

147.03 POLICY

A sUAS may be utilized to enhance the police department's mission of protecting lives and property when other means and resources are not available or are less effective or when use of the sUAS will expedite operations and safeguard personnel. The police department's use of a sUAS will be for Public Safety types of operations to include training or any other reasonably applicable commercial operation covered by CFR 14 Part 107. Any use of a sUAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

147.04 PRIVACY

The use of the sUAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, sUAS operations shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy (e.g., residence, yard, enclosure). For example, reasonable precautions could include deactivating or turning the imaging viewing or recording devices away from such areas or persons during sUAS operations.

147.05 SUAS CREWMEMBERS

The sUAS program shall be comprised of sUAS Crewmembers assigned by the Director of Law Enforcement or designee including the RPIC, Person Manipulating the Controls, SO's and VOs, as well as other persons as appropriate or required to ensure safe operation of the sUAS.

1. ADMINISTRATION

The procedures/policies contained in this manual are issued by the authority of the Director of Law Enforcement. As such it is an official document of the Fond-du-Lac Police Department.

The procedures/policies are not intended to be all-inclusive, but as a supplement to other office guidelines and policies.

The procedures/policies have been written to address unmanned aircraft operations as they existed when the procedures/policies were drafted. Equipment, personnel, environment (internal and external), etc., change over time. The management of change involves a systematic approach to monitoring organizational change and is a critical part of the risk management process. Given this fact, it is essential that these procedures/policies be periodically updated as necessary. The entire procedures/policies will be reviewed annually to assure it is up to date. Any changes to the procedures/policies will be communicated expeditiously to all affected personnel.

A copy of this procedures/policies (electronic or paper) will be issued to every member having unmanned aircraft responsibilities. In addition, a copy of the procedures/policies will be present during all UAS operations.

2. ORGANIZATION

The FDLUAS Team will fall under the Director of Law Enforcement, Emergency Management Division and report to the Lieutenant and Director of Law Enforcement

FDLUAS Team members shall be comprised of personnel assigned by the Director of Law Enforcement or his/her designee and may include, pilots, visual observers and others deemed necessary. All pilots shall complete and pass the FM part 107 requirements.

Unmanned aircraft operations are under the command of the Director of Law Enforcement or his/her designee. Control and supervision of flight operations are hereby delegated to the trained pilots.

3. PERSONNEL

The Fond du Lac Emergency Management Director under the direction of the lieutenant and Director of Law enforcement is responsible for overall management and supervision of the operation, which includes budget preparation and control.

4. PROGRAM COORDINATOR

The Director of Law Enforcement may appoint a program coordinator who will be responsible for the management of the UAS program. If a sUAS Program Coordinator is not designated, these duties are delegated to the Emergency Management Director. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- a. Ensuring the sUAS models that are operated, leased or purchased are in compliance with FM regulations.
- b. Ensuring the sUAS is adequately registered (including timely renewals and updating of information) and marked, and that there is adequate proof of ownership.
- c. Ensuring that all sUAS models are properly registered with the Fond du Lac Insurance Policy.
- d. Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- e. Implementing a system for public notification of LIAS deployment.

- f. Coordinating the FAA Certificate of Waiver or Authorization application process and ensuring that the applicable Waivers or Authorizations are current.
- g. Ensuring that all authorized sUAS have completed all required FAA and office approved training in the operation, applicable laws, policies and procedures regarding use of the sUAS.
- h. Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require authorization of the Director of Law Enforcement or the authorized designee, depending on the type of mission
- i. Developing a procedure within this policy for the activation of the sUAS during all operational call-outs for both on and off of the Fond du Lac Reservation requests.
- j. Developing a protocol to fully document all missions.
- k. Developing an operational protocol governing the deployment and operation of a sUAS including, but not limited to, safety oversight, use of Visual Observers, establishment of lost link procedures and communication with air traffic control facilities.
- l. Developing a sUAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a sUAS, up to and including its overhaul or life limits.
- m. Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody
- n. Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- o. Facilitating law enforcement access to images and data captured by the sUAS.
- p. Recommending program enhancements, particularly regarding safety and information security.
- q. Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Director of Law Enforcement.

5. CHIEF PILOT

The Director of Law Enforcement may designate, up to two pilots to act as Chief Pilot, who shall be subordinate to the sUAS Program Coordinator. If Chief Pilot is not designated, the following duties will be delegated to the sUAS Program Coordinator or Emergency Management Director. The Chief Pilot will be responsible for coordinating training and to assist the Program Coordinator as designated. Additional duties of the Chief Pilot include:

- a. Ensuring that all sUAS Crewmembers understand applicable regulatory requirements, standards and organizational safety policies and procedures.

- b. Ensuring that all sUAS Crewmembers are aware of and remain vigilant to the Office's safety culture.
- c. Ensuring that sUAS Crewmembers are consistently following any and all sUAS established standardized operational procedures.
- d. Evaluating sUAS Crewmember performance to ensure compliance with organizational goals, objectives and regulatory requirements.
- e. Reviewing any and all sUAS established standardized operational procedures, to maintain the highest level of safety.
- f. Reviewing sUAS safety related material with all sUAS Crewmembers at least once per year.

6. **REMOTE PILOT IN COMMAND (RPIC)**

A person who holds a remote pilot certificate with a small Unmanned Aircraft Systems (sUAS) rating and has the final authority and responsibility for the operation and safety of a sUAS operation conducted under 14 CFR part 107.

- To be considered for selection as a RPIC, applicants must meet any requirements imposed by the Director of Law Enforcement.
- A RPIC's primary duty is the safe and effective operation of the sUAS within the National Airspace System (NAS) in accordance with the manufacturers' approved flight manual, FAA regulations, any approved certificates of authorization or waivers, and all the Police Department's policies and procedures applicable to the drone program.
- Pilots must maintain a current FM Remote Pilot Certificate, the cost of which may be reimbursed by the Police Department.
- In order for a RPIC to fly a mission, the RPIC should have completed three (3) currency events within the previous 90 days. A currency event can be a training flight or a mission flight, but must include a takeoff and landing.
- Pilots may be temporarily or permanently removed from flight status at any time by the Director of Law Enforcement or designee for reasons such as performance, proficiency at operating the sUAS or any other reason deemed appropriate by the Director of Law Enforcement or designee.

7. **SENSOR OPERATORS (SO)**

The Sensor Operator is a sUAS crewmember that employs airborne sensors in manual or computer-assisted models to actively and/or passively acquire, track and monitor airborne, maritime and ground objects. Additionally, SO's may also be responsible for the associated duties of a VO, as briefed by the RPIC. Additional duties of the SO also include:

- a. Maintaining responsibility for the law enforcement aspect of the mission.
- b. Assisting the RPIC in maintaining visual situational awareness of the airspace and

surrounding area and advising the RPIC of any imminent hazards such as other aircraft, terrain, and adverse weather conditions.

- c. Operating the sUAS's payloads such as cameras and thermal imagers in addition to handling all radio communications between ground units and dispatch.
- d. Remaining alert for suspicious persons or activities on the ground and coordinate response by ground units.
- e. Avoiding unnecessary communications with the RPIC during takeoff and landing.
- f. Acting as the custodian of evidence. In this capacity, the SO is responsible for the safeguarding and proper processing of any evidence including, but not limited to, digital imagery to include still and video images.

