



LIVINGSTON POLICE DEPARTMENT

An Overview

[ABSTRACT](#)

A complete overview of the Livingston Police Department's policies, procedures, organizational structure, and authorities.

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1. Livingston Police Department Structure & Authorities

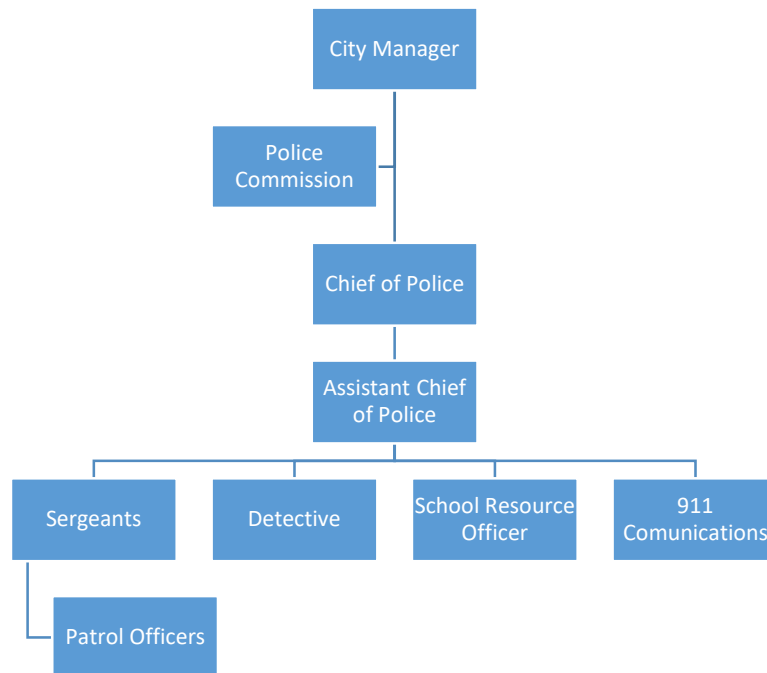


Figure 1.

Livingston Police Department Organizational Chart

1.a. Roles & Authorities

City Manager:

The City Manager is tasked with supervision of the police department, to include hiring, discipline, and termination, by state law in Montana Code Annotated (MCA) 7-32-4103:

7-32-4103. Supervision of police department. The mayor in all cities and towns or the manager in those cities operating under the commission-manager plan has charge of and supervision over the police department. The mayor or manager shall appoint all the members and officers of the department. Subject to the provisions of this part, the mayor or manager may suspend or remove any member or officer of the force. The mayor or manager shall make rules, not inconsistent with the provisions of this part, the other laws of the state, or the ordinances of the city or town council, for the government, direction, management, and discipline of the police force.

7-32-4108. Appointment to police force. All appointments to the police force must be made by the mayor or, in those cities operating under the commission-manager plan, by the manager and must be confirmed by the city council or commission. An appointment may not be made until:

- (1) an application for a position on the police force has been filed with the mayor or, in those cities operating under the commission-manager plan, with the manager and referred to the police commission, when a commission exists; and
- (2) the applicant has successfully passed the examination required to be held by the police commission and a certificate from the police commission that the applicant has qualified for the appointment has been filed with the mayor or, in those cities operating under the commission-manager plan with the manager.

This is consistent with Livingston city policy as the City Manager is the hiring and termination authority for all city employees, including the Chief of Police. The City Commission may pass ordinances that regulate the power and duties of the police department in accordance with state law in MCA 7-32-4104:

7-32-4104. Additional regulations by city council. In addition to the provisions herein contained, the city or town council may make any ordinances, not inconsistent with this part or any law of the state, for the government of the police department and for regulating the powers and duties of its officers and members.

Police Commission:

A police commission is required in all cities in Montana by MCA 7-32-4151:

7-32-4151. Police commission required in all cities and some towns.

- (1) In all cities and some towns, the mayor, or the manager in those cities operating under the commission-manager plan, shall nominate and, with the consent of the city council or commission, appoint three residents of such city or town who shall have the qualifications required by law to hold a municipal office therein and who shall constitute a board to be known by the name of "police commission".
- (2) This section shall apply to organized police departments in every city and town of the state which have three or more full-time law enforcement officials, regardless of the form of government under which said city or town may be operating or may at any time adopt.

There are three police commissioners in each city, including Livingston, and they are not required to have any special qualifications other than the qualifications to hold a municipal office in the city of Livingston.

The police commission holds two primary responsibilities: examining applicants for the police force and hearing and deciding appeals brought by police officers. These responsibilities are set forth in state law:

7-32-4154. Role of police commission in examination of applicants for police force. It shall be the duty of the police commission to examine all applicants whose applications have been referred to the commission as to their age, legal, mental, moral, and physical qualifications and their ability to fill the office as a member of the police force. It shall also be the duty of the police commission, subject to the approval of the mayor, to make such rules regarding such examinations not inconsistent with this part or the laws of the state.

7-32-4155. Role of police commission in hearing and deciding appeals brought by police officers.

(1) The police commission shall hear and decide appeals brought by any member or officer of the police department who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) The police commission shall, at the time set for hearing an appeal of a police officer, hear and determine the appeal according to the rules of evidence applicable to courts of record in the state.

In practice, a police commission rarely hears an appeal from an officer as any appeals they wish to file are almost always filed in accordance with union grievance procedures and are not brought before the police commission. An officer cannot choose both methods of appeal as they are restricted by state law to choose either the police commission or the process outlined in the collective bargaining agreement with the union.

7-32-4164. Right to appeal. A member of the police force who is disciplined, suspended, removed, or discharged as a result of a decision by the mayor, city manager, or chief executive has a right of appeal:

(1) pursuant to the terms of a grievance procedure contained in a collective bargaining agreement if the member is covered by a collective bargaining agreement; or

(2) to the police commission. A final decision of the police commission may be appealed to the district court of the proper county. The district court has jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force. A suit to review a decision or an order or for reinstatement to office may not be maintained unless the suit is begun within a period of 60 days after the decision by the police commission has been filed with the city clerk.

The Livingston Police Commission is composed of three citizens appointed to three-year terms.

To find the current police commissioners, please refer to the City of Livingston web site at:

http://www.livingstonmontana.org/living/city_commission/police_commission/index.php

As of the publishing of this document, the City of Livingston Police Commission consists of:

- Dave Pettit -12/31/2023
- Liz Zink - 12/31/2023
- Aimee Kauffman - 01/31/2023

Chief of Police:

The Chief of Police is responsible for the day-to-day operation of police department and the training and discipline of the officers. Included in these tasks is development of the Law Enforcement budget, purchase of necessary equipment, determining the type and amount of training required, and developing LPD policy and procedures. Montana state code outlines the duties of the Chief of Police broadly, but does not specify how those duties are to be carried out:

7-32-4105. Duties of chief of police. (1) The chief of police:

- (a) shall execute and return all process issued by the city judge or directed to the chief of police by any legal authority and must be present and shall assist the city court regularly;
 - (b) shall arrest all persons guilty of a breach of the peace or for the violation of any city or town ordinance and bring them before the city judge for trial;
 - (c) must have charge and control of all police officers, subject to rules that may be prescribed by ordinance, and report to the council all delinquencies or neglect of duty or official misconduct of police officers for action of the council;
 - (d) shall perform other duties that the council may prescribe.
- (2) The chief of police has the same powers as a constable in the discharge of duties, but the chief of police may not serve a process in a civil action or proceeding except when a city or town is a party.
- (3) Quotas for investigative stops, citations, or arrests may not be established and may not be used in evaluating police officers.

The Livingston Chief of Police is also operationally in charge of the 911 Communications Department which provides dispatch services for the LPD, Park County Sheriff's Office, Livingston Fire & Rescue, all rural fire districts, and the Montana State Patrol. In Livingston, the Chief of Police is aided in his duties by the Assistant Chief of Police.

Assistant Chief of Police:

The Assistant Chief of Police assists the Chief of Police in the administration and supervision of the Police and 911 Communications Departments. Primary duties include direct responsibility for internal affairs investigations, department training, scheduling, and managing the activities of the detective's office as well as the daily operations and scheduling of the 911 Communications Center.

The Assistant Chief of Police position is not a requirement of Montana State Law, but its inclusion in the Livingston Police Department organizational structure is an important part of maintaining a highly effective department. It allows the Chief of Police to focus on strategic, budgetary, and policy issues while still ensuring that there is close supervision of the daily operations of the department.

2. Training Issues

Recent events have highlighted the importance of officer training and the impacts of a poorly trained force or the use of outdated training techniques. Livingston Police Officers must fulfill a rigorous training curriculum which includes instruction at the Montana Law Enforcement Academy as well as continuing online instruction, instruction by senior Livingston Police Department Officers, and outside experts brought in for special training.

2.a. Anti-bias Training

The foundational training for LPD Officers begins at the Montana Law Enforcement Academy which includes anti-bias training, referred to as “Fair and Impartial Policing”. A short synopsis of the training from the Montana Law Enforcement Academy explains:

*The Montana Law Enforcement Academy (MLEA) currently teaches a six hour block titled **Fair and Impartial Policing** in the law enforcement officer basic course curriculum. The program is nationally recognized and was created as a result of one of the recommendations (called Pillar’s) from the 2015 Final Report of the President’s Task Force on 21st Century Policing. In 2016 the MLEA sent two staff to Florida to become certified trainers and have had the training in place since then.*

The goal of Fair and Impartial Policing is for students to understand how their implicit and explicit biases and how racial profiling can interfere with their ability to effectively police the communities they serve. An important component of the discussion with students is the importance of creating legitimate authority (how the community views police) through procedural justice. Everyone is given the same justice and opportunities through law enforcements (1) treating people with dignity and respect (2) giving individuals “voice” during encounters (3) being neutral and transparent in decision making (4) conveying trustworthy motives.

Other MLEA blocks of instruction that support bias recruit training;

Legal Issues in Use of Force – the balance of responsibility between constitutionally permissible and reasonableness holds police accountable for discriminate and indiscriminate use of force based on the reasonableness of the officer’s decision. Law enforcement officers must be ready to justify their use of force with the constitutional and judicial standard of objective reasonableness. Other legal discussions with students include the US and Montana Constitution, Bill of Rights and how law enforcement should respond when interacting with the public.

Community Policing – the adoption of a philosophy that promotes community, government, and police partnerships to pro-actively address crime, fear of crime, and other community issues.

Ethics – upholding professional ethics is the most critical issue facing policing. There is a critical need to heighten the awareness and visibility of ethical standards, both internally and externally. Anger, lust, greed, and peer pressure are the most common reasons for unethical behavior of officers. Having sound core beliefs that shape positive attitudes and living up to the peace officers code of ethics are critical to avoiding unethical decisions on the job.

History of Policing – Sir Robert Peel was instrumental in the creation of the Metropolitan Police Act of England in 1829. His principles serve as the foundation of modern policing. Peel's Principles identify the need for public support in accomplishing the policing mission. "From the start, the police force was to be homogenous and democratic body, in tune with the people, understanding the people, belonging to the people, and drawing its strength from the people."

Risk Management – a discipline for dealing with and preparing for an event that will most likely cause harm to someone or something. Risk management provides techniques to recognize any threat to the individual or the department. Sound principles to managing risk include (1) always acting professionally and with common sense, (2) treating everyone with dignity and respect, (3) always acting according to applicable statutes, standards, rules and policies, (4) always acting with truth and honesty and (5) knowing department policies and procedures.

Cultural Awareness – a conscious and informed understanding with regards to an individual or groups customs, beliefs, and behaviors. Stereotyping, prejudice, racism, labelling, and discrimination are all the unintended outcomes of a lack of cultural awareness.

Emotional Intelligence – the ability to be aware of, recognize, understand, and be in control of an individual's emotions and to recognize and understand the emotions of others, and to use this knowledge to foster successful outcomes with the public, is critical to effective policing. Self-awareness, self-control, empathy, and social skill are the key areas of emotional intelligence police need to continually focus on in creating effective relationships with the public.

There is no one block of instruction that can adequately prepare students to make sound decisions when confronted with tense, uncertain and rapidly evolving situations. In making decisions that affect themselves and the public officers, in an instant, must rely on the totality of their experience, training, beliefs and values. Progressively over the years the MLEA has improved how we teach students to think, communicate and make decisions. The partnership between the MLEA and agencies in Montana is for important conversations regarding how we should treat the public to continue, and that peace officers ultimately think, communicate and make decisions that are consistent with our training and their employing agencies guidance.

The Academy's statement highlights that training must use a comprehensive approach that provides a foundation to all policing policies and actions. While anti-bias training is an important aspect of officer training, it must be supported with many other subjects or anti-bias training on its own will fall short of our expectations.

2.b. Use of Force Training

Use of Force is a term used by both military and police organizations to help soldiers and officers comes to terms with the concept that their professions require violence against other humans. It is important to understand that violence, often referred to as the "use of physical force", is a necessary part of policing that is meant to protect and preserve the whole of society by visiting violence on those willing to break the social contract that is our laws. This concept has its roots in the philosophy that the state holds a monopoly on the legitimate use of physical force. The concept of this monopoly was introduced as early as 1576 by Jean Bodin in his *Les*

Six livres de la République; was further refined in 1651 by Thomas Hobbes in his *Leviathan*; and was inscribed into sociology by Max Weber in his essay *Politics as Vocation*. This philosophy recognizes the state as the only legitimate user of physical force both inside and outside of the state. This was a departure from feudal society, where each vassal controlled the use of force inside their fiefdom while holding allegiance to the king. The only exception to this rule, is the immediate self-defense of the individual.

The state's monopoly on force is delegated down to each individual police officer to use in individual situations to protect the interests of the state, which in our republic means the interests of the governed. When a police officer uses force, they are doing so on your behalf as a citizen of whichever jurisdiction they are employed. This chain of legitimacy in the use of force means that we are all closely linked to the benefits of the use of force and to the responsibility for the outcomes of that use. The responsibility is the most immediate for the officers who have been given the authority to use force on your behalf and they must choose in each unique situation what level of force should be used and how it should be applied.

To assist officers in executing this responsibility and to ensure that force is used in accordance with the morals of the governed, police agencies have developed use of force doctrine that guide both what kinds of force can be used and when they can be used. The use of force is governed by both policy, which outlines specific types of force and when they can be used, and techniques that cover when broad categories of force are to be used. Policy will be discussed later in this document, but when Use of Force Training is referred to, it usually is in relation to the levels of force and how to transition between those levels.

The use of force is a continuum that officers can move within based on the actions of the subject there are interacting with. The core concept of the use of force methodology is to aid the officer in determining an objectively reasonable level of force necessary to achieve compliance from the subject. The following graphic is to illustrate this concept, but is not part of LPD officer training.



This graphic shows the concept that the level of force an officer would use is in direct proportion to the actions of the subject they are interacting with. As a subject becomes more combative or violent, the level of force increases. As the subject becomes more compliant, the level of force decreases. The goal is to remain at level 1 as often as possible and to return to level 1 as soon as possible. The movement down the use of force levels is often referred to as “de-escalation” and is an important part of the use of force concept. These core principles are reflected in the LPD policy manual’s Use of Force Policy (Appendix A):

Many force and equipment options are available to officers. They must choose an appropriate option based on the threat, either actual or perceived, including but not limited to: officer presence, verbal direction, physical control, chemical or inflammatory agents, impact weapons, Tasers (Electronic control devices), firearms, vehicles, and/or weapons of necessity or opportunity.

Officers’ actions must be “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The reasonableness of any use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

It is the policy of the Livingston Police Department that officers use the amount of force which is objectively reasonable to make an arrest, gain control of a situation, or to protect the officer or another from harm, given the facts and circumstances perceived by the officer at the time force is applied. As the situation that necessitates the use of force diminishes, so too shall the use of force.

Use of force is a complex issue that requires split-second decisions that can result in the injury or death of the subject or the officer involved. In fast moving and complicated situations, an officer must take into account the following variables listed in the LPD policy manual:

- The severity of the crime at issue
- Whether the subject poses an immediate threat to the safety of officers or others
- Whether the subject is actively resisting arrest or attempting to evade seizure by flight
- Whether the circumstances are tense, uncertain and rapidly evolving requiring a “split second” judgment and a compelling need for haste, or if there is time for planning and evaluating response options
- What officers know about the subject’s health, mental condition or other relevant frailties (Alcohol or drug influence, mental state, demeanor, etc.)
- Availability of alternative methods of capture, controlling, restraining or subduing the subject.
- Presence or absence of other officers available to assist.
- What other events are occurring that would necessitate a speedier outcome of the situation.
- Apparent size, age and weight of subject compared to the officer
- Apparent physical ability of the subject
- Number of subjects present who are involved, or who may become involved
- Weapons possessed by or readily available to the subject
- Known history of violence by the subject
- Presence of innocent or potential victims in the area
- Whether or not the subject could be recaptured at a later time without jeopardizing the safety of the officer or others

The LPD Policy Manual discusses Use of Force in detail and outlines when certain uses of force are acceptable; such as shooting at a moving vehicle, using their vehicle as a weapon, using Tasers, the use of a canine, and many others. For the complete guidance that LPD officers operate under, please refer to the LPD Policy Manual included as Appendix A.

