

## **Administrative Communications**

### **205.1 PURPOSE AND SCOPE**

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

### **205.2 DEPARTMENT E-MAILS**

Department E-mails may be issued periodically by the Chief of Police or designee, to announce and document all promotions, transfers, hiring of new personnel, separations, individual and group awards and commendations or other changes in status. Such orders are personnel data under Minn. Stat. § 13.43 and shall be treated accordingly.

### **205.3 SURVEYS**

All surveys made in the name of the Department shall be authorized by the Chief of Police, his/her designee or a Department Supervisor.

### **205.4 OTHER COMMUNICATIONS**

General Orders and other communications necessary to ensure the effective operation of the Department shall be promulgated by the Chief of Police, his/her designee or Department Supervisors.

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## General Order and Special Orders

### **201.1 PURPOSE AND SCOPE**

General Orders and Special Orders establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding or other collective bargaining agreement. General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

#### 201.1.1 GENERAL ORDERS PROTOCOL

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 General Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing General Orders have now been incorporated in the updated Policy Manual as of the below revision date.

Any General Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01." For example, 10-01 signifies the first General Order for the year 2010.

#### 201.1.2 SPECIAL ORDERS PROTOCOL

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

### **201.2 RESPONSIBILITIES**

#### 201.2.1 STAFF

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

#### 201.2.2 CHIEF OF POLICE

The Chief of Police or designee shall issue all General Orders and Special Orders.

### 201.3 ACCEPTANCE OF GENERAL ORDERS AND SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all General Orders or special orders. All employees are required to acknowledge in writing the receipt and review of any new General Order or special order.

Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Chief of Police.

## **Criminal Conduct on School Buses**

### **426.1 PURPOSE AND SCOPE**

Criminal conduct on school buses has been identified by the legislature as a critical component for the safety and security of the community. The primary purpose of this policy is to provide officers guidance in responding to reports of alleged criminal conduct on school buses. This department, in cooperation with any other law enforcement agency that may have concurrent jurisdiction over the alleged offense, is responsible for responding to all reports of criminal misconduct on school buses in this jurisdiction.

This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses (Minn. Stat. § 169.4581).

### **426.2 COMMUNITY COOPERATION**

The St. Francis Police Department shall work with and consult with school officials, transportation personnel, parents and students to respond to these incidents to protect student safety and deal appropriately with those who violate the law.

### **426.3 PROCEDURE**

This department shall respond to all criminal misconduct on school buses within the jurisdiction of this department regardless of the source of the report. Officers should take reasonable actions to complete the following:

- (a) Provide for the safety of any person involved in the incident or present at the incident.
  - (b) Coordinate any appropriate care.
  - (c) Investigate reports of crimes committed on school buses using the same procedures as followed in other criminal investigations as appropriate for juveniles and/or adults.
  - (d) Issue citations, release pending further investigation, or apprehend and transport individuals committing crimes on school buses to the extent authorized by law.
  - (e) Submit reports regarding the incident for review, approval and consideration for prosecution.
  - (f) Complete follow-up and additional investigation as reasonably necessary to prepare a case pertaining to criminal conduct on school buses as required for prosecution.
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- (g) Provide information to the relevant school regarding the incident as required or authorized by law.

## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Department. Email is a communication tool available to employees to enhance efficiency in the performance of job duties. It is to be used in accordance with generally accepted business practices and current law (e.g., Minnesota Data Practices Act). Messages transmitted over the email system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration or practices of the Department.

### 204.2 EMAIL RIGHT OF PRIVACY

All email messages, including attachments, transmitted over the Department computer network or accessed through a web browser accessing the Department system are considered Department records and, therefore, are the property of the Department. The Department has the right to access, audit and disclose for whatever reason, all messages, including attachments, transmitted or received through its email system or placed into its storage.

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

### 204.3 PROHIBITED USE OF EMAIL

The Department email system shall not be used for personal purposes unless that use is authorized in writing by the Chief of Police.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the email system is prohibited, will constitute just cause for discipline, and will result in discipline, up to and including termination of employment.

Email messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users. Personal advertisements or announcements are not permitted.

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

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St. Francis Police Department  
Policy Manual

*Electronic Mail*

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#### 204.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the Minnesota Data Practices Act and must be managed in accordance with the established records retention schedule and in compliance with state law.