8. VISUAL OBSERVER (VO)

The Visual Observer is responsible for assisting the RPIC and/or the person manipulating the flight controls with scanning the airspace surrounding sUAS operations in order to identify hazards and maintain Visual Line of Sight-(VLOS) of the sUAS. Additional duties of the VO will include:

- a. A VO must maintain effective communication with the RPIC and/or the person manipulating the flight controls of the sUAS at all times.
- b. The VO will assist the RPIC in maintaining situational awareness of the airspace and surrounding area through direct visual observations and advise the RPIC of any imminent hazards such as other aircraft, terrain and any adverse weather conditions.
- c. The VO shall remain alert for suspicious persons or activities on the ground and coordinate a response by ground units.
- d. The VO will avoid unnecessary communications with the RPIC during takeoff and landing.

147.06 USE OF SUAS

Only certified RPIC's who have completed the required training shall be permitted to operate the sUAS, unless a pilot is training to acquire a sUAS RPIC certificate, and is operating directly in the presence of and under the authority of a current RPIC.

The sUAS may be used in the following situations without a search warrant as long as the mission meets one of the exceptions to the search warrant listed below:

- 1. During or in the aftermath of an emergency situation that involves the risk of death or bodily harm to a person.
- 2. Over a public event where there is a heightened risk to the safety of participants or bystanders.
- 3. To counter the risk of a terrorist attack by a specific individual or organization if the agency determines that credible intelligence indicates a risk.
- 4. To prevent the loss of life and property in natural *or* man-made disasters and to facilitate operational planning, rescue, and recovery operations in the aftermath of these disasters.

5. To conduct threat assessment in anticipation of a specific event.
6. To collect information from a public area if there is reasonable suspicion of criminal activity.
7. To collect information for crash reconstruction purposes after a serious or deadly collision occurring on a public road.
8. Over a public area for officer training or public relations purposes.
9. For purposes unrelated to law enforcement at the request of a government entity provided that the government entity makes the request in writing to the law enforcement agency and specifies the reason for the request and proposed period of use.

A search warrant must be obtained for any flights that are not covered by one or more of the above exceptions.

147.07 SEARCH WARRANTS

1. sUAS aerial operations that do not meet one or more of the exceptions to the search warrant requirement listed above must get a search warrant. The search warrant affidavit must include the following as a "data collection statement":
 - a. The persons that will have the power to authorize the use of the sUAS;
 - b. The locations in which the sUAS will operate; and
 - c. Whether the sUAS will collect information or data about individuals or groups of individuals, and if so:
 - d. The circumstances under which the sUAS will be used.
2. The search warrant return must indicate whether electronic communication information was or was not collected during the time frame the sUAS was utilized.
3. A sUAS RPIC should use caution when flying over populated areas and should never fly the sUAS directly over people unless an approved FAA waiver is granted, otherwise, the parameters identified in 14 CFR Part 107 are to be followed.
4. Operators must check for Temporary Flight Restrictions (TFR) prior to deployment, of any sUAS operation.
 - Federal Aviation Administration's website for TFR restrictions: <http://tfr.faa.gov/tfr2/list.html>

147.08 ACTIVITY REPORTING PROCEDURES

The Fond du Lac sUAS Pilots must document each use of a sUAS, record an incident case number, provide a factual basis for the use of a sUAS, and identify the applicable exception listed within the Use of sUAS section of this policy unless a warrant was obtained.

All flight activities will be documented in the aircraft logbook and within the FDLPD Flight Log. Search warrant compliance flights will also be added as part of the case file and submitted to the proper courts within established timelines

Annual record of deployments and training will be provided to the Program Coordinator, Emergency Management Director, Lieutenant, and Director of Law Enforcement.

147.09 PROHIBITED USE

- a. The sUAS must comply with all Federal Aviation Administration requirements and guidelines.
- b. A sUAS must not be deployed with any facial recognition or other biometric-matching technology unless expressly authorized by a warrant.
- c. A sUAS must not be equipped with weapons.
- d. The sUAS must not be used to collect data on public protests or demonstrations unless expressly authorized by a warrant or an exception listed under the Use of sUAS section.

147.10 DATA COLLECTION MINIMIZATION

In order to safeguard the privacy of the citizens we serve, collection of data that includes such things as, digital photographs, digital video, infrared images, and sound recordings will be limited to the extent necessary to accomplish the current mission.

147.11 DATA STORAGE

1. Data collected by a sUAS are private data on individuals or nonpublic data, subject to the following:
 - a. The individual requests a copy of the recording, data on other individuals who do not consent to its release must be redacted from the copy.
 - b. sUAS data may be disclosed as necessary in an emergency situation under the Use of sUAS section of this policy: concerning the aftermath of an emergency situation that involves the risk of death or bodily harm to a person.
 - c. sUAS data may be disclosed to the government entity making a request for a sUAS, under the Use of sUAS section of this policy.
 - d. sUAS data that are criminal investigative data are governed by section 13.82, subdivision 7.
 - e. sUAS data that are not public data under other provisions of chapter 13 retain that classification.

- f. Section 13.04, subdivision 2, does not apply to data collected by a sUAS.
 - g. Notwithstanding section 138.17 the data collected by a sUAS must be deleted as soon as possible, and in no event later than 7 days after collection unless the data is part of an active criminal investigation.
- 2. sUAS Crewmembers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during sUAS operations.
 - 3. Only data that meets legitimate training objectives, or has evidentiary value, will be retained after the mission has been concluded. Said data will be safeguarded so as to protect the privacy of citizens who may be depicted in the data. Once this data is collected by the sUAS, it shall be retained as provided in the established records retention schedule. The RPIC or a sUAS Crewmember designated by the RPIC, is responsible for safeguarding and deleting data as required.

147.12 REPORTING

- 1. By January 15 of each year, each law enforcement agency that maintains or uses a UAV shall report to the commissioner of public safety the following information for the preceding calendar year:
 - a. The number of times a sUAS was deployed without a search warrant issued under this policy identifying the date of deployment and the authorized use of the sUAS under the exceptions listed in the Use of sUAS section of this policy.
 - b. The total cost of the agency's sUAS program.
- 2. By June 15 of each year, the commissioner of public safety shall compile the reports submitted to the commissioner under paragraph (1), organize the reports by law enforcement agency, submit the compiled report to the chairs and ranking members of the senate and house of representatives committees having jurisdiction over data practices and public safety, and make the compiled report public on the departments website.
- 3. By January 15 of each year, a judge who has issued or denied approval of a warrant under this section that expired during the preceding year shall report to the state court administrator:
 - a. That a warrant was applied for.
 - b. The type of warrant or extension was applied for.
 - c. Whether the warrant or extension was granted as applied for, modified, or denied.
 - d. The period of sUAS use authorized by the warrant and the number and duration of any extensions of the warrant.
 - e. The offense specified in the warrant or application or extension of the warrant.

- f. The identity of the law enforcement agency making the application and the person authorizing the application.
4. By June 15 of each year, the state court administrator shall submit to the chairs and ranking minority members of the senate and house of representatives committees or divisions having jurisdiction over data practices and public safety and post on the supreme court's website a full and complete report concerning the number of application for warrants authorizing or approving the use of sUAS or disclosure of information from the sUAS under this policy section and number of warrants and extensions granted or denied under this section during the preceding calendar year. This report must include a summary and analysis of the data required to be filed with the state court administrator under paragraph (3).