3. Policy

The duties and authority of police officers are prescribed in state and local laws. However, the practical way that the department operates is outlined in our Policy Manual. Policy is the critical link between the concepts we wish to employ and the actual interactions that our officers have with the public during their daily duties.

3.a. Developing & Implementing Policy

State law 7-32-4103 mandates that the city manager:

...shall make rules, not inconsistent with the provisions of this part, the other laws of the state, or the ordinances of the city or town council, for the government, direction, management, and discipline of the police force.

This places the development of policy and organization under the authority of the city manager. However, the Police Chief is the senior law enforcement officer of the city and has the expertise to develop and review the policies and procedures that the law enforcement officers use on a day to day basis. This requires the City Manager and the Chief of Police to collaborate to ensure that the Livingston Police Department operates in a manner consistent with the high standards of the City of Livingston and the values of community it represents. There are a wide variety of issues addressed in the Policy Manual and they all are important for the proper organization and operation of the Livingston Police Department. While the complete Policy Manual is included as Appendix A, the Table of Contents is included below to provide the scope of topics that are included in the manual:

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Policy is reviewed regularly and updated as necessary to ensure we are staying abreast of new information and techniques.

3.b. Collective Bargaining Agreement (CBA)

While the Policy Manual outlines the directives from the City Manager and Chief of Police to the police department, the Collective Bargaining Agreement (CBA) contains the list of items that the City of Livingston and the Montana Federation of Public Employees Livingston Police Unit (police union) have come to an agreement on. Items in the CBA, included as Appendix B, are binding for both the city and the union and contain some aspects of policy that are constrained by the CBA. The CBA dictates how discipline will be administered, to include a discipline guideline, included as Appendix C that outlines the expected discipline for certain behaviors including, but not limited to, dishonesty, domestic violence, ethnic bias, false statements, gender bias, neglect of duty, unauthorized force, and unbecoming conduct. Each violation of the guide carries a recommendation for verbal warning, written warning, suspension, demotion, or termination. This guide provides concrete guidance to our police department on what behaviors will not be tolerated either on duty or off and the seriousness of discipline they should expect if they violate that guidance.

The CBA is ratified for a specific period of time and then must be renegotiated. The current CBA expires on 30 Jun 2020 and the city has already negotiated and accepted a new CBA to start 1 July 2020.

3.c. Discipline

The discipline of the police force is a necessary action for both the proper operation of the department and the morale of the officers within it. Thomas Hobbes again outlined the philosophical basis for the difference between appropriate force and illegitimate force in the *Leviathan* when he notes:

... that the evil inflicted by public authority, without precedent public condemnation, is not to be styled by the name of punishment, but of a hostile act, because the fact for which a man is punished ought first to be judged by public authority to be a transgression of the law.

If a law enforcement officer is guilty of applying force beyond that delegated to him by the state, then they are guilty of violating the will of the citizens on whose behalf they wield force. Such transgression must have a disciplinary outcome if we expect to continue to enjoy the consent of the citizens in allowing law enforcement to act on their behalf and in the common interest. This concept is enshrined in the Montana Constitution, Article II, Section 1:

Popular sovereignty. *All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.*

Thomas Paine further linked this power of the constitution to empower the government through the will of the people in *The Rights of Man*:

That men mean distinct and separate things when they speak of constitutions and of governments, is evident; or why are those terms distinctly and separately used? A constitution is

not the act of a government, but of a people constituting a Government; and government without a constitution, is power without a right.

All power exercised over a nation, must have some beginning. It must either be delegated or assumed. There are no other sources. All delegated power is trust, and all assumed power is usurpation. Time does not alter the nature and quality of either.

Considering that the people are the source of authority for law enforcement's actions on their behalf, how is that authority is checked to ensure it is in the best interests of the whole? The same state code that gives the city manager responsibility to develop policy for the police department, MCA 7-32-4103, also charges them with the responsibility for discipline of the force. While much of the minor discipline is delegated to the Chief of Police or Assistant Chief of Police, the final responsibility for discipline resides with the city manager. The Livingston Police Department has a comprehensive discipline guide that has been negotiated between the City of Livingston and the Montana Federation of Public Employees Livingston Police Unit. This guide, included as Appendix C, provides a list of possible infractions with the recommended disciplinary actions associated with them. While the guide is not regulatory, it provides a common understanding of the behavior standards that the City of Livingston expects and that the police union has agreed to uphold. This collaborative approach creates a shared sense of ethics that makes it a collective effort on behalf of the city and the union to hold all officers accountable for their actions.

The CBA also outlines the five types of disciplinary action available to the city: verbal counseling, written reprimand, suspension (without pay), demotion, and termination. The use of these actions is informed by the Discipline Guide and determined by the Chief of Police and City Manager. Officers have the right to provide a rebuttal to the discipline enacted, file a grievance through the union process, or have the action reviewed by the Police Commission.

The process for discipline may be confusing to anyone not regularly involved in its workings. Before any of the types of discipline may be used, there must be an investigation of the alleged violation. This requirement stems from their "Loudermill Rights" as a public employee established by the Supreme Court. If the allegation is egregious, often times the officer is placed on administrative leave during the investigation process. Administrative leave is not disciplinary, but only a mechanism by which officers are removed from duty while an investigation is underway. Sometimes, administrative leave is seen as suspension where the officer still receives pay and benefits. In actuality, it provides time to complete procedural requirements before discipline is enacted, when appropriate. If the resulting discipline is suspension, that suspension will be served without pay.

Another area that is confusing to many people is the difference between administrative action and criminal action. If an act by an officer is judged to be criminal, then separate, criminal proceedings must be initiated against the officer. The rules for these two sets of proceedings are very different and there is specific legislation that requires a very strict separation of the

processes. If an officer is being investigated administratively by the city, they are compelled to answer the questions the city asks them. If they refuse to answer a question, they are guilty of insubordination and face discipline up to and including termination for the refusal to answer. However, if the city compels an officer to answer questions in its investigation, the city is required to afford the officer protection under the “Garrity Rule”, also established by the Supreme Court. Under this rule, any information that the city garners in compelled statements cannot be used in a criminal investigation because it would violate their right against self-incrimination. This means criminal acts must be punished through the normal criminal process where the officer is afforded all the rights any defendant would possess, including the presumption of innocence.

The city has a responsibility to follow all of the federal, state, and local laws when disciplining law enforcement officers. This is especially important, because if the city fails to be fastidious in its discipline, an officer guilty of a violation of law or policy may not be held accountable due to an error in executing the process. This is unacceptable, so while it may seem that city is slow to react to an apparent violation of standards, it is out of a desire to ensure the correct outcome is achieved. The city will take each step slowly and methodically to be in strict compliance with all requirements.

4. Cameras

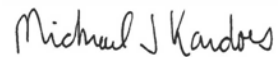
Another topic of interest for many people is the department’s use of cameras. Many of the incidents driving today’s discourse are widely known due to the use of personal cell phone cameras. Additionally, officer in-car and body cameras provide a critical piece of information when determining what happened in a law enforcement interaction where either an officer or a subject is injured or killed. While highly effective, camera technology is also expensive and comes with storage costs as well as training requirements that require resources.

The Livingston Police Department has outfitted all of its patrol cars with cameras that monitor both the interior and exterior of the vehicle and each officer is equipped with an external microphone to capture the officers voice outside of the vehicle. This allows the review of all actions that are inside the car or are in the field of view of the camera external to the car. This captures most audio and a large portion of the officer’s interactions with the public on video and has been invaluable in criminal proceedings, especially those against officers.

The city does not currently provide officers with body cameras. If an officer chooses to use one at their own discretion, the city does not prevent it but also does not support the cost or store the footage. The city has been researching implementation of a departmental body camera solution as the cost of individual cameras falls as the technology becomes more readily available and less expensive. However, there are still issues to be overcome related to the cost of storage to comply with record retention requirements.

5. Conclusion

While this is intended to be a comprehensive overview of the Livingston Police Department, it is impossible to capture the complexity of the entire organization and its operations in this short document. If you have any questions about the Livingston Police Department that aren't addressed in this overview, please contact the City Manager at 823-6000 or citymanager@livingstonmontana.org.



Michael J. Kardoes
City Manager

Appendix A

Livingston Police Department Manual



Livingston Police Department

Policy Manual



LIVINGSTON
Montana
GO BEYOND YELLOWSTONE



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MISSION STATEMENT

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LIVINGSTON POLICE DEPARTMENT

It is the mission of the Livingston Police Department to enforce the laws of the United States, the State of Montana and the City of Livingston, to assist the citizens of Livingston in protecting their lives and property, and to provide service to the public to the extent which we are empowered and enabled to do so by law, by department regulation, and by financial consideration.

LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my 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 or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life 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 my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...Law Enforcement.

ARREST POLICY AND PROCEDURES

Effective Date: November, 2013

Supersedes Policy Dated: Oct, 2007; Nov, 2003



I. CIRCUMSTANCES IN WHICH A PEACE OFFICER MAKES ARREST.

A. A peace officer may arrest a person when:

1. He has a warrant commanding that such person be arrested.
2. He believes on reasonable grounds that a warrant for the person's arrest has been issued in this state.
 - a. A warrant for a violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred.
3. He believes on reasonable grounds that a felony warrant for the person's arrest has been issued in another jurisdiction.
4. He has probable cause to believe that the person is committing an offense or that the person has committed an offense and the existing circumstances require his immediate arrest.

B. A person may not be arrested in his home or private dwelling place at night (considered to be during the hours of darkness) for a misdemeanor committed at some other time and place unless upon the direction of a magistrate endorsed upon a warrant of arrest, with the exception of partner or family member assault.

II. ALTERNATIVES TO ARREST

A. The policy of the Livingston Police Department is that the decision to arrest should be carefully considered and that alternatives to custodial arrest be employed whenever reasonable. The use of a court summons or a notice to appear citation rather than arrest is the preferred course of action in cases involving some misdemeanor or City Ordinance violations. However, the officer has discretion to choose which enforcement alternative to use, depending on the nature of the offense and the circumstances involved. The following alternatives to arrest may be considered:

1. Summons (Request for Prosecution): Rather than take immediate action, or if an officer is unsure if probable cause for an arrest exists, an officer may

choose to send the case to the prosecuting attorney for review or to request prosecution. The officer will complete an incident report after gathering all pertinent information necessary to properly identify the suspect and witnesses. Copies of the report, witness statements, etc. will be forwarded to the appropriate prosecuting attorney with a completed "Request for Prosecution" form or simply request that the attorney review the case and determine if there

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is sufficient evidence to commence prosecution. The prosecuting attorney will review the case and decide whether to proceed with the issuance of an Arrest Warrant, a Summons, or take other action.

2. Notice to Appear: Whenever a peace officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear (46-6-310 MCA). In these situations, the person will be released without posting bond. The notice to appear must:
 - a. be in writing
 - b. state the person's name and address (if known)
 - c. set forth the nature of the offense
 - d. be signed by the issuing officer
 - e. direct the person to appear before a court (City Court for misdemeanor offenses that occur within the City limits, Justice Court for offenses that occur outside the City limits) at a certain time and place as designated by the appropriate judge.
 3. Release: When no warrant has been issued, a peace officer having custody of a person arrested may release the arrested person without requiring that person to appear before a court when the officer is satisfied that there are insufficient grounds to commence prosecution (46-6-313 MCA).
 4. Warning: An officer can, at their discretion, issue warnings for minor offenses (disturbances, traffic, etc.). Officers must use prudent judgment and operate within all laws, regulations, and ordinances, and comply with the directives of this department to achieve the objective to enforce the law in a fair and consistent manner. Warnings should be given in appropriate "situations" or under certain "circumstances" and should not be used in situations that would be considered as unfairly showing favoritism or giving preferential treatment to someone. The discretion to issue warnings can be limited or revoked by the Chief of Police at any time.
- B. The following situations are exceptions to the arrest alternatives provided for in this policy, and custodial arrest is the preferred course of action. They include, but are not limited to:
1. The offender resides outside the state of Montana.
 2. There is a factual basis to believe that the offender may abscond from the State of Montana.
 3. There is reason to believe the offender will persist in criminal activity, endangering persons or property, or continue to create a public disturbance.
 4. Probable cause exists to arrest the offender for assault on a partner or family

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member pursuant to 45-5-206 MCA. Offenders arrested for this offense will be booked into the Park County Detention Center and not released without first appearing before a judge.

5. Stalking, pursuant to 45-5-220 MCA
6. The offender refuses to properly identify himself, or his identity cannot otherwise be established through reasonable means and the officer has reason to question the offender's true identity.
7. Offenders arrested for DUI or Illegal Per Se will be booked and required to post bond prior to pre-arraignment release.
8. The suspect has a known history of failure to appear in court or contempt of court.
9. A violation of a TOP
10. An assault against any person resulting in serious injuries, or which constitutes a felony offense; or any other offense for which arrest is reasonably necessary for the protection of the victim or the public.

III. ARREST WITH WARRANT

- A. When making an arrest pursuant to a warrant, a peace officer shall inform the person to be arrested of the officer's authority, of the intention to arrest that person, the cause of the arrest, and the fact that a warrant has been issued for that person's arrest, except;
 1. When the person flees or forcibly resists before the peace officer has an opportunity to so inform the person.
 2. When the giving of such information will impede the arrest.
- B. The peace officer need not have the warrant in his possession at the time of the arrest, but after the arrest the warrant must be shown to the person arrested as soon as practical if such person so requests.
- C. An arrest warrant may not be served on a person in his home or dwelling place at night (considered to be during hours of darkness) for a misdemeanor committed at some other time or place unless upon the direction of a judge endorsed upon an arrest warrant. However, a person may be arrested in the person's home or private dwelling at night if the person is being arrested pursuant to 46-6-311 MCA for the offense of partner or family member assault (46-6-105 MCA).

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IV. ARREST WITHOUT WARRANT

- A. A peace officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe the person is committing an offense or that the person has committed an offense and the existing circumstances require the person's immediate arrest. An officer without a warrant may not arrest a person in a home or dwelling place without both probable cause and exigent circumstances. If an officer has adequate time to obtain a warrant without creating a risk that people will be harmed, the suspect will escape, or evidence will be lost or destroyed, the officer must obtain a warrant for in-home arrests.
- B. A peace officer may arrest a person anywhere, including his place of residence, if the officer has probable cause to believe that the person is committing or has committed partner or family member assault or aggravated assault against a family member or household member even though the offense did not take place in the presence of the peace officer. A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest.

Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of an order of protection, or other imminent danger to the victim (46-6-311 MCA).

- 1. When an officer responds to a partner or family member assault complaint and it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine who is the predominant aggressor. If, based on the officer's evaluation, the officer determines that one party is the predominant aggressor, the officer may arrest only the predominant aggressor.

A determination of who the predominant aggressor is must be based on, but is not limited to, the following considerations, regardless of who was the first aggressor:

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

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- C. Officers making an arrest without a warrant shall inform the person to be arrested of the officer's authority, of the intention to arrest that person, and of the cause of the arrest, except;
 - 1. When the person to be arrested is actually in the commission of, or in an attempt to commit an offense, or is pursued immediately after its commission.
 - 2. After an escape.
 - 3. When the giving of the information will imperil the arrest.

V. METHOD OF ARREST (46-6-104 MCA)

- A. An arrest is made by an actual restraint of the person to be arrested or by the person's submission to the custody of the person(s) making the arrest.
- B. Reasonable force may be used in making an arrest, but the person arrested may not be subjected to any greater restraint that is necessary to hold or detain that person.
- C. Reasonable force may be used to effect an entry into any building or property or part thereof to make an authorized arrest. For example; an authorized arrest with a warrant or without a warrant, in a home or dwelling place, with probable cause and exigent circumstances.
- D. Steps and precautions when making an arrest:
 - 1. If possible, summon assistance beforehand if an unaided arrest seems unlikely.
 - 2. Identify yourself as a police officer, advise the person arrested that he is under arrest and state the reason for the arrest.
 - 3. Use only that force which is objectively necessary and reasonable to make the arrest (ie. what a reasonably trained law enforcement officer would use in the same situation).
 - 4. Handcuff the person with their hands back to back, with the cuffs double-locked.
 - a. If the arrested person is injured or handicapped, the officer will use his best judgment and discretion whether or not to apply handcuffs keeping in mind the safety of both the officer and the arrested person. Arrested persons may be handcuffed with their arms in front, with the cuffs double-locked, if the officer feels this is an appropriate option.

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- b. The type of restraint used will be documented in the incident report. If no restraints are used, or the person is restrained other than with their hands behind their back, the reasons will be documented in the incident report.