The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

## Eyewitness Identification

### 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Minn. Stat. § 626.8433). 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.

#### 604.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Line-up** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**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 them as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

**Photographic array/lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

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

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

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



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

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

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

## **604.2 POLICY**

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

### **604.2.1 POST MODEL POLICY**

It is the policy of the St. Francis Police Department to follow the requirements of the Eyewitness Identification Procedures model policy, established and published by the Minnesota Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8433).

See attachment: Eyewitness Identification Procedures model policy.pdf

## **604.3 INTERPRETIVE SERVICES**

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

## **604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM**

The Investigations supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time, and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of the POST model policy.

The process and related forms should be reviewed at least annually and modified when necessary.

#### 604.4.1 POST REQUIREMENTS

The Investigations supervisor should remain familiar with the requirements contained in the Eyewitness Identification Procedures model policy issued by POST and incorporate these, as necessary, into the eyewitness identification process for use by members when conducting photographic and live lineups.

#### 604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.
- Any other statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.

- Witnesses should not be permitted to see or be shown any photos of the suspect prior to the lineup or photo array.

In order to avoid undue influence, witnesses should view suspects, photo arrays or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

#### 604.5.1 PHOTOGRAPHIC AND LIVE LINEUP CONSIDERATIONS

When conducting a live lineup, the member presenting the lineup should not be involved in the investigation or know the identity of the suspect) (Minn. Stat. § 626.8433). However, a suspect may have an attorney present.

When conducting a photographic lineup, if practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness.

If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures;

- (a) Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
- (b) The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the lineup members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
- (c) The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.

The lineup or photo array should consist of a minimum of six individuals or photographs. Use a minimum of 5 fillers and only one suspect.

In creating a photo array:

- The photo array should consist of contemporary photos.

- Do not mix color and black and white photos.
- Use photos of the same size and basic composition.
- Never mix mugshots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
- Do not include more than one photo of the same suspect.
- Cover any portions of mugshots or other photos that provide identifying information on the subject and similarly cover other photos used in the array.
- 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.
- Fillers should not be reused in arrays for different suspects shown to the same witness.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics (age, height, weight and general appearance and of the same sex and race) to avoid causing any person to unreasonably stand out. 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. 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. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person/photo at a time) and not simultaneously. The witness should view all persons in the lineup. All persons in the lineup should be numbered consecutively and referred to only by number. 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.

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.

A live lineup will not typically be utilized for investigations, unless conducting a photo array is not possible. A live lineup should only be used before criminal proceedings have been initiated against

the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

#### 604.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain and document a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - 1. The length of time the witness observed the suspect.
  - 2. The distance between the witness and the suspect.
  - 3. Whether the witness could view the suspect's face.
  - 4. The quality of the lighting when the suspect was observed by the witness.
  - 5. Whether there were distracting noises or activity during the observation.
  - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  - 7. The length of time that has elapsed since the witness observed the suspect.
  - 8. 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.
  - 9. Do not conduct the show-up with more than one witness present at a time.
  - 10. Separate witnesses and do not allow communications between them before or after conducting a show-up.
- (c) If safe and practicable, the person who is the subject of the show-up should not be physically restrained by officers, handcuffed, or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect, or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.
- (i) Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- (j) 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.
- (k) Ask the witness to provide a confidence statement.
- (l) Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- (m) Record the identification process using an in-car camera or other recording device when feasible.
- (n) Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

#### **604.5.3 CONDUCTING LINEUP**

Live lineups shall be conducted using a blind administrator. All persons in the lineup will be numbered consecutively and are referred to only by their number.

The primary investigating officer is responsible for the following:

- (a) Scheduling a lineup on a date and at a time that is convenient for all concerned parties to include the prosecuting attorney, defense counsel and any witnesses.
- (b) Ensuring compliance with any legal requirements for transfer of the subject to the lineup 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 lineup and to observe the manner in which the lineup is conducted.

#### **604.6 DOCUMENTATION**

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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

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

#### 604.6.1 DOCUMENTATION RELATED TO RECORDINGS

The member conducting the lineup should document the reason that an audio and/or video recording was not obtained, if applicable. In the case of lineups that are not recorded, agents shall take and preserve a still photograph of each individual in the lineup.