147.13 SUAS CALL-OUT PROCEDURES OCCURRING INSIDE THE FOND DU LAC RESERVATION

For internal requests and requests from other agencies for sUAS support that are made through the Carlton County and St. Louis County Communications Center, the Communications Center will contact an on-duty Fond du Lac Supervisor to advise them of the sUAS request.

An on duty Fond du Lac Supervisor who receives a sUAS request directly or via Communications will then make contact with any known sUAS pilots who are working.

If there is a sUAS pilot working during the time of the request, the on duty supervisor will advise them of the request and the pilot will refer to the "Internal sUAS Request" flow sheet.

If there is not a sUAS pilot working during the time of the request, the on duty supervisor will ask the Communications Center to send an Everbridge page to the sUAS group to notify them of the request.

It is expected that any sUAS RPIC, upon acknowledging the page will then refer to the "Internal sUAS Request" flow sheet.

The assigned sUAS RPIC is responsible for conducting a mission feasibility and risk assessment. It is expected that the RPIC will utilize the "Dispatch sheet" and "Fond du Lac sUAS Risk Assessment Worksheet" to aid in their decision making.

147.14 SUAS CALL OUT PROCEDURES OCCURRING OUTSIDE OF THE FOND DU LAC RESERVATION

Planned or non-emergent UAS operations leaving the jurisdictional boundaries of Fond du Lac need the specific approval of the Emergency Management Director, Lieutenant, and/or Director of Law Enforcement.

Emergent UAS operations leaving the jurisdictional boundaries of the Fond du Lac can be approved by the Lieutenant or a Sergeant from the Fond du Lac Police Department. The Lieutenant or Director of Law Enforcement must be notified of the request. If the request is approved, the

FDLUAS team will be contacted for the mission. After a 6-hour operational period the operation/mission will be evaluated to determine if potential billing for reimbursement is necessary. This may include: time, lodging, and travel expenses.

147.15 GENERAL OPERATING PROCEDURES

1. MINIMUM FLIGHT CREW REQUIREMENTS

sUAS Crewmembers are responsible for safely operating the sUAS in the National Airspace System (NAS) by maintaining a Safety Risk Management (SRM) mindset and identifying any potential hazards in order to mitigate the risk associated with operating the sUAS.

To best achieve the objectives of the operational mission and to minimize the risk associated with sUAS deployments, at least two sUAS Crewmembers should be present at all sUAS deployments if using a department/EOC approved sUAS, one of the sUAS Crewmembers must be a current RPIC. One sUAS crew member who is a current RPIC is sufficient to operate a Mavic Enterprise or Mavic Enterprise Dual as long as the RPIC appoints a Visual Observer to assist in the flight, by watching for other air traffic and any other hazardous objects, while keeping the sUAS in visual line of sight.

2. REMOTE PILOT IN COMMAND

A person who holds a current remote pilot certificate with a small Unmanned Aircraft Systems (sUAS) rating and meets currency and proficiency requirements. The RPIC has the final authority and responsibility for the operation and safety of a sUAS operation conducted under 14 CFR part 107 or associated waivers.

- a. RPICs have absolute authority to reject a flight based on weather, aircraft limitations, physical condition or other safety considerations. No member of any law enforcement agency, regardless of rank, can order a RPIC to make a flight when, in the opinion of the RPIC it cannot be done safely. In the event a requested flight is not made for any of the above reasons, then the RPIC shall notify the Program Coordinator.
- b. Unmanned Aircraft (UA) control, navigation and communications, in that order, are the RPIC primary objectives required to safely operate a sUAS in the NAS.
- c. RPICs are responsible for ensuring compliance with the contents of this policy, Federal Aviation Regulations, Letters of Agreement, Certificates of Authorization and Waivers.
- d. RPICs or their designee shall handle communications with air traffic control (ATC), other aircraft and anyone else necessary, during the operation of a sUAS.
- e. RPICs shall utilize effective Crew Resource Management (CRM) and decision-making skills during all phases of sUAS operations, being mindful of the requests of others in order to accomplish the mission objectives, but without compromising the safety of the flight.

3. CREW RESOURCE MANAGEMENT

Crew Resource Management (CRM) is the effective use of all available resources including human, hardware, software, and information resources.

- a. The RPIC and other assigned sUAS Crewmembers shall utilize effective Crew Resource Management (CRM) and decision-making skills during all phases of sUAS operations, being mindful of the requests of others in order to accomplish the mission objectives, however, never compromising the safety of the flight.
- b. In the interest of safety, both the RPIC and other assigned Crewmembers must be comfortable with any decision made while working together as a crew. This process begins when deciding whether to accept a mission and continues throughout the entire mission. If the RPIC and other assigned Crewmembers are unable to continually mitigate the identified hazards associated with the flight to a level of acceptable risk that satisfies both of them, the mission should not be accepted or it should be immediately terminated. If this occurs then the RPIC shall notify the Program Coordinator.
- c. Federal Aviation Regulations Part 107 clearly indicates that the RPIC has the final authority and responsibility for the operation and safety of a sUAS operation. The CRM model required by this policy aims to foster a climate or culture where authority may be respectfully questioned. CRM focuses on interpersonal communication, leadership, and decision making during sUAS operations.

4. TRAINING

One of the many identified factors related to establishing and maintaining a safe and effective sUAS operation is maintaining a high level of aviation knowledge and sUAS operational competency to remain proficient. This process can be started by establishing a selection process that identifies minimum qualifications for sUAS Crewmembers.

5. TRAINING PLANS

The chief pilot or their designee will formulate a training plan for each sUAS unit training session. Training objectives will vary depending on whether the sUAS Crewmember is new to the sUAS program or an experienced sUAS Crewmember.

- a. New sUAS crewmember lessons will focus on the Role and Understanding levels of learning: ie demonstrating the ability to repeat something taught or being able to grasp the nature or meaning of something, however it may not enable the person to do something correct the first time.
- b. Experienced sUAS crewmember lessons will primarily focus on the application and correlation levels of learning: i.e. scenario-based learning, such as putting something to use that has been learned and understood and is reached by practice or relating something taught to another procedure, concept, or maneuver.

- c. Training lesson plans should utilize all levels of learning to some degree and the objectives should be challenging to sUAS Crewmembers increasing their overall knowledge and operational competency and proficiency necessary to perform safe sUAS operations.

6. INITIAL TRAINING

All sUAS Crewmembers will be assigned to, or attend a training curriculum related to their sUAS position. Applicants are expected to successfully complete all associated training tasks related to such things as licensing and certification that are associated with their particular sUAS Crewmember responsibilities.

All initial RPIC applicants will receive their flight and ground training, for each make and model of sUAS to be operated, from a Factory Authorized Instructor or a Fond du Lac RPIC who is "current" on the particular make and model of sUAS.

Any new sUAS Crewmembers who fail to successfully complete initial training and pass their associated tests, (i.e., FAA remote Pilot operating license) are subject to removal from the sUAS unit.

7. RECURRENT TRAINING

Recurrent training for all RPIC, SO and VO positions will be conducted no less than four (4) times each calendar year. The sUAS Unit's Chief Pilot or their designee is responsible for organizing these training sessions.

- Trainings will emphasize safety, respect for the law and citizens' privacy, crew resource management, "lessons learned" in previous deployments, Safety Risk Management (SRM), ACS related material and the efficient completion of public safety missions.
- All RPIC's should complete three (3) currency events within the previous 90 days utilizing the specific make and model of sUAS. A currency event minimally should include a takeoff and landing.
- RPIC's who experience a lapse in currency should perform their currency events under the supervision of a current sUAS RPIC. Lapsed currency flights may be in support of an actual public safety mission if the RPIC, based upon their prior experience, believes the flight can be accomplished safely. All flights necessary to demonstrate pilot currency will be recorded in the pilot's sUAS logbook.
- Recurrent training is not limited to actual pilot skills, but includes knowledge of all pertinent sUAS material.