5. Search for and remove from the arrested person any weapons, evidence or contraband.

6. Provide detailed documentation in the offense report of the force used and the circumstances leading to its use.

VI. IF A PRISONER BECOMES ILL OR IS INJURED IN THE PROCESS OF BEING ARRESTED:

- A. If the prisoner complains of pain or illness, or the arresting officer feels medical treatment may be necessary, the officer will arrange for competent medical attention as soon as practical. Unless immediate transport to the hospital is necessary, Livingston Fire and Ambulance personnel should be summoned to examine the prisoner as soon as practical.
- B. If the prisoner is not provided medical attention, a detailed report will be filled out as to why no medical care was necessary or provided.

VII. ARRESTEE RIGHTS

- A. Before interrogating a person in custody, officers shall advise them of their Miranda rights. A person who is stopped pursuant to 46-5-401 MCA is not in custody unless the stop goes beyond the purpose of that section. Officers should use a written waiver and memorialize the reading and any subsequent waiver of the Miranda warning in writing, and by using an audio tape or video tape whenever possible.
- B. Volunteered and spontaneous statements by suspects are admissible as evidence and need not be preceded by a reading of Miranda warning. An officer cannot initiate follow-up questioning without reading the suspect the Miranda warning.
- C. When a lawful arrest is effected, an officer may reasonably search the person arrested and the area within the person's immediate presence for the purpose of:
 - 1. Protecting the officer from attack
 - 2. Preventing the person from escaping
 - 3. Discovering and seizing the fruits of the crime
 - 4. Discovering and seizing any persons, instruments, articles or things which may

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have been used in the commission of or which may constitute evidence of the offense.

- D. A person arrested for a misdemeanor offense will normally have the legal right to have bond set for pre-arraignment release. The person will be given the opportunity to post bond, or have bond posted on their behalf, and shall be released after the person is properly booked. Booking, accepting bond and release will be coordinated by the detention center.
- E. Officers are discouraged from transporting suspects to any location in order to obtain bond, such as ATM machines, banks, residences, etc. Exceptions may be granted on a case by case basis if the officer feels this can be accomplished safely and in a timely manner, and only when specifically requested by the suspect as the only reasonable means to obtain bond. Officers will not retrieve cash on behalf of a suspect, or post bond themselves.
- F. Persons arrested for felony offenses will be held until being arraigned in Justice Court, at which time bond will be set.
- G. Persons arrested and charged with partner or family member assault are not subject to pre-arraignment release. They must appear before a judge prior to being released.

VIII. OFF DUTY ARRESTS

- A. Officers are discouraged to take enforcement action or make arrests when they are off duty, unless necessary to preserve the peace, prevent injury to any person or apprehend a suspect who has committed a serious offense and who may otherwise escape or pose a threat to public safety. If an off duty officer attempts to take enforcement action, the officer should take care to identify and protect himself and to protect others.
- B. Whenever a member of the department or his immediate family are personally involved in any altercation or situation requiring law enforcement attention he should not make an arrest himself, but shall call upon another officer to do so. Officers will not investigate matters they are personally involved in. Exception - Officers may take appropriate action, including arrest, to protect themselves or others if immediate action is necessary.

IX. PERSONS EXEMPT FROM ARREST

- A. Electors shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at election and in going to and returning from the same.

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- B. Senators and representatives shall in all cases except felony or breach of the peace be privileged from arrest during the sessions of the state legislature and in going to and returning from the same.
- C. The militia shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at musters and election and in going to and returning from the same.
- D. Judges, attorneys, clerks, sheriffs, and other court officers shall be privileged from arrest while attending court and while going to and returning from court.
- E. Exemption from arrest does not mean exemption from prosecution. The officer may complete a full investigation and submit a request for prosecution to the prosecutor. An officer may search for and seize evidence and known contraband in accordance with the law.
- F. Law enforcement officers should not hesitate to intervene in any criminal violation they observe, even though immunity prohibits arrest at the scene. Officers should stop the person, issue a notice to appear or identify the person, and report the incident in the usual fashion.
- G. DUI or Illegal Per Se violations shall be considered a breach of the peace, and violators are not exempt from arrest. Upon probable cause, persons shall be arrested and booked into jail in accordance with normal procedures. If the person arrested is unable to post required bond, or is otherwise ineligible for pre-arraignment release, a judge shall be notified as soon as practical, and their recommendation for release shall be followed.

X. FOREIGN NATIONALS

- A. When foreign nationals are arrested or detained the U.S. Department of Homeland Security should be notified and the foreign national must be advised of the right to have their consular officials notified. In some cases the nearest consular officials must be notified of the arrest or detention of the foreign national regardless of the national's wishes. Consular officials are entitled to provide consular assistance. When a foreign national is arrested or detained, and officer must:
 - 1. Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels.
 - 2. Determine if the foreign national's country is on the list of mandatory or optional notification countries as determined at the website:
<http://travel.state.gov/law> under the heading of "Consular Notification and Access."

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3. If the foreign national's country is not on the mandatory notification list, offer without delay to notify the foreign national's consular officials of the arrest or detention.
4. If the foreign national asks that the consular notification be given, notify the nearest consular officials of the foreign national's country without delay.
5. If the foreign national's country is on the list of mandatory notification countries, notify the foreign national's consular officials without delay of the arrest or detention and tell the foreign national that you are making the notification.
6. If a person claims diplomatic immunity, the officer should include this information in the notification to the U.S. Department of Homeland Security.

EMERGENCY VEHICLE OPERATIONS & PURSUIT POLICY

Effective Date: November, 2003

Supersedes Policy Dated: March, 1997



I. PURPOSE

- A. To provide guidelines for the pursuit and apprehension of fleeing violators and the effective operation of agency vehicles during emergency conditions.

II. POLICY

- A. Emergency operations of agency vehicles will be conducted in accordance with Montana Code Annotated and department policy. Department members are expected to use reasonable judgement and prudent conduct with due regard for their safety and the safety of all persons and property while engaged in emergency vehicle operations. There are no tasks of such importance that they justify the reckless disregard for public safety, and no task shall be expedited with such emphasis that the principles of safety become secondary.
- B. Emergency vehicle operations are limited to those times an officer has information to believe an emergency exists.

III. EMERGENCY DRIVING

- A. Officers of the Livingston Police Department will operate police vehicles in accordance with 61-8-107 MCA.
 - 1. The driver of a police vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in 61-8-107 MCA, but subject to the conditions herein stated.
 - 2. The driver of a police vehicle may:
 - a. park or stand, irrespective of the provisions set forth in state law and city ordinance
 - b. proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation
 - c. exceed the speed limits so long as he/she does not endanger life or property
 - d. disregard regulations governing direction of movement or turning in specified directions
 - 3. The exemptions granted to a police vehicle apply only when the vehicle is making use of an audible or visual signal, or both, meeting the requirements of 61-9-402 MCA.

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4. The foregoing provisions shall not relieve the driver of a police vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from consequences of his/her reckless disregard for the safety of others.
- B. When responding to any emergency situation, the operators of police vehicles must continually evaluate their response, keeping in mind the same considerations used in pursuit situations. Officers will regulate their response to any call so as not to unreasonably endanger the public safety or welfare. Officers must use reasonable discretion, and may utilize the following options as determined by existing conditions or the nature of the call being responded to:
 1. Unit(s) may respond without the use of emergency lights and siren. This will be in compliance with all traffic regulations.
 2. Unit(s) may respond using their emergency lights and/or siren, as required by traffic conditions.
 3. Unit(s) may respond using both emergency lights and siren during or while responding to an emergency situation.

IV. VEHICLE PURSUITS

A. Definition:

1. The active attempt by one or more officers to apprehend the driver/occupants of a vehicle who, having been given visual and audible signals to stop, willfully attempts to elude/flee by high speed driving, evasive tactics, failing to yield, regardless of speed, or any other overt action intended to avoid apprehension.

B. Decision to pursue:

1. Deciding whether or not to pursue is among the most critical decisions a law enforcement officer has to make. The primary goal of the Livingston Police Department is the protection of life and property. To the extent that a pursuit exposes any officer, suspect, or member of the public to an unreasonable risk of harm or injury, then pursuit is inconsistent with that goal. Because of the potential risk to public safety, officers and supervisors will not be criticized or disciplined for deciding not to initiate, engage in, or for terminating an ongoing pursuit. This specifically includes circumstances where this policy would permit the commencement or continuation of a pursuit.

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5. The initiating/primary officer will have operational responsibility for the pursuit, unless relieved by a supervisor, and shall be responsible for broadcasting radio communications unless this responsibility is delegated to a back-up unit.
- B. Supervisor responsibilities: After being notified that a pursuit has been initiated by a Livingston Police Department officer(s), a supervisor shall assume the following responsibilities:
1. Respond to a pursuit in progress, when possible or practical.
 2. Monitor the progress of pursuits and ensure policies and procedures are complied with by all officers involved.
 3. Terminate the pursuit if they perceive the pursuit exposes any officer, member of the public or violator to unnecessary risk.
 4. In those limited circumstances where the escape of the violator creates a greater risk to the safety of the public than the risks inherent in the pursuit, supervisors may authorize escalation in the use of force to conclude the pursuit.
 5. Ensure assisting units are requested and dispatched
 6. Ensure only the necessary number of units are involved
 7. Consider aborting the pursuit if cause exists
 8. Ensure that proper written reports are completed in detail.
- C. Assisting Unit Responsibilities:
1. Requests for additional units will be coordinated by the communication center.
 2. A pursuit should normally consist of two units, the primary unit and one backup unit. Request for additional units may be determined by the following:
 - a. The nature of the offense
 - b. Number of suspects
 - c. Other clear and articulated facts that would warrant the increased hazard.
 3. Authorization for more units to be involved in a pursuit must be obtained from a supervisor or the primary officer if no supervisor is available.

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- E. In order to diminish the likelihood of a pursuit, officers intending to stop a vehicle should, whenever practical, be within a close proximity to the vehicle prior to activating the overhead lights and/or siren. Some people who may not otherwise flee may attempt to evade apprehension when given a several block warning of an intended stop. The responsibility for the decision to overtake a vehicle rests with the individual officer. In arriving at his/her decision, the officer must carefully consider all factors involved, including the seriousness of the offense, the potential risks involved in overtaking the suspect vehicle, and the safety of persons and property. Officers shall not attempt to overtake a vehicle if they would expose the public to a greater risk of danger than the suspected violator presents, and the need to apprehend the violator does not outweigh the risks involved. During the course of enforcement activities, specific incidents may escalate from routine overtaking situations if the suspect attempts to evade apprehension. If this occurs, applicable pursuit policy and procedures apply.
- F. Any primary or back-up unit sustaining damage that would jeopardize safe operation, or that experiences mechanical failure of essential radio communications or emergency equipment, shall discontinue further involvement in the pursuit.

V. PROCEDURES

- A. The following procedures shall be followed by department personnel involved in a pursuit:
 - 1. Officers involved in pursuits shall activate all emergency equipment, including headlights, emergency lights and siren.
 - 2. Officers initiating a pursuit shall immediately notify the communications center via radio that a pursuit is underway.
 - 3. As much of the following information as possible will be provided:
 - a. Unit identification
 - b. Location, speed, and direction of the fleeing vehicle
 - c. Vehicle description, including license plate number if known
 - d. Reason for pursuit
 - e. Number of occupants in the fleeing vehicle
 - f. Traffic, road, and weather conditions
 - 4. Pursuing officers have the obligation to ensure that accurate and complete information is transmitted. Failure to do so may be cause for a supervisor to order the termination of the pursuit.

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 3. Terminate the pursuit if they perceive the pursuit exposes any officer, member of the public or violator to unnecessary risk.
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4. Assisting back-up unit(s) will maintain a safe distance behind the primary unit, but close enough to provide backup if required.
 - a. All other units in the area will monitor the direction and progress of the pursuit, but shall not actively participate and shall not parallel the pursuit on adjacent streets or roadways unless specifically authorized to do so by a supervisor or the primary officer.
5. Upon joining the pursuit, the assisting unit(s) shall immediately notify the communication center of its identity. If requested, the assisting unit may assume communications responsibility allowing the primary unit to devote full attention to driving.
6. Assisting units shall avoid intersecting the path of the pursued vehicle.
7. Back-up units shall not pass another unit involved in the pursuit unless specifically requested to do so, or it is considered necessary for safety or tactical reasons.
8. If the primary unit becomes disabled or is unable to continue the pursuit, the assisting unit shall assume the responsibilities of the primary unit. The communication center will advise other available units and the nearest available unit shall assume back-up duties.

D. Pursuit Restrictions

1. Officers will not attempt to overtake or pass the violator's moving vehicle.
2. Officers will reduce speed and control their vehicles to avoid collision with other vehicles. This includes approaching intersections (controlled or not), or any location where there is increased likelihood of collision.
3. Officers shall not engage in high speed or high-risk pursuits when their vehicle is occupied by prisoners or any other person who is not a sworn peace officer. This includes authorized civilian ride-alongs who have signed a waiver of liability.

E. Pursuit Intervention:

1. Any intervention tactic, especially at high speeds, must take into consideration all of the factors surrounding the incident. Safety is always the foremost factor to be considered. Unless not practical, intervention tactics shall not be utilized without prior approval of a supervisor or, in the absence of a supervisor, the senior officer on duty. Intervention tactics will always be guided by the department Use of Force Policy.

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- a. **Intentional Contact:** Intentional contact with a fleeing vehicle is a high-risk maneuver that presents extreme danger to the officer, the violator, and the general public. It will only be considered in extreme situations when it has been concluded to be less than the danger of allowing the suspect to continue.
 - (1) Officers should consider the fact that air bag activation may occur upon contact. If the fleeing vehicle is a motorcycle, ATV or snowmobile, intentional contact will not be allowed unless the use of deadly force is justified.
- b. **Vehicle Disabling Devices:** Mechanical tire deflating devices are acceptable methods of terminating a pursuit and the use of these devices should be considered prior to any other intervention technique whenever practical and appropriate. Officers will use tire deflating devices in accordance with the department "Tire Deflating Device Policy and Procedure."
- c. **Roadblocks:** A roadblock shall be considered a means of physical impediment to traffic as a means of intentionally stopping a vehicle using any physical obstruction or barricade. Roadblocks are authorized only with a supervisor's approval. If a roadblock is established, the following procedures shall be followed:
 - (1) Vehicles or other obstacles shall be placed in a position that is reasonably visible, allowing the fleeing suspect, officers and the traveling public sufficient time and distance to slow and stop. Whenever practical, the roadblock should be marked with traffic cones, flares or other signs warning of the roadblock.
 - (2) Pursuing units and other agencies must be aware of the roadblock and given prior warning to its location.
 - (3) Officers shall not place themselves, their vehicles or any obstacle in a position that would jeopardize the safety of the officers involved.
 - (4) Reasonable measures should be taken to ensure the safety of non-involved citizens and motorists.
 - (5) The entire roadway may not be blocked off. The fleeing suspect and traveling public must be provided an avenue around the roadblock.
- d. **Channelization:** As a means of redirecting the course of a fleeing vehicle, or encouraging the use of an alternative path, an officer may deliberately direct the vehicle into a given path or location (ie. unpaved roadway, dead end road, away from populated areas or intersections, etc.) by using stationary objects such as traffic cones, barricades, flares, vehicles, etc. Channelization is considered a

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forcible intervention technique, but does not require the justification of deadly force when the following procedures are applied:

- (1) The method used is highly visible for a sufficient distance to allow pursuing officers, the fleeing suspect and the traveling public the time and distance to stop or easily access alternative routes.
- (2) Stationary objects are not placed in the direct path of the fleeing vehicle.
- (3) The methods used do not force the fleeing vehicle into a stationary object (ie. ditch, embankment, building, vehicle, guardrail, tree, etc.) or otherwise create an unreasonable risk of injury to the suspect or any other person.

The methods used should offer the greatest probability of re-directing a fleeing vehicle with the least likelihood of injury to the public, the officers involved and the suspect.

Channelization may be used as a means of re-directing a fleeing vehicle across a tire deflating device(s) to terminate a pursuit.

Channelization may be used as an attempt to keep a fleeing suspect from exiting the interstate and coming into Livingston. In these instances, coordination shall be made with pursuing units as to the location. Patrol vehicles or other visible objects may be parked across the exit ramp lane, and well off the interstate travel lanes, as a means of discouraging the fleeing suspect from exiting the interstate. Patrol vehicles will utilize emergency lights, flares, cones or other methods of providing visibility and advance warning.

- e. **Boxing-in:** Boxing-in is a method of terminating a pursuit and apprehending a suspect by using patrol vehicles to surround a violator's vehicle and slowing all vehicles to a stop. Due to the inherent risk of injury to officers, the public, and the suspect, this technique is highly discouraged. Under most circumstances, the potential dangers far outweigh the probability of a successful stop of the violator.
 - (1) This technique will only be used at slow speeds and when the use of other lower risk methods of stopping the suspect, such as tire deflating devices, have been tried without success or are not possible.
 - (2) Boxing in shall not be used at high speeds or in situations where the suspect has demonstrated a willingness to use his/her vehicle to ram officers' vehicles.
 - (3) Extreme care should be taken by officers on the sides or in front of a fleeing vehicle. If at any time the suspect attempts to assault an officer, or ram their vehicles, alternative methods of stopping the suspect should be considered unless boxing-in is determined to be the best reasonable

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method and the need to immediately stop the suspect vehicle outweighs the risks involved.

2. The Chief of Police and/or a supervisor will be notified as soon as reasonably possible when any intervention action results in injury or death.

F. Use of Firearms during Pursuits:

1. Officers shall not discharge a firearm at or from a moving vehicle unless the use of deadly force is justified (Use of Force Policy applies), and the following requirements are met:
 - a. Reasonable steps can be taken to prevent persons other than the suspect from being hit.
 - b. The risks created from the vehicle going out of control after being hit are less than the risks created by the suspect if not immediately apprehended.

G. Inter- and intra-Jurisdictional Pursuits :

1. When a pursuit initiated by this agency enters another jurisdiction, the primary officer should request the communications center to notify that jurisdiction's law enforcement agency of the pursuit. The informing person shall clearly indicate if they are requesting assistance from the law enforcement agency or merely providing notification of the pursuit being conducted. The notification message should also include as much as the following information as possible:
 - a. Unit radio identifier
 - b. Location, speed, and direction of the pursuit
 - c. Vehicle description, including license plate number
 - d. Reason for pursuit
 - e. Number of occupants
 - f. Traffic, road, and weather conditions
 - g. If the officer will be switching to another radio frequency and what that frequency will be.
2. Officers involved in any pursuit situation that leaves, or occurs outside of, the immediate area surrounding the City of Livingston shall ensure that at least one officer remains within close proximity of the City and is available to respond to other emergency situations as needed. At no time will all on duty officers leave the immediate vicinity of the City of Livingston unless the suspect poses an imminent threat to the safety of the public if not apprehended. If such a situation arises, the primary officer shall request the communication center immediately call out an off duty officer to handle local calls.

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If a pursuit enters another jurisdiction, a request for assistance shall be made to the law enforcement agency of that jurisdiction. If more than one Livingston police officer is involved in the pursuit, the back-up officer should discontinue the pursuit and return to the City as soon as an officer from that jurisdiction is able to assume back up responsibilities. The primary officer may continue the pursuit until another officer of the

appropriate jurisdiction is available to take over and his/her involvement is no longer necessary.

3. Officers of this agency will not become involved in pursuits initiated by another agency without a request for assistance from that agency. Such a request may be made through the communications center or via radio transmission. Officers will not participate in pursuits that are inconsistent with department policy, and if continued assistance becomes inconsistent with department policy at any time, the pursuit assistance will be terminated.

When notified of another agency's pursuit on Interstate 90, Livingston Police units should respond to the appropriate exit(s) and utilize a "channelization" technique as a means of discouraging the fleeing suspect from exiting the interstate and entering Livingston. This technique shall be coordinated with the pursuing officers. If patrol vehicles are used to park across the exit ramp travel lane, officers should leave their vehicles and position themselves in a safe location in case the fleeing vehicle strikes the parked patrol vehicle.

4. Agency officers may continue pursuits across a state line only if the person being pursued is believed to be a felon.
5. Pursuits are not allowed into Canada.
6. A supervisor must be notified immediately when it becomes apparent that a pursuit will cross a state line.
7. In other than felony cases, officers will not cross a state line except where the failure to apprehend would create a significant hazard to the public or where such authority has been specifically granted by mutual aid agreement.
8. When a pursuit crosses into another state, that state's highway patrol or state police agency will be contacted immediately and advised of the circumstances of the pursuit.
9. If a fleeing violator is subsequently apprehended by a neighboring state, the officer may, with supervisor approval, go to the termination point.

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VI. PURSUIT REVIEW PROCESS

- A. The primary pursuing officer and any other participating officers will prepare a detailed written incident report following any pursuit initiated by Livingston Police Department personnel. The report will be submitted by the end of the day's shift, unless otherwise approved by the supervisor. The reports will be made available to a Pursuit Review Board, who shall review the pursuit as soon as possible following the incident. The Board shall consist of:
 - 1. The Chief of Police, (board chairman)
 - 2. An uninvolved Captain
 - 3. An uninvolved patrol officer
 - 4. A supervisory member of an outside law enforcement agency
 - 5. City Attorney
- B. The Pursuit Review Board will evaluate, in explicit and fact-finding fashion, each aspect of a vehicular pursuit. Such evaluation will include:
 - 1. A thorough review of the officer's incident report(s), witness statements, dispatch audio tapes, and any other documentation or facts related to the pursuit.
 - 2. A thorough review of any additional administrative reports submitted to the agency's insurance carrier as a result of accident or injury sustained by any person during the course of the pursuit.
 - 3. Hearing of direct testimony, if necessary, from officers and witnesses
- C. The Pursuit Review Board shall review the pursuit for the following:
 - 1. Was the pursuit reasonably necessary?
 - 2. Was the pursuit conducted according to department policy, rules and procedures?
 - 3. Are there any training needs to be addressed?

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4. Are there any changes recommended to department policy, rules or regulations?
 5. Is corrective action warranted?
- D. The Chief of Police will prepare a written report, signed by all participating board members, addressing the above questions and any other relevant issues. The report will be placed in a pursuit file maintained by the Chief of Police. The report may be used by the Chief of Police to address training needs, make policy changes, used as a basis for disciplinary action or for any other administrative purposes.
- E. The officer(s) who is the subject of the pursuit review board shall be present during all phases of the board's action with the exception of deliberation. He/she shall have the right to listen to the presentation of all information and evidence and shall be allowed to speak on his/her own behalf.

VII. ESCORTS

- A. Escorts of private vehicles with the use of emergency lights and/or siren are not authorized without the prior approval of the Chief of Police. Officers will not authorize the driver of any private vehicle to exceed the speed limit or to ignore stop signs or signals, or to otherwise violate traffic regulations.
- B. Officers will not lead or otherwise escort ambulances on emergency runs. If such assistance is necessary, officers may render such assistance by attempting to clear intersections along the route of the emergency vehicle.

USE OF FORCE POLICY

Effective Date: October, 2010

Supersedes Policy Dated:



I. Purpose

The purpose of this policy is to provide officers of this agency with guidelines on the reasonable use of force.

II. Policy

Each use of force situation is unique and will be evaluated based on the circumstances faced by the officer(s) at the time force is applied.

Many force and equipment options are available to officers. They must choose an appropriate option based on the threat, either actual or perceived, including but not limited to: officer presence, verbal direction, physical control, chemical or inflammatory agents, impact weapons, Tasers (Electronic control devices), firearms, vehicles, and/or weapons of necessity or opportunity.

Officers' actions must be "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The reasonableness of any use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

It is the policy of the Livingston Police Department that officers use the amount of force which is objectively reasonable to make an arrest, gain control of a situation, or to protect the officer or another from harm, given the facts and circumstances perceived by the officer at the time force is applied. As the situation that necessitates the use of force diminishes, so too shall the use of force.

Any application of force by a member of this department must be judged by the "objective reasonableness" standard. In determining reasonable force options(s), officers should consider the following and any other relevant factors:

- The severity of the crime at issue
- Whether the subject poses an immediate threat to the safety of officers or others.
- Whether the subject is actively resisting arrest or attempting to evade seizure by flight.
- Whether the circumstances are tense, uncertain and rapidly evolving requiring a "split second" judgment and a compelling need for haste, or if there is time for planning and evaluating response options.
- What officers know about the subject's health, mental condition or other relevant frailties (Alcohol or drug influence, mental state, demeanor, etc.).

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- Availability of alternative methods of capture, controlling, restraining or subduing the subject.
- Presence or absence of other officers available to assist.
- What other events are occurring that would necessitate a speedier outcome of the situation.
- Apparent size, age and weight of subject compared to the officer.
- Apparent physical ability of the subject.
- Number of subjects present who are involved, or who may become involved.
- Weapons possessed by or readily available to the subject.
- Known history of violence by the subject.
- Presence of innocent or potential victims in the area.
- Whether or not the subject could be recaptured at a later time without jeopardizing the safety of the officer or others.

III. Definitions

Deadly Force – Force likely to cause death or serious bodily harm

Non Deadly Force – Any force other than that which is considered deadly force.

Forcibly Felony - Any felony that involves the use or threat of physical force or violence against any individual.

Imminent - For the purpose of this policy, "imminent" shall mean those situations where a person has (1) present capability to cause death or serious bodily injury, by whatever means, (2) present intent to cause such death or serious injury, expressed by word or action and, (3) the threat is immediate.

Non-Lethal Weapon - Any item manufactured for the purpose of being utilized as a weapon that when used in the prescribed manner is not designed to cause death or serious bodily injury.

Non-Lethal Force - Force, that when properly applied, is not likely to cause death or serious bodily injury.

Physical Force – Physical contact necessary to obtain lawful compliance or overcome resistance by another person. Physical force may result from a variety of applications, including; (1) Physical compliance holds or empty handed techniques, (2) Chemical or inflammatory agents, (3) Tasers, or Electronic Control Devices, (4) Canines, (5) Impact Weapons.

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Serious Bodily Injury - bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function or process of any bodily member or organ.

IV. Procedure

- A. Officers should use tactics and/or weapons as necessitated by the situation.
- B. When applying force, for any reason, officers shall exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers should give consideration to the background, bystanders, and location.
- C. A supervisor will be notified and respond to all cases where the use of force results in injury. The Chief of Police will be notified immediately if the use of force results in death.
- D. Use of Deadly Force
 - 1. An officer is justified in the use of force likely to cause death or serious bodily harm only if the officer reasonably believes that such force is necessary to prevent imminent death or serious bodily injury to the officer or another or to prevent the commission of a forcible felony.
 - 2. Officers may use deadly force to affect the capture or prevent the escape of a felony suspect only when the suspect's flight is reasonably believed to represent an imminent threat of serious bodily harm or death to the officer(s) or other person(s).
 - 3. Officers may discharge a firearm at or from a moving vehicle only if it is necessary to do so to protect against an imminent threat of serious bodily harm or death to the officers or others. The following requirements shall be met;
 - a. Officers must ensure that reasonable steps can be taken to prevent persons other than the suspect from being hit.
 - b. The risks created from the vehicle going out of control after being hit are less than the risks created by the suspect.
 - 4. Officers shall not fire warning shots.

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5. A police vehicle is a law enforcement tool, which is capable of inflicting serious bodily injury or death when used as an offensive weapon. Therefore, its use should be considered in the same manner as any other use of deadly force.
6. Officers must remember that it is their basic responsibility to protect the public. Officers shall not fire their weapons under circumstances whereby the subsequent danger created for bystanders or hostages exceeds the threat caused by the person at whom the officer intends to shoot at.

E. Use of Non – Deadly Force

- A. When deadly force is not a reasonable option officers may use only that level of force that is objectively reasonable. Officers must continually assess the threat and be prepared to escalate or de-escalate the level of force necessary based on the objective reasonableness standard.
- B. Officers are authorized to use department approved techniques and non-lethal weapons that they have been trained to use.
- C. The use of some weapons considered as "non-lethal" may constitute deadly force if such use is improper or if intent exists to inflict death or serious bodily harm.
- F. Officers will draw or otherwise exhibit firearms only when circumstances create a reasonable belief that it may be necessary to use the firearm in conformance with the requirements of this policy.
- G. Whenever use of force results in an injury, officers will institute appropriate medical attention for anyone taken into custody or who needs medical treatment. Whenever possible, photographs of the injury should be taken to be included with the incident report.
- H. When a chemical or inflammatory agent is used by this department, decontamination should be performed as soon as practical. Should an individual exhibit signs of adverse reaction, medical treatment should be sought.
- I. Regarding injurious use of force, a supervisor or senior officer on duty shall respond to the scene and/or hospital, and will document the findings on a supplemental incident report.

V. Destruction of Injured or Dangerous Animals

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Effective Date: October, 2010

Supersedes Policy Dated:



- A. The destruction of an animal is justified; (1) for self-defense, (2) to prevent substantial harm to the officer or another person, (3) when the animal is so badly injured that humanity requires its relief from further suffering. Department Standard Operating Procedure # 021 will be followed in those situations.

VI. Reporting Use of Force

- A. All discharges of firearms, accidental or otherwise, will be reported to the Shift Supervisor immediately. A written report will be submitted to the Chief of Police within 24 hours. These reports will provide in detail all of the circumstances of the event and subsequent actions.
- B. Officers using deadly or physical force against any person will document the use of such force in the official incident report, whether or not injuries occurred and whether or not an arrest was made. The report shall explain the level of resistance by the subject, and officer/subject factors that necessitated the use of force. The written incident report will contain the following information:
 - 1. Whether or not the officer was on duty.
 - 2. Whether the officer was in uniform or plain clothes.
 - 3. Exact location of incident.
 - 4. Specific justification for each use of force application, including any factors considered in Section II of this policy.
 - 5. Explanation of the extent of any injuries inflicted on the suspect or officer(s).
 - 6. Explanation of the effect of the force on the suspect.
 - 7. Description of any warnings given prior to using force, and the time between force applications to give time for voluntary compliance (Where person is not an immediate threat or flight risk).
 - 8. Any other factor that would justify escalated force.
- C. A separate Use of Force Report will be completed, in addition to an incident report, in any of the following use of force incidents:

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1. Discharge of a firearm, accidentally or intentional, at or toward any person.
2. Striking of a subject with an impact weapon, or other weapon of necessity or opportunity.
3. Discharge of a Taser.
4. Use of force that results in injury to the subject, or complaints of injury.
5. Use of physical or weaponless force against an individual to the extent it is likely to cause or lead to unforeseen injury, claim of injury or allegations of excessive force.
6. Use of empty hand stunning or striking techniques.
7. Discharge of a chemical weapons.
8. Use of a vehicle as an offensive weapon.
9. The use of a canine to apprehend a subject, resulting in a bite.
10. The pointing of a weapon at any person, or drawing a weapon accompanied by verbal threats to use the weapon. This does not apply to the drawing of weapons in appropriate situations where officers do not point the weapon at any person or threaten to use the weapon.
11. The use of leg restraints.

This policy does not require a separate Use of Force Report for weaponless hand to hand control techniques that have little or no chance of producing injuries when gaining control over or subduing non-compliant or resisting persons. These techniques include, but are not limited to, physical touching, escort holds, gripping or holding, frisking, or handcuffing.

The Use of Force Report will be completed utilizing the form provided in the Sleuth computerized records management system. Each officer using force will complete a separate form for each force incident. The form will be completed by the end of the shift. If unable to complete the form by the end of the shift, the officer shall notify the shift sergeant or senior officer on duty. The report will be completed as soon thereafter as practical.

Shift sergeants will be responsible for evaluating each Use of Force Report and forwarding to the Assistant Chief of Police as soon as practical, but no later than 3 days after the incident or 3 days after the sergeant returns from an absence from duty. The sergeant will evaluate whether the use of force was reasonable and necessary to effect the arrest, prevent escape, overcome resistance or protect the officers or others from bodily harm. Reasonableness will be judged from the perspective of a reasonable officer at the scene at the time of the incident. The sergeant will forward the report to the Chief or Assistant Chief of Police, indicating whether or not the degree of force was reasonable and in compliance with department policy and legal standards. The sergeant will submit a written report explaining any concerns.

The Chief or Assistant Chief of Police will review the report and determine what, if any, administrative action is necessary. Use of Force Reports will be maintained for data collection and other administrative purposes.

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VII. Use of Deadly Force, Whether or Not Death or Injuries Result

- A. Any officer involved in the use of deadly force shall be allowed to consult with a representative or any other person of the officer's choosing prior to being required to give an oral or written statement about the use of deadly force. Such right to consult with a representative or other person shall not unduly delay the giving of the statement. This does not preclude initial inquiries by the responding supervisor.
- B. The officer shall be afforded the opportunity to consult with a mental health provider at the City's expense. If the use of force results in death, the officers involved shall be required to consult with a mental health provider at the City's expense prior to return to duty.
- C. Any officer who is a witness to, or has information as to the use of force occurrence, will prepare an appropriate report.
- D. The officer's immediate supervisor or senior officer on shift shall respond and assess the situation, preserve the scene, request any support units needed, and ensure that uninvolved officers are available for response to other calls for service. Calling in off duty officers may be appropriate. The supervisor should identify any witnesses for follow-up interviews. A supervisor's report will be prepared detailing the activity regarding the incident.
- E. The chief of police, or assistance chief of police in his/her absence, will be notified as soon as possible and make immediate notification to the Montana Division of Criminal Investigation and request a complete investigation into the incident. The coroner's office will be notified as soon as practical.