Failure to demonstrate proficiency may result in removal from the sUAS Unit.

147.15. OPERATIONAL DISPATCH

Prior to beginning a sUAS flight activity, at least two sUAS Crewmembers should agree that the flight can be conducted safely. Whenever possible, one of the members should be at a location other than the flight operations location. In the event that at least two sUAS Crewmembers fail to agree, after reasonable discussion, that the flight can be conducted safely, the RPIC shall decide whether to proceed with the flight.

1. PHYSICAL ASSESSMENT

Preflight planning begins with the RPIC, SO and VOs self-assessment at their physical condition.

If a sUAS Crewmember determines that they are unable to perform their associated duties, the sUAS Crewmember will decline the mission. If this occurs, then the RPIC shall notify the Program Coordinator.

2. PREFLIGHT PLANNING

Thorough preflight planning and inspections are critical to the safe and efficient operation of sUAS in the NAS and shall be completed according to applicable manufacturer recommendations, sUAS flight manuals, FAA regulations, policy and procedures, any approved Waivers, Notices to Airmen (NOTAMS), TFRs, and current industry best practices.

The RPIC shall become familiar with all available information affecting the flight and ensure that all required and/or applicable FAA notifications have been made prior to conducting any sUAS flight operation.

3. GROUND SAFETY

The RPIC, SO and VO must be constantly aware of dangers to ground personnel from rotating propeller or rotor blades.

The RPIC will not under any circumstances leave any unauthorized person in charge of the sUAS controls while the motor is running. If it is necessary for the RPIC to leave the sUAS, the motor will be shut down and the controls will be deactivated.

Only mission essential sUAS Crewmembers will be in proximity to sUAS launch and recovery activities.

The sUAS launch and recovery areas are considered "Sterile Communication Areas."

When operating over populated areas, the RPIC will ensure, when feasible that a "defined incident perimeter" exists. The RPIC will make efforts to avoid flying directly overhead of people, unless they are inside structures or parked vehicles which will limit the potential injury in the event of sUAS failure.

4. **BEFORE TAKEOFF CHECKLIST**

After the RPIC has completed the associated Preflight Planning Checklist items but, before the sUAS flight, they will complete the Before Takeoff Checklist. The Before Takeoff Checklist will contain items applicable to the manufacturer recommendations, sUAS flight manuals, gimbals and sensor manuals, and current industry best practices or other.

The Before Takeoff Checklist should be conducted as "do items" and utilize a CRM challenged response.

If during the course of the preflight planning or before takeoff checklist, any mechanical discrepancy is found, refer to **MAINTENANCE** section below.

5. **FLIGHT LIMITATIONS**

Unless an FAA approved Certificate of Authorization or Waiver has been granted the FAR Part 107 limitations apply.

6. **GROUND HANDLING**

The RPIC is responsible for operation of the sUAS in the air and on the ground. RPIC will ensure that no unauthorized items are attached to the sUAS prior to its movement. The RPIC will ensure that adequate clearance is maintained during sUAS movements.

Upon "Re-packing" of the sUAS the RPIC will ensure that all items are returned to their proper place. A Post Flight Check List shall be used to ensure accountability of each piece of equipment.

7. **POST FLIGHT RESPONSIBILITIES**

A thorough inspection will be conducted of the sUAS immediately after the completion of the mission to ascertain if any damage was sustained during the operation.

If necessary, the aircraft will be serviced so that it is immediately available for the next flight. Necessary entries will be made into the aircraft flight log and appropriate reports will be completed. Batteries will be placed on charge to ensure their operability for future flights.

Broken parts will be red tagged and the entire team will be notified if the sUAS is "out of service."

8. **DOCUMENTATION**

All sUAS flights will be noted in the Unmanned Aircraft (UA) logbook and documented in the Fond du Lac Police Department sUAS Flight Log.

147.16 MAINTENANCE

A Properly maintained sUAS is essential to safe operations. Compliance with manufacturer's scheduled maintenance, preflight inspections and immediate repair of mechanical problems ensure the availability and safety of unmanned aircraft.

1. **DEFINITIONS FOR MAINTENANCE SECTION**

- a. Scheduled Maintenance (Routine)-The performance of maintenance tasks at prescribed intervals based upon the manufactures recommendations or current sUAS best industry practices.
- b. Unscheduled Maintenance (Non-routine)-The performance of maintenance tasks when mechanical irregularities occur.
- c. In accordance with the Federal Aviation Regulations (refer to FAR Part 43.3), pilots can perform preventative maintenance.
- d. Software, hardware and firmware updates will be documented in the Aircraft Maintenance Logs.

AU preventative, scheduled and unscheduled maintenance conducted on the sUAS will be logged into an Aircraft Maintenance Log which will be kept in the sUAS storage case.

2. **MAINTENANCE OFFICER**

Two sUAS Crewmembers will be designated as the Maintenance Officers. The Maintenance Officer shall coordinate software, hardware, firmware updates, and scheduled, unscheduled and preventative maintenance for the Fond du Lac Police Department Unmanned Aircraft-(UA). This assignment will be in addition to other assigned duties:

- a. If possible, maintenance will be scheduled when it will have the least impact on operations.
- b. The Maintenance Officer shall maintain the Aircraft Maintenance Log.
- c. The Maintenance Officer, Chief Pilot and Program Coordinator shall prepare the annual budget request for maintenance related needs each year.
- d. When parts need to be ordered, the Maintenance Officer will contact the Program Coordinator and Chief Pilot.
- e. The RPIC maintains absolute authority in determining if the sUAS is in airworthy condition.

3. **DISCREPANCY REPORTING SYSTEM**

For minor problems not affecting the sUAS airworthiness, note the discrepancy in the Aircraft Maintenance Log, complete a maintenance discrepancy form and notify the Chief Pilot and Maintenance Officer.

For major problems affecting the sUAS airworthiness, note the problem in the Aircraft Maintenance Log, complete a maintenance discrepancy form and affix a "Not Airworthy" placard to the sUAS case indicating that the aircraft is not airworthy. Also notify the Program Coordinator, Chief Pilot, Maintenance Officer, Lieutenant, Director of Law Enforcement, EOC Director, and text the Drone text group.

This Section 147 adopted pursuant to Resolution #1043/22 on January 19, 2022.

APPENDICES

**Terminal Agency
Coordinator
(TAC)
Responsibilities
With Minnesota
Bureau of
Criminal
Apprehension
(MN BCA)**

Agency TAC Responsibilities

The FBI's National Crime Information Center (NCIC) requires the Minnesota Bureau of Criminal Apprehension (BCA) train and certify those who use the Criminal Justice Date Communications Network (CJDN) terminals in Minnesota and manage the use of CJIS/NCIC networks within the state. To help the BCA manage the employees to serve as its Terminal Agency Coordinator (TAC). This individual will function as the liaison between the host agency and the BCA. Because the TAC is responsible for ensuring that his/her agency complies with CJIS and NCIC policies and procedures, he/she should be knowledgeable in all aspects of CJIS/NCIC and also have the authority to implement changes and oversee the use of these systems.