Partner or Family Member Assault Policy

Effective Date: October, 2007

Supersedes Policy Dated: Nov, 2003; Sept, 1999



I. PURPOSE:

- A. This policy is to provide guidance to officers with direction for providing and promoting a consistent, effective response to partner and family member assault.

II. POLICY

- A. Officers shall respond to and investigate all reports of partner or family member assault.
- B. All acts of partner or family member assault shall be treated as criminal conduct. Custodial arrest for applicable criminal offenses is the preferred response to an incident, when authorized by state law, instead of using mediation, separation or other intervention techniques.

III. PROCEDURE

- A. When an officer(s) responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer(s) shall evaluate the situation to determine who the predominant aggressor is. If, based on the officers' evaluation, the officer(s) determines that one person is the predominant aggressor, the officer(s) may arrest only the predominant aggressor. Criteria for determining the predominant aggressor may include, but is not limited to:
 - 1. The prior history between the partners or family members, if information about the prior history is available to the officer.
 - 2. The relative severity of the injuries to involved parties.
 - 3. Whether an act of or threat of violence was taken in self-defense.
 - 4. The relative sizes and apparent strength of each person.
 - 5. The apparent fear or lack of fear between the involved parties.
 - 6. Statements made by witnesses.
- B. ARREST REQUIREMENTS IN PARTNER OR FAMILY MEMBER ASSAULT INCIDENTS
 - 1. Police officers shall arrest and physically book into the jail when there is probable cause to believe that the suspect has (refer to subsection 4 below for possible exception):
 - a. Purposely or knowingly caused bodily injury to a partner (spouse, former spouse or persons who have a child in common or persons who have been or are currently dating or in an ongoing intimate relationship with a person of the

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- opposite sex) or family member (mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household).
- b. Purposely or knowingly caused reasonable apprehension of bodily injury in a partner or family member.
 - c. Used or threatened to use a weapon.
 - d. Negligently caused bodily injury to a partner or family member with a weapon.
 - e. Violated any order of protection or restraining order.
 - f. Knowingly created a situation that may present other imminent danger to the victim.
2. Officers are encouraged to arrest even after several hours have elapsed, provided that they can articulate reasonable grounds to believe that the arrest was necessary to protect the victim from injury or from further injury.
 3. Suspects arrested for partner or family member assault are not subject to being released on bond prior to being arraigned. They must appear before a judge before being released from custody. If a suspect subject to mandatory arrest, whether a misdemeanor or felony, has injuries that require treatment at a hospital, the suspect shall remain in police custody until booking.
 4. A parent or an authorized agent of any parent or a guardian is justified in the use of such force as is reasonable or necessary to restrain or correct his/her child (45-3-107 MCA).
 - a. Officers will fully investigate all reports of assaults against children by a parent or guardian, including alleged acts of discipline, as a domestic violence situation and comply with the requirements of this policy and state law. Officers shall comply with the requirements of this policy, section III, part K, regarding notification to Centralized Intake.
 - b. Officers may choose not to arrest if they feel the incident was an act of reasonable parental discipline necessary to correct or restrain the child, and arrest would not be in the best interest of the victim and family. In making this determination, officers shall consider the following factors, including, but not limited to; nature and severity of injuries, nature of offense(s), age of victim/child, known history of violence by the offending parent/guardian, known history of violence or defiant behavior by the child, family history, prior reports to law enforcement, and overall emotions and attitudes of offenders/victims or parties involved. Protection of the victim is of primary concern, and should be considered in determining whether or not to arrest.

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- c. If an arrest is not made and there is probable cause to believe an assault or related offense was committed, a request for prosecution shall be forwarded to the prosecuting attorney as soon as practical and no later than three (3) business days.
 - d. If there is probable cause to believe an assault or related offense was committed by a parent or guardian, and the officer feels the offense was justified under 45-3-107 MCA, a complete report will be forwarded to the prosecuting attorney as soon as practical and no later than 3 business days. The prosecuting attorney will determine if criminal charges are appropriate.
 - e. The provisions of 45-3-107 MCA shall not apply in the following circumstances, and officers shall make an immediate arrest if there is probable cause to believe that:
 - (1) the offense of Aggravated Assault was committed
 - (2) the offense of Assault with a Weapon was committed
 - (3) the offense of Criminal Endangerment was committed
 - (4) an Order of Protection was violated
 - (5) any other felony offense was committed
 - (6) arrest is necessary for the protection of the victim
- C. When the predominant aggressor cannot be determined, officers are discouraged, but not prohibited, from arresting more than one party. Probable cause may not exist if a legal defense, such as self-defense, is present. If the officers believe mutual assaults occurred and enforcement action is necessary to protect the parties involved, the officer may arrest more than one person. The assaults may not be mutual if separated by time, distance or degree of violence.
- D. Arrest for an assault or physical action is not mandatory for juveniles, married juveniles, or juveniles with a child in common. Juveniles may be arrested at the officer's discretion if arrest is necessary to protect the victim.
- E. Whenever possible, take victim and witness statements. If the victim refuses to give a statement or does not wish to prosecute, the officer shall clearly state the reason(s) why in the report. The officer shall also advise the victim that the State will continue with prosecution regardless of whether or not the victim agrees.
- F. When obvious injury(s) exist, officers will take photos of injury(s) at the time of the incident, if possible, or will make arrangements as soon thereafter as practical for photos to be taken. Follow-up photos should be taken in the ensuing days to further document the nature of injuries. Obtain a signed medical release, if possible from the victim.
- G. Physical evidence, if any, will be gathered and photographs or a videotape of the crime scene will be taken, if necessary.

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- H. Officers will seize any weapon used or threatened to be used in the alleged assault. Any weapon seized in relation to a partner or family member assault may not be returned to the offender until acquittal or upon issuance of a court order.
- I. Officers will provide the victim a Domestic Violence Packet, to include the "Notice of Rights and Services for Victims of Violent Crime" form and provide them with written notification of ways to prevent further abuse (i.e., shelters, community services, legal remedies, etc.). A copy of the signed form shall be included with the officer's report. Officers shall also provide all victims (male or female) with information about the Tri County Network Against Domestic and Sexual Violence, and shall contact a Tri County Network representative on their behalf at the time of the incident, if the victim desires.
- J. An officer shall remain at the scene until the situation is under control and the likelihood of further violence has been eliminated. If one party (under a non arrest situation) volunteers to leave, the officer should stand by while the party gathers a few necessary personal items. Offer to arrange or provide transportation for the victim if needed.
- K. Officers shall physically check the welfare of each minor child living in the home. If an officer knows or has reasonable cause to suspect that a child has been abused or neglected, the officer shall promptly report the matter to the State of Montana department of public health and human services. This should be accomplished by calling Centralized Intake at 1-866-597-0590. The following information should be provided:
 - 1. The names and addresses of the child and the child's parents or other persons responsible for the child's care.
 - 2. To the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries.
 - 3. Any other information that might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect.
 - 4. The facts that led the officer to believe that the child has suffered injury or injuries or willful neglect.
- L. INVESTIGATION REPORTS
 - 1. Officers shall complete an investigation report for all incidents of partner or family member assault. If an arrest is made, the probable cause shall be clearly stated in the report. If an arrest is not made, the reasons shall be clearly stated in the report. The report should also include:
 - a. The relationship and ages of the parties involved.
 - b. The facts known to the officer that establishes or fails to establish probable cause

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- c. to believe a crime has been committed.
- d. Victim's statement that he/she was scared, felt pain during and after the assault, excited utterances, etc.
- e. Evidence at the scene.
- f. Statements from witnesses.
- g. Who was the predominant aggressor?
- h. Any steps taken to help ensure the victim's safety.
- i. Actions taken by officer(s) to locate and arrest the suspect following the assault.
- j. The disposition of the case.
- k. Any important miscellaneous facts, including, but not limited to; Comparative sizes of the participants, any alcohol or drug involvement, any prior domestic violence related incidents and / or convictions, whether any children were present (their ages, etc.), whether photographs were taken (if so, when and by whom), whether or not follow up photographs of the victim will need to be taken, whether or not the aggressor impeded the victim's attempt to call for assistance, whether the victim was advised of his/her victim rights.

M. ENFORCING ORDERS OF PROTECTION

1. Police officers shall arrest and book a person when the officer has probable cause to believe that a person has violated an order of protection. Probable cause may be established if the person, with knowledge of the order, purposely or knowingly violates a provision of any order provided for in 40-4-121 MCA or an order of protection under Title 40, chapter 15 MCA. It may be inferred that the defendant had knowledge of an order at the time of an offense if the defendant had been served with the order before the time of the offense. Service of the order is not required upon a showing that the defendant had knowledge of the order and its content.
2. If the suspect is gone on arrival, officers shall make every reasonable effort to locate and arrest the suspect. If the suspect is located later, officers are encouraged to arrest (even after several hours have lapsed) provided that the officer can articulate reasonable grounds to believe that the arrest was necessary to protect the victim from injury or from further injury.
3. If the suspect is not arrested, and there are reasonable grounds to believe that an offense was committed, officers shall complete an investigation report, take statements, gather evidence and submit a request for prosecution to the appropriate prosecuting attorney.
4. Provisions of an order of protection apply only to the respondent. The petitioner cannot be arrested or charged with violating the order, or be arrested or charged with inviting or allowing the respondent to knowingly violate the order.

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5. Officers shall prepare an investigation report on all incidents of a violation of a protective order. The reports should indicate what conduct is prohibited by the order and that was allegedly violated. It is not sufficient to simply state that the suspect violated the order. The report should include the type of order, the court the order was issued from, the court order number and issue date, and clarify how the respondent had knowledge of the order.
6. Before taking enforcement action on court order violations, officers need to make diligent attempts to verify that the order is valid, and that the respondent was notified, served or had knowledge of the order. Officers can verify the order even if the petitioner does not have a copy. Verifying the court order can be accomplished by:
 - a. Asking the petitioner for a copy of the order, review it for acknowledgement of service, and check the dates to ensure the order is currently in effect and has not expired. If an order has been modified since the original issue, the modified order shall be relied upon. The order should list both the petitioner and the respondent.
 - b. Verifying with dispatch that an order exists, either through a CJIN/NCIC check or by checking local files for a copy.
 - c. During weekday business hours, officers or the dispatcher can verify the service of the court order through a check with the issuing court.
 - d. Contact the law enforcement agency of the issuing jurisdiction, if the order was issued by another jurisdiction.
 - e. Officers should attempt to contact the issuing court whenever there is any question about an order's existence or service.
7. If an officer is unable to establish probable cause to believe an order exists, through reasonable means, the order shall not be enforced and the petitioner should be advised to contact the attorney or issuing court handling the case. The city attorney should be consulted if there is a question regarding the validity of an order.

N. ENFORCING FOREIGN PROTECTION ORDERS

1. Only the respondent under an Order of Protection may be cited for violation of that order. The petitioner may not be cited for violating the order.

Partner or Family Member Assault Policy

Effective Date: October, 2007

Supersedes Policy Dated: Nov, 2003; Sept, 1999



2. All foreign protection orders from any other jurisdiction to include Tribal, Territories, and States will be enforced as written including provisions which grant relief not available in Montana as prescribed in 40-15-404 MCA.
3. All foreign protection orders are presumed valid upon presentation to law enforcement. Foreign protection orders do not have to be entered into the CJIN/NCIC system to be considered valid and enforceable.
4. If the victim does not present a copy of the foreign order, but claims it is valid, there is a presumption of validity of the order until proven otherwise. Immunity from civil action in the matter concerning foreign protection orders is provided under 40-15-406 MCA.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



I. PURPOSE

- A. The purpose is to provide guidelines to officers in the proper deployment, care, and use of Electronic Control Devices, specifically the TASER X26.

II. POLICY

- A. Deployment of a TASER or any Electronic Control Device constitutes a use of force, and officers should use the amount of force which is reasonable and necessary to make an arrest or gain control of a situation and in compliance with the department's fp. A TASER is not a substitute for deadly force if it increases or heightens the risk to the safety of officers or others.

III. TRAINING

- A. Only officers who have successfully completed a recognized training course may carry and or use a TASER upon issuance by the department. To continue to use and carry a TASER, ongoing training and familiarization with the deployment and application of the TASER is required of every officer.

IV. PROCEDURE

- A. A record of all TASER cartridge serial numbers will be maintained by the department.
- B. No changes, alterations, modifications or substitutions shall be made to the TASERS or the cartridges. All repairs shall be completed by an authorized armorer or vendor. TASER repairs shall be documented and the record shall be maintained by the department.
- C. Officers carrying a TASER shall inspect and test all devices and cartridges pursuant to manufacturers' recommendations. Officers are responsible for reporting promptly upon learning that the TASER and or cartridge are damaged or malfunction. The TASER or cartridge should immediately be taken out of service if damaged or not functioning properly.
- D. The TASER holster will be worn opposite of the firearm in a cross-draw position. Prior to the deployment, officers have the responsibility to reasonably visually and physically confirm that the tool selected is in fact a TASER and not a firearm.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



- E. Unless it is impractical, unreasonable or dangerous to do so, a verbal warning should be issued prior to the TASER being deployed.
- F. A TASER may be used where:
 - 1. Verbal dialogue has failed to gain the subject's compliance AND the subject has signaled his/her intention to actively resist the officers' efforts to make the arrest or gain control of the situation.
- G. Once a subject has submitted to the officers' requests, orders, or has submitted to arrest, the use of the TASER is no longer justified.

V. ELEVATED RISK FACTORS

- A. Although most effects, if not all, will cease shortly following the deployment, officers should be cognizant of the incapacitating effects of a TASER and as such the inherent elevation of certain risk factors which may include the following:
 - 1. Presence of flammable liquids/fumes or explosive environments.
 - 2. Elevated positions (subject falling from heights).
 - 3. Person operating moving vehicle or machinery.
 - 4. Person running (fleeing).
 - 5. Pregnancy-concerns regarding falls.
 - 6. Swimming pool or body of water.
 - 7. Application to sensitive areas.
 - 8. Repeated applications.
 - 9. Children and Senior Citizens.

VI. USE ON PERSONS IN RESTRAINTS OR IN CUSTODY

- A. In instances where restraint devices deployed upon persons under arrest fail to adequately gain control of the person a TASER may be used when justified in accordance with the use of force policy.
- B. A TASER may be used against combative, assaultive, and foreseeably violent persons in custody when justified in accordance with the use of force policy.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



VII. MEDICAL ATTENTION AND POST CARE AFTER APPLICATION

- A. If needed, reasonable and appropriate, medical personnel shall be summoned to the scene to assess the suspect. If upon an application of a TASER, the suspect exhibits any sign of medical distress, or requests medical assistance, the officers shall immediately render aid and summon emergency medical care.
- B. If the assessment or other circumstances dictate the suspect needs further medical treatment, the suspect shall be transported by reasonable means to the hospital emergency room.
- C. Medical treatment will not be refused for anyone who requests it.
- D. If safety circumstances reasonably dictate moving the suspect to another location, officers may arrange to have emergency medical personnel meet the officers and the suspect at another location to assess the suspect and render care.
- E. **PROBE REMOVAL**
 - 1. Removal of probes in non-sensitive area may be done by officers. Officers, or other trained personnel, will provide first-aid following removal of the probes by treating wounds with alcohol or iodine wipes and bandages if necessary.
 - 2. If a subject who has a probe embedded in their body requests that the probe be removed by medical personnel, then the officers shall arrange for medical personnel to remove the probes.
 - 3. Medical personnel shall remove probes located in sensitive areas such as the face, neck, throat, groin, or female breasts.
 - 4. Officers should inspect the probes after removal to see that the entire probe and probe barb has been removed. In the event that a probe barb has broken off and is still embedded in a subject's skin, the subject shall be provided appropriate medical attention to facilitate the removal of the object.
- F. When permitted to do so by the subject, photographs should be taken of probe impact sites and any other related injuries as soon as reasonable to do so.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



VIII. HANDLING OF PROBES AND EXPENDED CARTRIDGES

A. Probes that have been deployed and strike the subject will be treated as biohazard sharps. **USE CAUTION WHEN HANDLING.** They may be placed point down into the expended cartridge bores and secured. If not needed for evidence, the expended cartridge and probes will be discarded as a biohazard. The hospital or Livingston Fire and EMS can collect the items for proper disposal.

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

IX. DETENTION NOTIFICATION

A. Detention personnel shall be informed by the transport officer that the subject was controlled by the use of a TASER.

X. USE OF AN ELECTRONIC CONTROL DEVICE ON ANIMALS

A. A TASER may be deployed on an animal when:

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

XI. ACCIDENTAL CARTRIDGE DISCHARGE

A. In the event of an accidental TASER cartridge discharge, the officers shall promptly notify their immediate supervisor.

XII. PROHIBITED USES

A. A TASER shall not be used:

1. Punitively.
2. In touch-stun mode as a prod or escort device.
3. To rouse unconscious, impaired, or intoxicated individuals.
4. For horseplay or clowning around or in an unprofessional manner.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



5. To experiment on a person or allow a person to experience the effects unless authorized by the department through training or demonstrations.

XIII. REPORTING PROCEDURE

- A. When an officer uses the TASER in the line of duty a supervisor, or senior officer on duty, will be notified as soon as practical.
- B. The incident shall be clearly documented in an incident report in a manner consistent with any use of force. A supplemental TASER Use Report will be completed.
- C. Reports will be completed prior to leaving shift, and copies of the reports will be forwarded to the Chief of Police.

XIV. USE HISTORY, INSPECTION AND PROGRAM MAINTENANCE

- A. TASER data will be downloaded and printed records maintained for each issued TASER on a quarterly basis using the data port access and appropriate software (Download Kit). During quarterly data downloads, each TASER will also be cleaned and inspected for proper function. Quarterly inspections shall include:
 1. Check function of TASER and internal software.
 2. Conduct three 5-second spark tests and ensure these are on the download record.
 3. Save the download data in an electronic version for future use.
 4. Replace any damaged cartridges.
 5. Replace DPM (battery) if needed.
- B. Data will be downloaded as soon as possible upon the following occurrences, saving the data in an electronic version for future use.
 1. Each time a TASER is deployed
 2. Claims of excessive force by TASER application, whether or not the TASER was actually deployed.

A copy of the download record will be printed showing the following data.

1. Firing data before the incident.
2. Firing data for the incident.

ELECTRONIC CONTROL DEVICES (TASER) POLICY

Effective Date: November, 2009

Supersedes Policy Dated: October, 2007



3. Firing data after the incident (a spark test will need to be done after the incident to show firing data after the incident).
- C. Data will be downloaded and printed records maintained each time a TASER is repaired, returned to TASER for maintenance, or is removed from service. This data will also be saved in an electronic version.
- D. The TASER program will be monitored, maintained and reviewed by the designated TASER instructor(s). Monitor and review shall minimally include; review of TASER deployments for training issues, monitor expiration dates of cartridges and batteries, and maintain training and certification for officers.

TIRE DEFLATING DEVICES POLICY

Effective Date: May, 2013

Supersedes Policy Dated: November, 2003



I. Introduction: Tire deflating devices are intended to be used to deflate the tires of vehicles which will not yield to pursuing law enforcement vehicles, or in other scenarios where such actions would be appropriate. Only tire deflating devices provided by the department and approved for use will be deployed. This policy is intended to assist officers in the use of tire deflating devices as a pursuit intervention technique.

II. Officer Training:

- A. All officers of the Livingston Police Department shall receive training on the proper use and deployment of the tire deflating devices. This training shall cover the mechanics, safety and maintenance of the system as well as deployment techniques. This training shall include 'hands-on' familiarization with the system. This training shall be documented in the officer's individual training record. *In no event shall the spike systems be deployed by persons who have not received training in the proper method of deployment and for whom such training has been documented in their training record.*

III. Location, Maintenance and Inspections:

- A. The tire deflating devices will be maintained in the trunks of primary use patrol vehicles, utilizing the number of spikes systems that are available for use. If the devices are utilized, or repairs or parts are needed, officers will notify the Chief of Police immediately. Immediately after deployment in pursuit situations, the spike system will be removed from service and inspected for damage or other needed maintenance. The unit shall not be placed back into service until all needed repairs or replacement of parts are completed.

IV. Deployment of Tire Deflating Devices:

- A. Deployment of the tire deflating devices will take place only with authorization of a supervisor or, in their absence, the senior officer on shift. Such deployment will be done in compliance with this policy and in accordance with the manufacturers use and safety instructions.
- B. Deployment shall be authorized in cases of:
 - 1. High speed pursuits within the City of Livingston initiated by officers of the Livingston Police Department and only ***when the pursuit is in compliance with department policy*** and when such pursuit presents a significant risk of injury to the public or to law enforcement officers.
 - 2. Low speed pursuits within the City of Livingston initiated by officers of the Livingston

TIRE DEFLATING DEVICES POLICY

Effective Date: May, 2013

Supersedes Policy Dated: November, 2003



- Police Department and *which are in compliance with department policy* and after it has become apparent that the pursued driver has no intention of stopping on his or her own volition.
3. Mutual aid requests received from other law enforcement agencies involved in pursuits that originate in, or that enter or threaten to enter, the city limits of Livingston.
 4. Mutual aid requests from other law enforcement agencies involved in pursuits that do not involve a threat to the City of Livingston, but which because of extreme risk to human life, mandate that city officers respond and deploy the spike systems.
- C. In no event shall officers deploy the spike systems in pursuits originated by other agencies either inside or outside the Livingston city limits unless a specific request for mutual aid has been received from that agency and the pursuing agency has agreed to the use of the spikes.
- D. In all cases of deployment caution shall be exercised to insure that tires of pursuing vehicles or uninvolved third party vehicles are not jeopardized.
- E. Unless the use of deadly force is justified, in conformance with the department's Use of Force Policy, tire deflating devices will not be deployed to stop motorcycles or vehicles having fewer than 4 wheels.

CANINE POLICY

Effective Date: September, 2013

Supersedes Policy Dated: December, 2010



I. Policy

The police canine's superior sense of smell, hearing, sight, speed, agility and aggression can be used to the advantage of the department in support of the patrol, narcotics, and investigative functions to apprehend offenders, locate evidence and contraband, as well as provide protection and backup for officers and support personnel. It is the policy of Livingston Police Department to utilize canine personnel to the greatest extent possible and in compliance with the Departments Use of Force Policies.

II. Training

- A. Canine handlers will initially be trained by a competent trainer certified with a nationally recognized police canine organization. The training program will be designed to evolve around the following areas of instruction: Obedience, agility, scent work, tracking, building searches, field searches, evidence searches, controlled aggression and narcotics detection
- B. Canine handlers will be responsible for regular ongoing training with their dogs. Training exercises will be designed to improve the proficiency of the dog and will accustom the canine to react and perform in various situations and environments.
- C. All training will be documented on a training sheet, which will be maintained by the canine handler and copies provided to the department training officer.
- D. All necessary training equipment will be maintained by the canine handler.

III. Duties of Canine Handler

- A. Canine handlers may be expected to perform the following duties and/or assignments.
 - 1. Searching buildings and enclosed areas for unauthorized person(s).
 - 2. Tracking criminal suspects or escapees who have fled the scene of a crime.
 - 3. Searching areas for evidence left by perpetrators of a crime.
 - 4. Assisting in jailbreak or barricade incidents.
 - 5. Assisting in locating lost person(s).
 - 6. Assisting in the apprehension of suspects fleeing crimes or resisting arrest.

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Supersedes Policy Dated: December, 2010



7. Protection of officers making arrests at disturbances or violent incidents.
8. Narcotics detection during search warrant executions or other lawful searches.
9. Other duties as designated by a supervisor.

B. Handler Responsibilities

1. The police service dog will be kenneled at the canine officer's residence and should always be kenneled when the handler is not present to exercise control over the dog. The kennel environment shall be kept sanitary and conducive to proper rest for the dog while not in service.
2. The canine handler is responsible for the safety of his or her family members, friends invited into his or her premises, and members of the public, when the police service dog is at home, or otherwise not functioning in a police capacity.
3. Canine handlers will be responsible for the healthcare, safety, feeding, grooming, training, and certification of their canines and will be held strictly accountable for the proper use of the dog.
4. Canine handlers will be responsible for maintaining the working proficiency of their canines.
5. Canine handlers will be required to submit reports on the training, utilization, care, feeding, certification, and bites of their respective canines.
6. Canine handlers are assigned a specially equipped patrol vehicle. Unless otherwise specified, the vehicle will be kept at the officer's home. The officer is responsible for vehicle maintenance and for maintaining any specialized equipment in their assigned vehicles.
7. Negligent care or control of an assigned police service dog may result in relief from K-9 assignment.

C. Canine Handling - Motorized Patrol

1. Canine units will be kept clean and sanitary at all times. Excessive dog hair will be removed and windows kept clean.

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Effective Date: September, 2013

Supersedes Policy Dated: December, 2010



2. Canine officers will never allow their dogs to protrude their heads out of the vehicle windows to bark at pedestrians.
3. Canine Units will follow departmental rules and regulations regarding vehicle pursuits.
4. During warm or cold weather, the canine unit air conditioner or heater will be used to keep the canine comfortable. A sufficient amount of cool water will be readily available at all times. If left unattended in the canine unit, the engine will be left running to facilitate the air conditioner or heater. Doors will be locked, and the vehicle will be parked in the shade during hot weather when possible. The handler will check the vehicle every ten (10) minutes to ensure the engine is running and the canine is OK.

D. Canine Handling - Foot Patrol

1. Canines will be well groomed before going on duty or foot patrol.
2. Canines will not be fed prior to or while on duty.
3. A canine on foot patrol will be on leash at all times, unless the handler determines otherwise.
4. Canine handlers will not leave their canine unattended while on foot patrol.
5. Canine handlers will not patrol on foot during periods of high heat.
6. The decision as to whether or not a canine may be touched or petted will rest with the handler. If the handler decides that his dog cannot be petted, he will take the time to explain why.

E. Canine Care

1. All canines will undergo a wellness examination once every six (6) months by a licensed veterinarian, with follow-up exams and treatment provided as recommended.
2. Canine handlers will be responsible for all vaccinations, which will be kept up to date as recommended by the veterinarian.
3. Canine handlers will groom their dogs regularly to ensure a clean and healthy coat. During the summer months, the handlers will remove the under down to provide for adequate body ventilation.

IV. Procedure

CANINE POLICY

Effective Date: September, 2013

Supersedes Policy Dated: December, 2010



A. Supervision and Duties

1. Canine officers function in their normal capacity as specified by rank, adhering to their designated job description. Canine officers are under the supervision of the shift sergeant or senior officer on duty, or as departmental chain of command specifies.
2. Canine officers will work their regularly assigned patrol shifts in accordance with the most current collective bargaining agreement. Special assignments may be given, or shifts restructured, to address departmental needs or provide canine services in compliance with this policy and the most current collective bargaining agreement.

B. Canine Use of Force

1. The police dog is a non-lethal weapon to be used only under circumstances where an officer is justified in using other non-lethal weapons and in accordance with the department Use of Force Policy.
2. A police canine may be used to locate and apprehend a suspect if it is reasonably believed that the individual has either committed or is about to commit a criminal offense and the suspect either;
 - a. Poses an immediate threat to the safety of law enforcement officers or others, or;
 - b. Is actively resisting arrest or attempting to evade arrest by flight.
3. A supervisor may order a handler to deploy or not deploy the canine, relying on the handler's training and experience in regards to legal issues and the canine's performance capability. A supervisor shall not order a handler to deploy a canine when the handler feels the risk of injury to the canine or others is too great, or the task is beyond the performance capabilities of the canine or the canine is not properly trained to perform the requested task.

C. Handler Responsibilities in Instances of Dog Bites

1. In the event of any intentional or accidental bite by a police dog, the handler shall arrange for competent medical attention as soon as practical.
2. Digital photographs will be taken of any actual injuries, locations of injuries that are not visible or location where physical contact took place
3. A separate Use of Force Report will be completed, in compliance with the department Use of Force Policy.

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Effective Date: September, 2013

Supersedes Policy Dated: December, 2010



4. As with any use of force incident, supervisors will review all dog bite incidents and use of force reports to ensure compliance with department policies.
5. If a department employee sustains a bite or injury, a Worker's Compensation form and Supervisor's Incident Report will be completed.

D. Injury to Canine Officer

1. In the event that a canine officer is injured to the extent that he cannot exercise control over the dog, any officer on the scene shall:
 - a. Call for another canine officer, if available. These officers are trained in exercising control over another handler's dog.
 - b. If another canine handler cannot respond in a timely manner, officers on the scene should attempt to divert the dog's attention in order to reach the injured officer and move him to safety if possible. The canine's training and dedication to its handler may make diversion extremely difficult. An officer "taking a bite" may be the only successful way of diverting the canine's attention. When an officer on the scene "takes a bite" he should follow these guidelines:
 - (1) Use a bite sleeve or heavily pad the arm to reduce the chance of injury.
 - (2) Have other officers standing by with a rope, leash or chain, which can be quickly attached to the canine's choker collar after the attack.
 - (3) As a last resort, the canine can be destroyed only in the event of a pending fatality or serious injury to the handler, another officer or any other person.

E. Request for Off Duty Canine Team

1. If a canine handler is not on duty, the shift supervisor must authorize calling out an off duty handler. The canine handler should be briefed on the situation prior to responding, and has the discretion to decide whether or not the canine would be effective or appropriate.
2. When a canine responds, it shall be the handler's determination once he is on the scene whether or not his canine is to be utilized based on the handler's assessment of the situation and his knowledge of the dog's capabilities.
3. Requests for canine assistance from outside agencies or jurisdictions during hours when there is no canine officer on duty will only be authorized by the shift supervisor, Asst. Chief or the Chief of Police. Mutual Aid agreements will apply.

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Supersedes Policy Dated: December, 2010



F. Building Searches

1. When a canine handler responds to building searches, officers on the scene shall observe the following guidelines:
 - a. Surround the building and wait for the arrival of the canine team. Officers shall not enter the building unless directed to do so by the canine handler.
 - b. Officers shall not open doors or windows or allow anyone to enter the building.
 - c. During the course of the search, no person shall enter the building except the handler and a back-up officer(s) at the handler's request.
2. Canine officers conducting a building search shall observe the following guidelines:
 - a. Upon arrival on the scene of a building to be searched, the canine officer should consult with the officers on the scene and assess the situation.
 - b. Canines will be used in building searches only when it is apparent that a crime in being committed within, or to apprehend a criminal suspect, in compliance with the department's Use of Force Policy. Searches may be conducted on or off leash at the discretion of the handler.
 - c. If a canine is utilized, the canine officer shall make every effort to verify that no authorized person(s) are in the building before commencing a search (janitors, employees working after hours, etc.). Unless exigent circumstances justify immediate deployment of a canine to search for or apprehend a criminal suspect, a canine will only be used to search a building with consent of the owner or other person authorized to give consent after they verify that any person found within is unauthorized to be there.
 - d. The canine handler shall advise all on-scene units when his/her team is entering the building to be searched.
 - e. Unless such warning would imperil officers, impede an arrest or assist a criminal suspect in fleeing, before committing the police dog off leash the handler shall challenge the suspect by clearly announcing his identity, that a police dog is present and will be sent into the building. (Example: This is Officer of the Livingston Police Department. You have two (2) minutes to speak to me or come out or a police dog will be sent in.)
 - f. The canine officer will wait for approximately one (1) minute and then give the suspect the second and final warning. When approximately two (2) minutes have elapsed, the dog will be released for a search of the building.

CANINE POLICY

Effective Date: September, 2013

Supersedes Policy Dated: December, 2010



G. Vehicle or Property Searches

1. Canine searches of vehicles or property will be conducted in compliance with state and federal laws. Canines may be used to locate or detect the presence of controlled substances, contraband or evidence in locations that are legally accessible to a law enforcement officer at the time of the search.
2. Montana case law has established that canine sniffs are not searches, per se; however the use of a Police Service Dog to perform a sniff requires particularized suspicion of a controlled substance to do so without express consent.

H. School Building Searches

1. Canines may be used to sniff at student's lockers or other areas within school property without a search warrant or exigent circumstances only at the request of the school administrator. Canine searches conducted at the request of school administrators should in compliance with applicable school policies.

I. Search Warrants

1. Officers shall make the entry and secure the building/apartment to be searched.
2. After securing the building, officers will close all windows, shut off all fans, air conditioning, etc. and remove all prisoners/suspects from the building.
3. The canine team will enter and search the building and after completion notify other officers of the findings. The dog will be removed from the building and secured in the canine unit.
4. Assisting officers will not allow any person(s) to enter the building during the canine team search except the handler and a back-up officer(s) at the handler's request.

J. Tracking and Article Searches

1. In tracking situations, the canine team must have the cooperation of all officers at the scene. Officers should follow directions given by the canine handler at all times.
2. The area where the subject was last seen should be preserved to avoid contamination. Vehicle engines should be turned off and a perimeter large enough to contain the situation established.

CANINE POLICY

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Supersedes Policy Dated: December, 2010



3. Officers shall not touch articles of evidence, which may have been dropped or left by the suspects(s).
4. Canine teams generally conduct tracking and article searches on leash. However, should the canine alert to a suspect hiding while on track, the handler shall release the dog from harness and tracking line to conduct an area search.
5. Area searches (off leash) in open areas are permissible when the handler determines the need for such action. When utilizing the area search technique, the canine handler will maintain strict verbal command of his dog. The handler should be aware of the location of other officers, advising them when the canine is released off leash and giving appropriate instructions.

K. Civil Disturbances, Strikes, and Crowd Control Situations

1. Canine teams may only be utilized in crowd control, civil disturbances, or strikes to protect officers making arrests. Their use will be limited to preventing the interference of bystanders with the arrest(s) of disorderly person(s), the protection of officers making arrests, and security type situations.
2. Canines being used in crowd situations to protect officers making arrests are at a high level of agitation and will bite anyone coming too close to the handler. Officers must maintain a safe distance from the dog at all times unless instructed otherwise by the handler.