The following is a list of the basic responsibilities for the Terminal Agency Coordinators. Please note that the areas identified in this document comprise the core of the NCIC Compliance audit Program. The list is not intended to be all encompassing. When the BCA CJIS trainers audit a terminal agency they focus on each of these items in order to evaluate the agency's adherence to CJIS and NCIC polices.

CJDN pre-employment screening

Ensure that all prospective employees and other personnel, **this includes employees of the Police Department, cleaning staff, and MIS (computer staff)** that will be given unescorted access to the Criminal Justice Terminal and Criminal Justice Information are screened according to the NCIC CJIS Security Policy. This includes running criminal history checks and fingerprinting those individuals within 30 days using the applicant fingerprint cards and forwarding them to MNJIS – Ident Unit at the following address:

Minnesota BCA
Identification Section
1430 Maryland Ave E
St Paul, MN 55106

Certification and Training

All terminal operators including the agency TAC must be certified by the BCA within six months after their initial assignment that involves the use of the CJIS terminal. This requirement includes part time employees. Also, all sworn enforcement personnel must receive basic training in CJIS/NCIC matters within 12 months of the employment. Agencies have a vested interest in requiring their new terminal operators study and learn the fundamentals of CJIS and NCIC as soon as possible. Requiring new employees to be state certified within their first six months serves as a tangible goal and quantifiable measure of their potential. Consequently, a new employee's ability or inability to become certified will assist the agency in deciding whether or not the new hire to be kept in a terminal operator position. Agency personnel can be enrolled in the certification course by the contacting the CJIS Training and Auditing Unit.

1. TAC State Certification – The TAC for all terminal agencies must be certified at the appropriate level by the completing the required training and passing the state certification exam. Certification must be renewed every two year. The TAC at a full access agency must certify as a full access operator while the TAC at a query only agency may certify as query only operator.
2. Full Access Operator State Certification – All full access operators are certified after completing the Basic Terminal Operator's Course and passing the state certification exam. Operator certification is kept current by passing the state full access recertification every two years.
3. Query Only Operators In house or State Certification – All query only operators can be certified after having complete an in house training and certification program or by completing online training and passing the appropriate sate query only exam (s). If an agency decides to provide in house training it must be document in the training and test the proficiency of the operators. Operator's certification is kept current by being retested in house or passing the sate query only recertification exam(s) every two years.
4. Sworn law Enforcement Personal – All sworn law enforcement officers must receive initial training in CJIS/NCIC matters within 12 months to ensure effective use of the system and compliance with CJIS/NCIC policy and procedures. They must also receive continuing access to information

concerning CJIS/NCIC systems using such methods as roll call and in service training. This applies regardless of whether or not the officers have access to CJDN.

The agency TAC must ensure each of the following training and certification requirements are met:

- All operators become certified within six months
- Provide CJIS/NCIC training for all Query-Only terminal operators and certify them or ensure they take the appropriate online training and state certification exam
- Provide Mobile Digital Terminal/Computer (MDT/MDC) training for sworn officers when applicable.
- Document all CJDN related training that agency personnel including sworn officers receive and provide this documentation to the CJIS Trainers at the time of the agency's compliance audit.

Physical Security

All terminal agencies are responsible for enforcing system security standards. This includes physical and technical security as well as personnel screening.

The TAC must ensure that all CJDN terminals are in secure locations not visible to the public and access to these areas are restricted to the minimum number of employees needed to complete the work.

The TAC must ensure all visitors to CJDN terminal areas are accompanied by authorized agency personnel at all times. Anyone who has unescorted access to the CJDN terminals must have a fingerprint based state and national criminal history background check completed. This would include cleaners, vendors, contractors, volunteers, interns, MIS and etc.

All personnel who will be accessing the CJDN must also be screened according to the NCIC CJIS Security Policy. This policy requires a criminal history background check that includes the submission of the FBI "applicant" fingerprint cards to the BCA. **This policy applies to Information Technology (IT/MIS) employees who maintain the CJDN as well as terminal operators.** Anyone with a felony conviction is not allowed to access the CJDN. Individuals with an arrest history of felony or gross

misdemeanor offenses are not allowed access to the CJDN until the BCA has decided whether or not access is appropriate. Agencies should also screen employees having unescorted access to record storage using the same background described above.

The terminal should be in non public place and locked up when not in use or no one around.

Hit Confirmation

Agencies that enter records into CJIS/NCIC must be available for Hit Confirmation 24 hours a day, every day of the year. These agencies must be able to respond within 10 minutes to an urgent confirmation request. Non 24 hour agencies must enter wither the ORI or the telephone number including area code of the agency responsible for responding to a hit confirmation in MISC field of their records.

NCIC policy also requires an agency receiving a hot on another agency's CJIS/NCIC record contact the entering agency to confirm that the record is accurate and up to date prior to taking action on that record. Non 24 hour agencies may have another agency contact the entering agency.

The TAC must ensure that all terminal operators are trained on the agency's hit confirmation policy and procedure. The TAC must also ensure supporting documents such as the case file for CJIS and NCIC record entries are available 24 hours a day and retrievable within 10 minutes.

The policy and procedure for a hit confirmation is as follows:

To confirm a hit with the Fond du Lac Police Department is to contact the entering agency. That is either St. Louis County or Carlton County. As the Fond du Lac Police is not open 24 hours a day and have signed holder of record agreements with St. Louis and Carlton County.

Second Party Checks

An agency that enters a record is primarily responsible for that records completeness, timeliness, and accuracy. Accuracy is greatly increased when **second party checks**

are performed on all Hot Files entries. A second party check occurs when the terminal operator ensures that another person compares the data entered into NCIC/CJIS with the information found in the case file.

This second party check is documented on the hot file entry by having the second party sign off the record printout which should be retained in the agency case file. This is an in house quality control measure that is helpful in detecting record entry errors. Agencies lacking support staff for this second party check should require the case officer check the record, as he or she carries primary responsibility for seeking the fugitive or stolen property.

The TAC is responsible for ensuring all terminal operators complete second party check on the records they have entered.

The policy and procedure for second party checks:

Fond du Lac Police Department has on file with St. Louis County and Carlton County a holder of record agreement. According to the agreement Carlton County will enter, complete second party checks and clear. With St. Louis County they will enter and clear. The second party checks on records entered by St. Louis County are completed by comparing the record to information contained in the case file.

Record Entries

An agency that is not operating 24 hours each day but enters records into CJIS and NCIC must include in the miscellaneous field the ORI or phone number including the area code of the agency which is responsible for hit confirmations after normal business hours, such as St. Louis County and Carlton County.

An agency that enters CJIS/NCIC records for other agencies, (such as non 24 hour agencies that do not have a CJIS terminal), must have a signed **holder of record agreement** on file with those agencies. This agreement will identify which agency is responsible for:

- Entering and updating records

- Hit Confirmation
- Removing the record

Quality Control

The TAC must ensure all quality control messages from CJIS/NCIC are reviewed and corrections are made as soon as possible. The TAC must also relay any information received from the FBI and /or BCA that is pertinent to terminal operators.

Validation

Validation takes place 60-90 days from the date of entry and annually thereafter. Entering agencies shall use the online validation program from the BCA containing CJIS and NCIC Hot File records. The entering agency must validate all records contained in the online validation program. Validation requires the entering agency verify:

- There is a case file for all records found in the online validation program, or the agency has removed the records as the records are no longer current.
- That all remaining records contain all available information found in their respective case files. The agency should run pertinent inquiries to determine if more current information is available and update the records accordingly.
- For wanted persons validations, the agency must consult the court or prosecutor to verify that the warrant is still active and the extradition limits have not changed.
- For missing persons validations, the agency may contact the compliant by phone or letter to verify the individual has not been found or returned on his/her own.
- For stolen property validations, the agency must contact the owner or insurance company by phone or letter to verify the property has not been recovered.
- All validation attempts should be noted in the case file.
- After validating all the records identified in the online validation program, the TAC must ensure that their certification letters are signed and returned within

a specified time to the BCA CJIS Help desk. If the BCA CJIS help desk does not receive a certification response from the entering agency, then all records contained in the online validation program for the agency will be canceled from the system.

Computerized Criminal History (CCH/III) Records

The TAC must ensure that all agency personnel are aware that BCA Computerized Criminal History (CCH) information and FBI interstate Identification Index (III) information is confidential and that restrictions apply to the purpose for which it can be requested and disseminated. The agency should only allow criminal history access to those operators who have a legitimate need.

The agency must have a record of any secondary dissemination of criminal history records. This can be done by entering the ORI of the requesting agency in the ORI field of the criminal history inquires and the name of the person who will receive the information along with a case number or reason in the ATTN field or by manually documenting the name of the person and the agency that received the criminal history, the date and time of dissemination and subjects name and date of birth. Note that before an agency is authorized to receive criminal history information a signed **USERS AGREEMENT** must be on file between the agency and the BCA. The agency must contact the BCA CJIS help desk if unsure whether another agency is entitled to receive criminal history information.

The TAC must ensure that all CCH/III records which are not disseminated are destroyed when they are no longer needed. Shredding the CCH/III printouts protects the privacy of the subject and minimized the opportunity for litigation against the agency.

The TAC must ensure access to criminal history records is only granted to those terminal operators who have a legitimate need to that information. All terminal operators must be assigned their own CCH password and these must be changed every 180 days. The TAC must change these passwords by contacting the BCA CJIS Help desk.

Information derived from CJIS/NCIC is confidential information and is accessible only to authorized criminal justice agencies for legitimate criminal justice purpose

Careless use of CJIS/NCIC information can compromise cases, destroy reputations and violate the privacy of citizens. Intentional misuse of CJIS/NCIC system may lead to criminal prosecution. Any misuse of the CJDN or Criminal Justice Information will be handled in accordance with Department or Fond du Lac Band employee disciplinary policies.

CJIS/NCIC Manuals

The TAC must ensure that the agency terminal operators have access to current copies of the CJIS Operating Manual, NCIC Operating Manual and NCIC Code Manual. These manuals are available online through Portals. However because there may be times when the system is down, agencies should also have offline access to these manuals. Electronic versions of the manuals can be downloaded from the CJDN secure website at <http://www.dps.state.mn.us/cjdn/>

Standard Operating Procedures

The TAC must ensure the agency has written polices required by NCIC. These polices can be included in a Standard Operating Procedures manual (SOP). The agency must also have written procedures for CJIS/NCIC transactions that can be included in SOP.

The polices required by NCIC for all terminal agencies include:

- System Security
- Standards of Discipline for CJIS Policy Violators

Agencies that enter hot files also are required to have these policies:

- Second Party Checks
- Supporting Documentation for Hot Files
- Hit Confirmation
- Missing Persons
- Validation

Newsletters

The TAC must ensure that the CJIS Connection newsletter is reviewed by all agency personnel who access the CJIS terminal or receive information obtained through it. These newsletters can also be downloaded from the CJDN secure website <https://www.dps.state.mn.us/cjdn/>

Agency Changes/Operator Updates

The TAC must advise the BCA of any changes to the agency administrator, address, phone number or TAC assignment. These changes should be sent to the BCA on agency letterhead. The TAC must also enter/modify operators within Portals using Remote Administrator access.

CJDN Security Policy

Fond du Lac Police Dept

This document shall be considered the official CJDN Security Policy for Fond du Lac Police Dept regarding the physical and personnel security of the CJDN system. All staff must follow the policies contained herein. This will assure proper usage of the system and adherence to all local, state, and federal regulations that govern the use of the MNJIS computer system. The Terminal Agency Coordinator (TAC) for Fond du Lac Police Dept is Sheri Dupuis-Holshouser and Samantha Branley. The TAC manages the operation of the CJDN terminal on a local agency level and is responsible for ensuring that all state and local policies are enforced regarding the use of the CJDN terminal.

Access to CJDN System

Access to the CJDN shall be limited to employees who have been certified by the BCA to operate the terminal. Currently, at Fond du Lac Police Dept, this is limited to MTEXTPolice Officer, Investigator, Records Clerk and Office Administrator. All other personnel must make their Criminal Justice inquiries through the CJDN operators.

Staff having access to the CJDN system must meet the follow requirements:

- 1) Be an employee of Fond du Lac Police Dept.
- 2) Successfully pass a State and National fingerprint background check.
- 3) Be trained and certified within six months of hire and biennially thereafter.
- 4) Complete Basic Security Awareness Training within six months of hire or assignment and biennially thereafter.

New employees of the Fond du Lac Police Dept shall be fingerprinted within 30 days of employment or assignment and the fingerprint cards shall be sent to the BCA for a background check.

A potential new employee of the Fond du Lac Police Dept shall have a background check completed before they are hired. When running the criminal history on that person, the Purpose Code of "J" shall be used.

Fingerprint cards on CJDN operators are to be kept in a locked drawer by the Terminal Agency Coordinator. Fingerprint cards of the IT personnel will be kept in their personnel files at Fond du Lac Police Dept.

The TAC will issue a unique username and password to authorized users with access to the CJDN and Portal 100. Authorized users will be given a unique password to have access to criminal histories. That Criminal History Password will be changed by the TAC at least every 2 years. A list of these assigned passwords shall be kept by the TAC in a locked cabinet.

Training of Sworn Officers

NCIC requires that all sworn personnel must receive basic, formal MNJIS/NCIC training within the first 12 months of hire, and annual refreshers thereafter. All training of sworn officers must be documented. A sworn officer includes any licensed peace officer, whether employed at the city, county, state or federal level.

Fond du Lac Police Dept will meet this requirement by having all officers/deputies view the BCA's recorded training for MDT/MDC officers. The training is fifteen minutes long and will be viewed annually by sworn personnel. The Chief/Sheriff will provide the TAC with the required documentation for his/her records.

Security of Terminal

The CJDN terminal(s) and Criminal Justice Information for Fond du Lac Police Dept is/are maintained in a secure area. Only authorized personnel who have passed a State and National fingerprint background check are allowed unescorted access to the secure area(s).

All personnel who have direct responsibility to configure and maintain computer systems and networks with direct access to FBI CJIS systems must successfully pass a fingerprint based background check.

Criminal History responses, as well as all other CJDN printouts will be destroyed when no longer needed. These documents will be shredded at Fond du Lac Police Dept.

Discipline Policy for Misuse of CJDN Fond du Lac Police Dept

CJDN – The Criminal Justice Data Communications Network is the overall system, which provides criminal justice agencies computer access to data stored on state and national systems.

Inquiries into the motor vehicle registration, driver license, criminal history or any other file in the MNJIS/NCIC systems will be performed for criminal justice purposes only.