L. Lost Person(s)

1. Police dogs can be a great advantage in searching for lost person(s). Officers investigating lost person complaints shall:
 - a. Ascertain the exact location where the subject was last seen.
 - b. Ensure all vehicle engines in the area of the track are off.
 - c. Prevent unnecessary pedestrian movement in the area of the track.
 - d. Apprise the handler upon arrival of all available information.
 - e. Establish perimeters and be prepared to alter same, according to recommendations of the handler.

M. Canine Demonstrations

1. Public canine demonstrations are encouraged to increase public relations and promote the effectiveness of the canine. The type of demonstration, venue and audience will be at the discretion of the canine handler and must be approved by the Asst. Chief or Chief of Police.

PRISONER TRANSPORT POLICY

Effective Date: November, 2003

Supersedes Policy Dated: March 1997



I. PURPOSE

- A. To establish guidelines for the transportation of persons in custody. This guideline deals first with transport immediately after arrest, and second with the movement of prisoners from the detention facility or law enforcement center to a court, hospital or medical facility, or for any other reasons.

II. POLICY

- A. An officer transporting a prisoner should always protect the safety and well-being of the officer(s), the prisoner and the public.

III. RESTRAINING EQUIPMENT

- A. The use of handcuffs is the preferred method of restraint while transporting prisoners or suspects. Handcuffs should be applied during transport, except in circumstances where the arresting officer determines the use of handcuffs would not be appropriate. Officers should exercise caution in the application of handcuffs to ensure they are applied correctly and do not cause injury or unnecessary discomfort. When applying handcuffs, the following method of use should be employed:
 - 1. The suspect's wrists should be secured behind him with the hands back to back.
 - 2. Handcuffs should be double-locked to prevent injury to the suspect's hands or wrists.
 - 3. Exceptions to the above method will be persons whose physical size prevents their arms from being joined behind them. These persons should be handcuffed as described:
 - a. The persons hands will be secured in front of them with the hands back to back.
 - b. The handcuffs should be secured through the prisoner's belt and the belt buckle turned to his/her back, if available. The handcuffs should be double-locked.
 - c. Alternate restraint devices or two sets of handcuffs may be used to secure the person's wrists behind them.
 - 4. Supplemental restraints (leg restraints, etc.) may be used with suspects the arresting officer has cause to believe present a substantial risk of escape, violent resistance, or injury to themselves or others.
 - 5. Officers shall not attach handcuffs to leg restraints behind the back.
 - 6. Prisoners will not be handcuffed to any part of a vehicle.
 - 7. While transporting prisoners, officers will closely monitor the person to ensure they have an unobstructed airway and are breathing properly. Officers should be aware of positions which might restrict a person's ability to breathe, or of other medical or physical

PRISONER TRANSPORT POLICY

Effective Date: November, 2003

Supersedes Policy Dated: March 1997



conditions which might affect the person's well-being. Prisoners placed on their belly are at risk of asphyxia, therefore this position shall be avoided.

8. Persons whose hands are too small for regular handcuffs should be secured with alternative restraint devices designed for such use.

IV. PROCEDURE

- A. To maximize the safety of officer(s), the prisoner(s) and the public, the following procedures should be used in transporting persons in custody:
 1. All persons in custody should be searched prior to being placed in the transport vehicle.
 2. Arrested persons should be placed in the rear seat of the vehicle with the seat belt securely fastened, unless the seat belt cannot be safely fastened without significant risk of injury to the officer or prisoner. If one officer is transporting one prisoner, the prisoner should be seated in the right rear to offer better visibility of the prisoner.
 3. Whenever a female person in custody is transported by a male officer, the starting odometer reading and location should be reported by radio. When you arrive at your destination, the ending mileage should be reported by radio.
 4. The officer should check the transport vehicle for weapons or contraband prior to and after using it to transport a person in custody.
 5. If a person in custody complains of an injury, as a result of handcuffs or restraints, photos will be taken and details will be documented in the arrest report.
 6. If an officer is required to perform an extended transportation (longer than 30 minutes), the following procedures will be followed:
 - a. An officer of the same sex will be present.
 - b. Hands will be handcuffed in front, comfortably secured to a belly chain.
 - c. Two officers should be present if the prisoner poses a risk of escape or threat to the transport officer(s).

V. PRISONERS TO BE KEPT IN SIGHT

- A. Prisoners will be kept in sight at all times.
- B. If a prisoner must use the rest room, they will be accompanied by law enforcement personnel of the same sex to ensure they do not have the opportunity to escape or cause harm to themselves.

PRISONER TRANSPORT POLICY

Effective Date: November, 2003

Supersedes Policy Dated: March 1997



VI. PROVIDING POLICE SERVICE WHILE TRANSPORTING PRISONERS

- A. Officers should not handle another police incident while transporting a prisoner, unless the incident is of such magnitude that a person is placed in jeopardy of serious bodily harm. The officer should be constantly concerned with the safety of the prisoner, and should not expose the prisoner to unnecessary risks. The officer should attempt to keep the prisoner in sight at all times, and should resume transport as soon as possible unless the prisoner is turned over to another law enforcement officer for transport.

VII. ESCAPE OF PRISONER

- A. Upon the escape of a prisoner, the transport officer shall immediately notify dispatch of the escape, location, status and provide the direction of travel. If the prisoner is in sight, the officer shall attempt to apprehend the suspect using the amount of force that is reasonable and necessary while ensuring the safety of the officer and bystanders.
- B. If the officer discovers that a prisoner is missing and not in sight, and it is suspected the prisoner is within an enclosed or confined area that the officer can control, the officer shall try to maintain a position blocking the prisoner's escape. The officer should request assistance from available officers, and await the arrival of assisting officers to aid in the search and apprehension.
- C. If the officer has reason to believe the prisoner is not in a confined area and is out of sight, the officer should notify dispatch, broadcast an appropriate "be on the lookout," and request assistance. As much of the following information as possible should be provided:
 - 1. Location and status
 - 2. Last known location of suspect and direction of travel, if known
 - 3. Name and description of suspect
 - 4. Charges or reason for initial arrest
 - 5. Any known threats the suspect may pose
 - 6. Any other information that may lead to the apprehension of the suspect
- D. A supervisor shall be notified of an escape as soon as practical.
- E. If a prisoner is subsequently apprehended following an escape, the prisoner will be thoroughly searched and transported to the detention facility. Reasonable measures should be taken to prevent further attempts to escape, such as the use of appropriate restraints. Appropriate charges will be filed.
- F. If the prisoner is not located, a request for prosecution will be submitted to the prosecuting attorney as soon as practical.

PRISONER TRANSPORT POLICY

Effective Date: November, 2003

Supersedes Policy Dated: March 1997



- G. In any case, a detailed offense report will be completed. The report will include any force used in the apprehension of the suspect, circumstances for the use of force, specific events leading up to the escape or attempted escape, and the actions taken by officers to apprehend the suspect or what efforts were made to locate the suspect if not apprehended.
- H. Under no circumstances will the supervision of another prisoner be relaxed to pursue an escaped prisoner.
- I. If a prisoner attempts to escape from custody, the officer should:
 - 1. Immediately summon assistance to his/her location, if available
 - 2. Subdue the prisoner using reasonable force to maintain custody
 - 3. File appropriate charges
 - 4. Complete a detailed report

JUVENILE OFFENDER POLICY

Effective Date: October, 2007

Supersedes Policy Dated: November, 2003



I. POLICY:

- A. It is the policy of the Livingston Police Department that juvenile offenders are treated in a fair and consistent manner, and in compliance with the Montana Youth Court Act. Officers dealing with juvenile offenders shall employ the least coercive alternatives consistent with preserving public safety, order and individual liberty.

II. PURPOSE:

- A. The purpose of this policy is to provide guidance to officers in making arrests and taking juveniles into custody in a fashion that provides a reasonable level of safety and security for the officers, juvenile offenders and the public.

III. GENERAL GUIDELINES:

- A. In cases of violation of City ordinance(s), i.e., skateboards or bicycles on sidewalks, curfew, etc., officers may use their own judgment, based on totality of the circumstances, as to whether arrest or warning is the preferable course of action. However, in either case, a Youth Offense Report will be completed, and the appropriate disposition indicated on the report (referred to Juvenile Court, warned-adjusted by officer, etc.). Additionally, a parent or guardian of the youth will be notified of what action was taken. If contact with a parent or guardian cannot be made, the Youth Probation Officer shall be contacted, and his/her instructions shall be followed. A written report will be completed.
 - 1. Factors to be considered in the totality of circumstances should include, but are not limited to:
 - a. Time of day
 - b. Type of offense
 - c. Age and attitude of the offender
 - d. Potential of the offense to create substantial public reaction.
 - e. Verbal or written instruction from authority to increase or enhance enforcement of a particular ordinance or law.
- B. In cases involving misdemeanor violations of State law, (i.e. shoplifting, theft, destruction of property and vandalism, etc.), exclusive of traffic laws, arrest is the preferred course of action. If such action is not deemed appropriate at the time, a full explanation will be contained in the written report. Youths arrested will be referred to the Youth Probation Officer, and will be released to their parent or guardian, or in accordance with instructions of the Youth Probation Officer or County Attorney.

JUVENILE OFFENDER POLICY

Effective Date: October, 2007

Supersedes Policy Dated: November, 2003



- C. Juvenile offenders will be cited into City Court (Or Justice Court, depending on jurisdiction) for traffic offenses under Title 61, MCA. In cases of violations of traffic laws, officers may use their judgment, based on the totality of the circumstances, as to what course of action is desirable. Verbal or written warnings may be given, or the youth may be issued a Notice to Appear in City or Justice Court. In the event of serious violations, such as Driving While Under the Influence, arrest is the preferred course of action. In this case, a parent or guardian will be notified as soon as practical. In the event a parent cannot be reached the instructions of the Youth Probation Officer or County Attorney will be followed.
- D. In cases involving felony violations of State law, arrest is the only acceptable course of action. Parents or guardians of the youth will be notified of the arrest as soon as possible, as will the Youth Probation Officer or the County Attorney. Unless an officer believes on reasonable grounds that the juvenile should not be released from custody, they may be released to a parent or guardian, or in accordance with instructions of the Youth Probation Officer or County Attorney.
- E. In all cases where a juvenile is arrested or charged with an offense, other than traffic, a written offense report will be completed. Traffic contact will generally require nothing beyond a citation, if one is issued. In serious instances, such as Driving While Under the Influence, a written report is required.
- F. When dealing with juvenile offenders an officer should attempt to create positive impressions about law enforcement by the manner in which he conducts him or herself and carries out his/her duties. Belligerent, over-bearing behavior and profanity in the presence of youths (or any other persons) is prohibited.
- G. If an officer believes on reasonable grounds that the juvenile should not be released from custody, the county attorney or youth probation officer will be contacted and, upon their authorization, the youth may be transported to a shelter care facility or secure detention facility. Transportation is normally provided by the Park County Sheriff's Office. Supervisory approval is required to transport a juvenile outside our jurisdiction.
 - 1. A youth may be placed in a secure detention facility only if the youth has allegedly committed an act that if committed by an adult would constitute a criminal offense specified in 41-5-206 MCA. A youth may also be placed in a secure detention facility if

the youth is alleged to be a delinquent youth and any of the following apply:

- a. Has escaped from a correctional or secure detention facility.
- b. Has violated a valid court order or parole agreement.
- c. The youth's detention is required to protect persons or property.
- d. The youth has pending court or administrative action or is awaiting a transfer to

JUVENILE OFFENDER POLICY

Effective Date: October, 2007

Supersedes Policy Dated: November, 2003



- another jurisdiction and may abscond or be removed from the jurisdiction of the court.
 - e. There are not adequate assurances that the youth will appear for court when required.
 - f. The youth meets additional criteria for secure detention established by the youth court in the judicial district that has jurisdiction over the youth.
 - g. The youth has been adjudicated a delinquent and is awaiting final disposition of the youth's case.
 - h. The youth is alleged to be a runaway from another state.
2. A youth may be placed in a shelter care facility under the following circumstances:
- a. The youth or their family needs shelter care to address their problematic situation and it is not possible for the youth to remain at home.
 - b. The youth needs to be protected from physical harm.
 - c. The youth needs to be deterred or prevented from immediate repetition of troubling behavior.
 - d. Shelter care is necessary to assess the youth and the youth's environment.
 - e. Shelter care is necessary to provide adequate time for case planning and disposition, or to intervene in a crisis situation and provide intensive services or attention that might alleviate the problem and reunite the family.

IV. FINGERPRINTS AND PHOTOGRAPHS:

- A. In Accordance with 41-5-1206 (2) MCA, a juvenile may be fingerprinted or photographed for criminal identification purposes only under the following circumstances:
 - 1. If arrested for conduct alleged to be unlawful that would be a felony if committed by an adult.
 - 2. Pursuant to a search warrant, supported by probable cause, issued by a judge, justice of the peace, or magistrate.
 - 3. Upon the order of the youth court judge after a petition alleging delinquency has been filed.
- B. Juveniles may not be fingerprinted or photographed for criminal identification purposes under any other circumstance, even upon the consent of the juvenile or a parent, unless authorized by the county attorney.

JUVENILE OFFENDER POLICY

Effective Date: October, 2007

Supersedes Policy Dated: November, 2003



V. JUVENILES IN POSSESSION OF ALCOHOL

- A. Officers who receive information, or who otherwise acquire knowledge that juveniles may unlawfully be in possession of alcohol, will make every reasonable effort to fully investigate this information and take appropriate enforcement action. It is the policy of the Livingston Police Department that all juveniles (persons less than 18 years of age) who are found to be in unlawful possession of alcohol (whether such possession is actual or constructive) shall be arrested and taken into custody until released to a parent, guardian or other authorized person. Under no circumstances will officers willingly release juveniles to themselves, allow them to leave on their own, or fail to make reasonable efforts to take juveniles into custody if there is probable cause to believe they have consumed any amount of alcohol.
- B. Juveniles arrested for Unlawful Possession of Alcohol shall be referred to the youth probation officer. The youth shall be released only to a parent, or, if a parent cannot be located, to another responsible adult as directed by the Youth Probation Officer or the County Attorney's Office.
- C. In cases of constructive possession, the youth shall be asked to take a breath test. The test can be administered at the scene, utilizing a portable breath test instrument, to develop probable cause for arrest or administered in the detention center booking area following arrest. The test shall be administered only upon the consent of the youth after they have been advised of their right to refuse, and that the test results will be used as evidence against them. If the youth is a juvenile and under 16 years of age, such advisement must take place in the presence of a parent and both the youth and parent must waive the rights and consent to the test. If the breath test indicates no presence of alcohol, indicated by a reading of less than .02 BAC, officers should consider the option of taking no enforcement action unless there is probable cause to arrest.

VI. RIGHTS OF JUVENILES TAKEN INTO CUSTODY

- A. Juveniles arrested or taken into custody by police officers will be kept under close observation at all times. They will normally be transported to the law enforcement center pending their release to a parent or guardian. Juveniles in police custody will not be locked inside any room at any time while inside the law enforcement complex. If placed in a room, such as an interview room, the door will remain unlocked and an officer will remain in the immediate area to visually supervise the juvenile. Officers should notify a parent or guardian as soon as possible and advise them of the reason the juvenile was taken into custody and the circumstances involved.
- B. Juveniles may be restrained using the same procedures as adults during transport or while in custody. The procedures and restraints used should be reasonable and necessary to protect the suspect, the officer(s) and the public. Generally, restraints should be removed after the juvenile has been taken to the law enforcement center. Exceptions may be granted if necessary for safety reasons, if the juvenile is combative and uncooperative, or poses a risk of escaping.

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- C. Officers should use the same safety precautions and arrest techniques as with adults. However, officers should exercise reasonable discretion when dealing with juveniles and treat them with a reasonable level of care, taking into consideration the offender's age, nature of offense, level of cooperation, expected knowledge of the law and police procedures, and other factors.
- D. When questioning juveniles about a crime they must be advised of their rights against self-incrimination, their right to counsel and the right to have a parent, guardian or custodian notified.
 - 1. Prior to questioning a juvenile, officers must immediately notify the parents, guardians or legal custodian of the youth. If any of the above cannot be located through diligent efforts, a close adult relative or friend chosen by the youth must be notified.
- E. A juvenile may waive their rights under the following conditions:
 - 1. When the juvenile is 16 years of age or older, they may make an effective waiver them self. If the juvenile requests a parent, guardian or other chosen adult relative or friend to be present, or wishes to consult with them, the officer should accommodate this request and notify the requested person prior to questioning.
 - 2. When the juvenile is under 16 years of age and the juvenile and a parent or guardian agree, they may make an effective waiver. The officer's report should state the name and relationship of the parent or guardian making the waiver and, if possible, have them sign the advisement of rights form. When the juvenile is under 16 years of age, and the juvenile and their parent or guardian do not agree, the juvenile may make an effective waiver only with the advice of counsel.