Any employee misusing information or obtaining information for other than official criminal justice purposes from the Criminal Justice Data Network will be subject to disciplinary action under Section 106.00.

When performing any file inquiries or making any entries into NCIC or MNJIS, it is important to remember that the data stored in MNJIS/NCIC is documented criminal justice information and this information must be protected to ensure correct, legal and efficient dissemination and use. The individual receiving a request for criminal justice information must ensure that the person requesting the information is authorized to receive the data. The stored data in NCIC and MNJIS is sensitive and should be treated accordingly, and unauthorized request or receipt of NCIC or MNJIS material could result in criminal proceedings.

When the Agency Administrator or the TAC becomes aware that an employee of Fond du Lac Police Dept is using a CJDN terminal, CJDN terminal generated information, CJDN equipment, or CJDN access not in accordance with agency policies, state policies, or NCIC policies and said problem is not deemed merely operator error, the Agency Administrator or his designee, or the TAC shall promptly address the violation.

The Agency Administrator or his designee shall meet with the person who is alleged to have violated the policy and determine appropriate sanctions, which may include any or all of the standard discipline policies currently in place at Fond du Lac Police Dept including verbal reprimand, written reprimand, suspension, or termination. Intentional misuse of the CJDN system is a serious violation and the BCA will be informed of such violations. If criminal behavior is believed to have occurred, appropriate agencies will be notified for further investigation.

The specific situation in each case of misuse of the CJIS system will be looked at, with all circumstances considered when determining disciplinary actions. Consideration will be given to the extent of loss or injury to the system, agency, or other person upon release or disclosure of sensitive or classified information to an unauthorized individual. This also includes activities which result in unauthorized modification or destruction of system data, loss of computer system processing capability, or loss by theft of any computer system media including: chip ROM memory, optical or magnetic storage medium, hardcopy printout, etc. The TAC, with the Agency Administrator's approval may at any time terminate a staff person's access to the CJDN system for any rule violation.

ACKNOWLEDGMENT

I have read and understand the "Discipline Policy for Misuse of CJDN" for Fond du Lac Police Department. A copy of this sign off sheet will be placed in the employee's personnel file.

Signature

Date

Printed Name of Employee

A copy of this policy signed by the department head is to be kept in the CJDN SOP Manual.

Signature of Agency Administrator

Date

Printed Name of Agency Administrator

MISSING PERSON (NCIC SYSTEM) POLICY

Carlton County Sheriff's Department or St. Louis County Sheriff's Department may enter the records on behalf of the FDL Police Dept pursuant to a holder of records agreement.

ENTRY OF MISSING PERSON RECORDS INTO THE NCIC SYSTEM FOR:

ENDANGERED MISSING PERSONS

Endangered missing persons, regardless of age, are to be entered into the system immediately not to exceed two hours, upon receiving the minimum data required for entry into NCIC. The two hour clock shall begin at the time the minimum data required is received. The agency must be able to document the time.

JUVENILES - UP TO 17 YEAR OF AGE

Juveniles are to be entered into the system immediately, not to exceed two hours, upon receiving the minimum data required for entry into NCIC. The two hour clock shall begin at the time the minimum data required is received. The agency must be able to document the time.

ADULTS 18 - 20 YEARS OLD

Any adults under 21 years of age are to be entered into the system immediately, not to exceed two hours, upon receiving the minimum data required for entry into NCIC. The two hour clock shall begin when the minimum data required for entry is received from the complainant. The agency must be able to document the time. A signed report is not required.

ADULTS 21 YEARS AND OLDER

To ensure maximum System effectiveness, Missing Person records must be entered immediately when the conditions for entry are met, not to exceed 3 days, upon receipt by the entering agency. Adults age 21 and older are required to have signed documentation supporting the stated conditions under which they are being declared missing

before entry into the system, unless they are victims of a catastrophe.

The documentation should be from a source such as a parent, legal guardian, next of kin, physician or other authority source including a neighbor or a friend. However when such documentation is not reasonably attainable, a signed report by the investigating officer will suffice. For agencies using Electronic Records Management Systems (ERMS), some forms of signatures that are acceptable are: 1) Digitized signatures 2) Manual signatures scanned into the ERMS 3) The case officer's typed name into the report in the ERMS.

PROCEDURES WHEN PERFORMING RECORDS ENTRY INTO THE NCIC SYSTEM: When entering records into the NCIC missing person file, the entry person will:

1. Run a current DVS and CCH/III inquiry to obtain as many descriptors as possible regarding the subject. This check should include a check of whether medical/dental information is available regarding the subject. Any descriptors used must be documented in the officer's report or saved within the case file. Attempts to obtain medical/dental information must also be documented in the case file.
2. Enter a record into NCIC on the subject. This record should include all descriptors. Additional identifiers such as scars, marks and tattoos, aliases, additional dates of birth, etc., should be added to the record through the use of the Enter Missing Person Supplemental Screen. After the record is entered, query the NCIC entry to obtain a hard copy for second party verification purposes.
3. Verify and update NCIC 2000 missing person record entries with any additional information, including: Blood Type (BLT); Dental Characteristics (DCH); Fingerprint Classification (FPC); Jewelry Type (JWT); and Scars, Marks, Tattoos, and Other Characteristics (SMT) within 60 days of entry. If a record has a date of entry older than 30 days and any of the above fields are blank, a \$.K. Missing Information Notification identifying the blank fields will be transmitted. The \$.K. Missing Information Notification will also include the record.

A notation shall be made in the case file indicating when this

attempt was made and what the outcome was, ie: child has returned, dental records obtained, etc. This sixty (60) day update is mandatory FBI requirement on all missing persons records under the age of 21 and Fond du Lac Law Enforcement personnel shall document this attempt in the case file to show that this requirement has been met.

User agreement

POLICY

Fond du Lac Law Enforcement Officers are dispatched through Carlton and St. Louis County. Fond du Lac Officers will conduct their radio operations in accordance with the procedures and requirements of Carlton and St. Louis County, the Bureau of Criminal Apprehension and the Federal Communications Commission. This includes verbal radio communions and electronic communications via Mobile Data Terminals (MDT's) or Mobile Data Computers (MDC's). Carlton and St. Louis County have on file with Fond du Lac Police Department an agreement that they shall be responsible for entering records into CJIS and or NCIC automated systems. The counties are responsible for updating all records, removing, confirming a hit on a record. See CJIS agreements from the counties.

PROCEDURE

All officers need to send the proper information to the county dispatcher to enter the information to CJIS and or NCIC.

Officers will follow up on a regular basis on any inquires then notify dispatch to cancel/clear or remove.

PROCEDURE FOR BCA SITE

1. Must have fingerprints on file with office and BCA
2. Must complete training and testing within 6 months of hire or assignment
3. Must comply with the counties and their policies
4. Must not use the BCA site for non work issues
5. Must keep a log of any criminal histories done
6. Must not use information obtain to slander any one
7. Follow the procedure for the MDT/MDC's

MDT/MDC'S

User agreement

Updated 6/14/10

POLICY

Fond du Lac Law Enforcement Officers are dispatched through Carlton and St. Louis County. Fond du Lac Officers will conduct their radio operations in accordance with the procedures and requirements of Carlton and St. Louis County, the Bureau of Criminal Apprehension and the Federal Communications Commission. This includes verbal radio communications and electronic communications via Mobile Data Terminals (MDT's) or Mobile Data Computers (MDC's).

PROCEDURE

Fond du Lac Law Enforcement personnel whom use a portals device or are assigned to a patrol unit which contains an MDT/MDC are expected to use the technology of the MDT/MDC whenever applicable. MDT/MDC's should be utilized for the following purposes:

1. Logging in and out of service.
2. Performing Hot File queries (QL, QN, QO, QMW, QH, QHM, QHN) through CJIS/NCIC.
 - A. Information derived from CJIS/NCIC is **confidential** information and is accessible only to authorized criminal justice agencies for legitimate criminal justice purposes.
 - B. Careless use of CJIS/NCIC information can compromise cases, destroy reputations and violate the privacy of citizens. Intentional misuse of the CJIS/NCIC system may lead to **criminal prosecution**.
3. Viewing calls for service, entering text comments into history, including entering names and plates associated with the incident utilizing the involvement feature, and entering a closing disposition.
4. Entering status information utilizing the appropriate status key function consistent with the corresponding patrol unit's status.
 - A. "ACK" to verify you have received the call
 - B. "ENRT" to indicate you are responding to the incident
 - C. "SCENE" to indicate you are at the scene of the incident
 - D. "DISPO" to enter a disposition and any text comments to the call
 - E. "AVAIL" to clear yourself from the call
5. Updating status information corresponding with the patrol unit's location changes while attached to calls by documenting en route

to and on scene at alternate destinations related to the assigned call.

6. Entering sub status information consistent with the corresponding patrol unit's sub status when out of service for meals, court appearance, etc.
7. Entering on-views for minor routine field incidents. Self-initiated on-view incidents must also be verbalized to Dispatch.
8. Viewing Previous Events or Premise Entries associated with a specific location.
9. Accessing ancillary information through the Notes file.
10. Communicating utilizing the Send Message (SM) functionality with work related, free form text messaging between other MDT/MDC users or CAD Terminal Operators.
 - A. Sending messages to other MDT/MDC's or CAD Terminal's should be for **official public safety business only**. Both MDT/MDC users and Cad Terminal Operators are cautioned about sending inappropriate messages. All transmissions are documented, are stored in stat files and may be public data and subject to subpoena. It is imperative that users regulate themselves to keep these messages work and business related. Misuse of the messaging function may result in having the capability of messaging removed.

The MDT/MDC is to be utilized as a supplemental communicative resource. Since not all users have access to an MDT/MDC, any exchange of information between St. Louis and Carlton County and the field units with MDT/MDC's should be verbalized in addition to performing the functions on the MDT/MDC.

11. The following are exceptions to the above:
 - A. There are 2 activity types that are flagged "**Information not to be air**". Bomb and Bomb threat. When dispatching bomb related incidents, the Dispatchers will not air either the location or the type of incident. Dispatch will; however announce that the call is being electronically sent to the affected units so they may check their MDT/MDC's for more complete information.
 - B. In situations where Dispatch determines that airing certain information may jeopardize the effective outcome of a call, or may pose a safety hazard or other problems for assigned units, either in responding to a given incident or in apprehending a suspect, it is appropriate for Dispatch to verbalize minimal

information about the incident. Dispatch will, however, announce that the call is being electronically sent to the affected units so they may check their MDT/MDC for more complete information and respond accordingly.

- C. In situations where a law enforcement agency identifies the need to respond to a certain type of incident (i.e. alarms, parties) in a stealth mode, the shift supervisor will coordinate the broadcast expectations with dispatch that is assigned to that channel. For special situations that would be in place for more than a single shift, coordination will be conducted with dispatch supervisor.
- D. Law enforcement personnel with MDT/MDC's will keep the unit **"ON"** during their entire work shift. In situations where they are going to be away from their vehicle for an extended period of time in status that precludes them from being able to respond to calls (i.e. court, training) they must enter an appropriate sub status on the MDT/MDC and will verbalize the same to Dispatch.
- E. MDT are equipped with an **Emergency Status Key** ("EMERG"). This key should be pressed any time the MDT user is in a situation where immediate assistance is required. Whenever possible, the emergency should be verbalized as well including location information and the nature of the emergency. When the "EMERG" is displayed on the all the other MDT and CAD terminals logged into the system. Dispatch will immediately attempt to make verbal contact with the unit for status clarification and will then dispatch back up units as appropriate for the situation. The air should be clear for emergency traffic only until the situation is clarified.

Note: MDC's are not equipped with **Emergency Status Key** ("EMERG").

TRAINING

It is essential that all law enforcement officers equipped with the MDT/MDC's be trained to perform the basic functions described within this policy and that they utilize the technology of the MDT/MDC whenever applicable. Training is required within 6 months of hire or assignment of job and renew once a year.

EFFECTIVE DATE

October 29, 2007 UPDATED 6/14/10

Distribution

To Fond du Lac Law Enforcement Officers

I have read the above order and fully understand it.

Signature

Printed Name

FOND DU LAC TRIBAL POLICE
Agency Name

Date

Fond du Lac Police Department Cash Handling Policy

Cash Forfeiture

1. Cash is confiscated by the Officer. The cash is brought to the office, and logged into the BEAST evidence system. The dollar amount is outlined and printed on the evidence tag. Two officers count the money and sign to verify the dollar amount. The money is then sealed in an evidence bag. The evidence bag is placed in the evidence locker with any other evidence from the case. The money is removed from the locker and given to the Lieutenant. The Lieutenant then records the dollar amounts and logs it, to keep track of the forfeiture amounts. The sealed evidence bag containing the money is then placed in the locked money bag and is brought to the RBC by security or other Officer. The money is brought to the tribal center where the amount and account codes are recorded and a receipt is given to Security Officer or Police Officer in the locked bag, which is then brought back to the Lieutenant. Once the money is awarded to the Police Department by the court, a letter will go to accounting verifying the funds be moved from the forfeiture account to the seizure account. The Lieutenant will green sheet the splits to the State of Minnesota 10% and the County Attorney's office 20%.

Vehicle/Article Forfeiture

2. The article/vehicle will be held by the police department until it is sold by the auction agency. Check will be received by the auction agency and Check procedures will be followed. The funds will go into the forfeiture account. The Lieutenant will green sheet the splits to the State of Minnesota 10% and the County Attorney's office 20%. The police department can also choose to keep the article/vehicle and use it for police department use. If this occurs the police department will notify accounting so that the article/vehicle can be added for fixed assets and properly insured.

Checks received in mail

1. The check is recorded to the account and a receipt is written out. The checks are put in the locked money bag with a note describing where they are to be deposited. The locked money bag is taken to the tribal center by security or another officer and accounting staff opens the locked bag and writes a receipt for the deposit. Receipt and money bag are taken back to the Police Department.

Cash for fingerprints

1. Cash or checks are received for fingerprinting. The cash or checks will be collected in the cash box. A receipt is written to the individual paying for the fingerprints. The Officer taking the prints will write the receipt and place all items together with the cash box. The Lieutenant and the investigator count the cash and it sent to the tribal center in a locked money bag, with a note describing where to deposit the funds. The deposit is recorded at the Police Department. The locked bag is then returned to the Police Department with a receipt.

Controlled Buy money

1. The Investigator will write a receipt to the person that is doing the controlled buy. The person doing the controlled buy will sign that they received the cash. The Investigator will record on a separate spread sheet that they have used the funds. They will also report to the Lieutenant who will also record that the funds have been used. When the fund needs replenishing a green sheet will be done, and will include an attachment outlining how the money was spent and the cash will be picked up from the casino vault.