VII. SUPPORT SERVICES AND RESOURCES

- A. Officers involved in the arrest or custody of juveniles should be aware they have access to the following resources for guidance and assistance:
 - 1. The county attorney in cases involving felony offenses.
 - 2. The juvenile probation officer for lesser offenses.
 - 3. The Department of Public Health and Human Resources, in cases involving dependent or neglected youth or a need for youth shelter services.

SEXUAL/VIOLENT OFFENDER REGISTRATION POLICY

Effective Date: November, 2008

Supersedes Policy Dated: Oct, 2007; Oct, 2006



- I. Introduction: This policy is in compliance with the registration requirements set forth in 46-23-504 MCA. Registration requirements apply to sex offenders who were in custody or under the supervision of the Montana Department of Corrections on or after July 1, 1989, or violent offenders who were in custody or under the supervision of the Montana Department of Corrections on or after October 1, 1995.
- II. Definitions
 - A. Sexual offender
 1. A person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense
 - B. Sexually Violent Predator
 1. A person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or who has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.
 - C. Sexual offense
 1. Any violation of, or attempt, solicitation, or conspiracy to commit a violation of:
 - a. Unlawful Restraint (if the victim is less than 18 yoa and the offender is not a parent of the victim), 45-5-301 MCA
 - b. Kidnapping (if the victim is less than 18 yoa and the offender is not a parent of the victim), 45-5-302 MCA
 - c. Aggravated Kidnapping (if the victim is less than 18 yoa and the offender is not a parent of the victim), 45-5-303 MCA
 - d. Sexual Assault (if the victim is less than 16 yoa and the offender is 3 or more years older than the victim), 45-5-502(3) MCA
 - e. Sexual Intercourse w/o consent, 45-5-503 MCA
 - f. Indecent Exposure (if victim is under 18 yoa and offender is 18 yoa or older, 45-5-504(1) MCA
 - g. Indecent Exposure, 45-5-504(2)(c) MCA
 - h. Incest (if victim is under 18 yoa and offender is 3 or more years older than the victim or if the victim is 12 yoa or younger and the offender is 18 yoa or older at the time of the offense), 45-5-507 MCA

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- i. Prostitution, 45-5-601(3) MCA
- j. Promoting Prostitution, 45-5-602(3) MCA
- k. Aggravated Promotion of Prostitution (Promotes prostitution of a child under 18 yoa), 45-5-603(1)(b) or (2)(c) MCA
- l. Sexual Abuse of Children, 45-5-625 MCA
- m. Any violation of a law of another state, a tribal government or the federal government reasonably equivalent to a violation listed above or for which the violator was required to register as a sex offender after an adjudication or conviction.

D. Violent offender

- 1. A person who has been convicted of or, in youth court, found to have committed or been adjudicated for a violent offense.

E. Violent offense

- 1. Any violation of, or attempt, solicitation, or conspiracy to commit a violation of:
 - a. Deliberate Homicide, 45-5-102 MCA
 - b. Mitigated Deliberate Homicide, 45-5-103 MCA
 - c. Aggravated Assault, 45-5-202 MCA
 - d. Partner/Family Member Assault (3rd or subsequent offense), 45-5-206 MCA
 - e. Assault on a Peace Officer or Judicial Officer, 45-5-210(1)(b), (1)(c), or (1)(d) MCA
 - f. Assault on a Minor, 45-5-212 MCA
 - g. Assault with a Weapon, 45-5-213 MCA
 - h. Kidnapping (if the victim is not a minor), 45-5-302 MCA
 - i. Aggravated Kidnapping (if the victim is not a minor), 45-5-303 MCA
 - j. Robbery, 45-5-401 MCA
 - k. Arson, 45-6-103 MCA
 - l. Operation of Unlawful Clandestine Laboratory, 45-9-132 MCA
 - m. Any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed above.

III. Registration Procedure

- A. Within 3 business days of entering the City of Livingston for the purpose of residing or setting up a temporary residence for 10 days or more, or for an aggregate period exceeding 30 days in a calendar year, offenders must register with the Livingston Police Department Detective on Mondays through Thursdays from 8:00 a.m. until 6:00 p.m. Transients must register within 3 business days of entering the City. Patrol Officers will not register offenders. In the event the Detective is unavailable, police department personnel will inform the offender when the

SEXUAL/VIOLENT OFFENDER REGISTRATION POLICY

Effective Date: November, 2008

Supersedes Policy Dated: Oct, 2007; Oct, 2006



Detective will be available and it is the offender's responsibility to contact the Detective in a timely manner to register.

B. Requirements when registering an offender.

1. A Montana Department of Justice (DOJ) form will be completed, collecting all information required pursuant to 46-23-504(3) MCA.
2. An acknowledgement form will be signed by the offender.
3. A photograph of the offender will be taken, preferably in digital.
4. A set of fingerprints will be taken by a trained Detention Officer.
5. A registration fee, established by City Resolution No. 4001, will be collected from the offender, providing they are financially able to pay. The dispatcher will accept the payment and issue the offender a receipt. The money will be deposited into the general fund.
6. The offender will be given a copy of the acknowledgement form and a copy of the Livingston Police Department's SVOR "Public Dissemination of Information" policy.
 - a. These copies serve as a reminder of the conditions the offender has initialed and agreed to. The acknowledgement form clearly outlines the conditions of the law and its penalties. The SVOR "Public Dissemination of Information" policy clearly explains what information the offender can expect will be released to the public.
7. Within 3 days, the registration form, the acknowledge form, the fingerprint card and the photograph will be sent to:

Montana Department of Justice
Sex and Violent Offender Registry
P.O. Box 201417
Helena, MT 59620-1417

- C. If an offender resides in more than one location within the City, they must provide all of the locations where they regularly reside and to designate one of them as their primary residence.
- D. A transient offender shall report monthly, in person, on a day specified by the Detective, and provide the information required pursuant to 46-23-504(3) MCA. They shall also provide the locations where they have stayed during the previous 30 days and where they may stay during the next 30 days. The Detective shall maintain updated information in the offender's Registration File.

SEXUAL/VIOLENT OFFENDER REGISTRATION POLICY

Effective Date: November, 2008

Supersedes Policy Dated: Oct, 2007; Oct, 2006



IV. Registration Verification

- A. Upon receiving a "Registration Verification Form" from a sex offender who appears in person, as required pursuant to 46-23-504(6)(c), a digital photograph of the offender will be taken and forwarded to the Detective. Within 3 days after receipt of a registration verification form, the Detective shall forward the form and most recent photograph to the department of justice.

V. Change of Name or Residence or Student, Employment, or Transient Status

- A. If an offender has a change of name or residence, or a change in student, employment, or transient status, they must appear in person and provide notification of the change within 3 business days of the change. The notification can be made to any officer. The officer will complete the Montana Department of Justice Change of Information Form and fax the form to the State SVOR Program, fax # 406-444-2759, and forward the original form to the Detective. A digital photograph will be taken and forwarded to the Detective.
- B. Offenders will not be charged a fee for a change of name or residence, or a change in student, employment, or transient status, assuming we already maintain a case file for the offender.

VI. Department Sexual and Violent Offender Registration Files

- A. Following registration of an offender, an individual file will be created, maintained and secured by the Detective. Each file will be labeled with the offender's name, date of birth and indicate the type of offender they have registered as.
- B. An "Offender Profile Sheet," for each registered offender will be created and maintained by the detective. The profile sheet will include the offender's name, photograph, address, registration type, registering offense committed, vehicle information and victim profile. The offender profile sheets for each registered offender will be compiled in a notebook. Copies of the notebook will

be distributed to the communications center, patrol officers, and the chief of police. The notebook is intended to provide ready access to information regarding all registered offenders and is considered confidential for law enforcement purposes only.

- C. Offenders' files shall contain the following information:
 - 1. A copy of the Montana DOJ registration form, registration verification forms or other pertinent information.
 - 2. A copy of the acknowledgement form.
 - 3. Either an original or a quality copy of the offender's photograph.
 - 4. A copy of the offender's fingerprints.
 - 5. A SVOR case activity sheet.
 - 6. A copy of the offender's judgment and sentencing (if available).
 - 7. A copy of the investigating officer's statement of facts (if available).
 - 8. A copy of the offender's criminal history records.
 - 9. A copy of the offender's profile sheet.

SEXUAL/VIOLENT OFFENDER REGISTRATION POLICY

Effective Date: November, 2008

Supersedes Policy Dated: Oct, 2007; Oct, 2006



VII. Duration of Registration

- A. Violent Offenders must register for the 10 years following their release from confinement or, if not confined following sentencing, for the 10 years following conclusion of the sentencing hearing, but the offender is not relieved of the duty to register until a petition is granted under 46-23-506(3)(a). If the offender is convicted during this 10 year period of failing to properly register, keep registration current, or of any felony, the registration requirement will be extended for the remainder of the offender's life unless relieved of the duty to register as provided for in MCA 46-23-506(3)(b).
- B. Sexual offenders are subject to lifetime registration, unless relieved of the duty to register as provided for in MCA 46-23-506(3) or during a period of time during which the offender is in prison.

VIII. Failing to Register

- A. Pursuant to 46-23-507 MCA, a sexual or violent offender who knowingly fails to register, verify registration, or keep registration current may be sentenced to a term of imprisonment of not more than 5 years or may be fined not more than \$10,000, or both. Timely prosecution will be commenced against any offender who fails to comply with the registration requirements set forth by law.
- B. In an effort to assure compliance, officers will make every attempt to conduct monthly checks to verify the addresses of registered offenders. Entries will be made in a log book to verify that contact was made with the offender at their listed address. In the event no contact is made at a residence, the officer will post a door hanger notifying the offender to immediately contact the detective to verify his or her address. If it is suspected that an offender is non-compliant, or is in violation of any legal restrictions or court conditions, an intelligence report will be forwarded to the detective for prompt investigation.

SEXUAL/VIOLENT OFFENDER REGISTRATION POLICY

Effective Date: November, 2008

Supersedes Policy Dated: Oct, 2007; Oct, 2006



IX. Sex Offender Designation Levels

A. Level 1

1. The risk of a repeat sexual offense is low.

B. Level 2

1. The risk of a repeat sexual offense is moderate.

C. Level 3

1. The risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator.

RADAR POLICY

Effective Date: November, 2003

Supersedes Policy Dated: Apr, 2002; Feb 1999



- I.** The purpose of this policy is to provide consistency in the use and operation of the radar units by the officers of the Livingston Police Department and to help provide for the fair and consistent enforcement of vehicle speed laws in our community.

II. RADAR SET UP AND TESTING.

A. Radar will be set up for use in the following manner:

1. Verify the power switch is turned off.
2. Connect the cords (moving radar only)
3. Connect the power cables to the power source (cigarette lighter port, etc.)
4. Turn power on.
5. Radar will always be set up in accordance with the manufacturer's instructions.

B. Radar testing:

1. Radar will be tested prior to first use and will be tested after each traffic stop and when returning to the same location to operate radar again. Radar will also be tested after the officer changes radar operation locations.
2. If the radar unit does not pass the testing as per manufacturer's instructions, the unit will be removed from service and a request for maintenance form will be completed. This form will denote the specific problem which occurred and the serial number of the radar unit.
3. Radar units will test accurate within + or - one mile per hour. If the radar does not show a speed during the tuning fork test within + or - one mile per hour, the unit will be removed from service and a request for maintenance form will be completed. This form will denote the specific problem which occurred and the serial number of the radar unit.
4. The proper testing method of the radar unit with the tuning fork is:
 - a. Tap the tuning fork on a soft surface.
 - b. Hold the tuning fork 2"-3" in front of the radar antenna, with the narrow edge of the tuning fork facing the antenna and the radar unit in the transmit mode.
 - c. Reading on radar should be as stated above.

III. RADAR USE

- A. During operation of stationary radar officers should try to park within 10 degrees sight line of the vehicles being tracked and will use a tracking history consisting of:

RADAR POLICY

Effective Date: November, 2003

Supersedes Policy Dated: Apr, 2002; Feb 1999



1. Visual observation of a vehicle that appears to be moving at a speed higher than the posted speed limit.
 2. The radar audio will be used during radar operation to give an audio confirmation of the speeding vehicle. (Audio should be clear and the pitch should correspond to a vehicle traveling at the speed noted visually)
 3. The officer will verify the speed of the vehicle through the speed displayed on the radar unit.
 4. When using moving radar in moving mode, the officer will verify the patrol speed displayed on radar with the patrol vehicle's speedometer.
- B. Some violator's may ask to see the speed on the radar gun. For officer's safety and the safety of the public, *officers need not show the speed displayed on the radar unit to violators during the traffic stop if the officer feels that doing so creates undue risk of confrontation with the violator or other persons. Officers may use their discretion in this area. Officers should not normally ask violators if they want to see the radar.*
- C. Locking of the radar reading is recommended but will be at the officers' discretion.
- D. Officers will include the following information on their copy of the notice to appear:
1. Speed of vehicle
 2. Direction the vehicle was traveling.
 3. The location and position of the patrol car.
 4. Weather and road conditions.
 5. The last three digits of the radar units serial number.
- E. Officers will not operate radar during heavy rain or heavy snow fall.
- F. Officers will not operate radar by reflecting the radar signal off of mirrors or other objects.

IV. CARE AND MAINTENANCE.

- A. Officers will insure that the radar units are properly cared for and not subjected to abuse.
- B. Any damage or malfunction of radar units should be brought to the immediate attention of the shift supervisor.
- C. Care and use of tuning forks.
 1. Tuning forks will be struck lightly on a padded surface (steering wheels, dashboard, etc.).
 2. They will be removed from the store room with a radar unit and will be removed from the car when the radar unit is returned. Tuning forks will not be left in vehicles w/o the radar unit under any circumstances.

BICYCLE PATROL POLICY

Effective Date: December, 2013

Supersedes Policy Dated: Sept, 2002; Nov, 2003



- I. Authority for bicycle patrol is hereby established as a means of pro-active law enforcement patrol and to enhance public relations in the downtown, residential and city park areas.
 - A. Bike patrol officers must:
 - 1. Have completed probationary employment.
 - 2. Be in good physical condition.
 - 3. Have completed a Police Bicycle Patrol Course.
 - B. Bikes used for patrol must meet the following requirements:
 - 1. High quality mountain bicycle.
 - 2. Night bicycle light system (front and rear).
 - 3. Front and rear carry bags (if needed).
 - 4. Water bottle.
 - 5. Cable lock.
 - C. Officers on bike patrol will wear/carry the following equipment:
 - 1. Portable radio with collar attached speaker/mic.
 - 2. ANSI/SNELL approved bicycle helmet.
 - 3. Good quality whistle.
 - 4. Protection eyewear (shaded and clear lenses).
 - 5. Bicycle gloves, black in color.
 - D. Uniform to be worn while on bike patrol;
 - 1. Specified within the list of approved uniform shoes, shirts, pants and jackets.
 - 2. White socks, mid-calf length.
 - 3. Other attire as prescribed or authorized by the Chief of Police.

BICYCLE PATROL POLICY

Effective Date: December, 2013

Supersedes Policy Dated: Sept, 2002; Nov, 2003



II. Bike Patrol Procedures

A. Bike Patrol Area

1. Downtown area.
2. Sacajawea, Miles, and 9th Street Parks.
3. Residential areas south of Park Street, between 9th and 'H' Streets.
4. Any other areas determined by the Shift Commander based on current needs/situations, i.e., areas of increased vandalism, theft, etc.
5. Special events areas.

B. Bike Patrol Duties will include the same duties as an officer assigned to patrol vehicle duty, with the exception of prisoner transport.

C. Traffic enforcement is permissible providing the officer follows the following safety precautions (at a minimum):

1. Get the offenders attention by use of a visual and/or an audible signal, preferably a whistle.
2. Direct the offender out of the flow of traffic to the side of the roadway.
3. Advise dispatch of all traffic stops.
4. Park the bicycle off of the roadway and out of traffic.
5. Approach the stopped vehicle from the side that offers greatest safety to the officer.
6. Instruct the offender to turn off vehicle and activate emergency flashers.

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I. Introduction

- A. Assigning police officers to schools is not a new strategy and is increasingly being used as law enforcement agencies and school districts coordinate their efforts to address juvenile crime and violence. The Livingston Police Department and the Livingston School District believe that assigning a school resource officer (SRO) to a school will enhance safety and security for students, and increase students' knowledge of and respect for the law. The SRO program is intended to be proactive in nature, with an emphasis on preventing problems before they arise.

II. Purpose

- A. The purpose of this policy is to establish clear operating guidelines for the School Resource Officer (SRO) program, as accepted and approved by the City of Livingston, Chief of Police, Livingston School District and the applicable school administrators.

III. Goals and Objectives

- A. To foster educational programs and activities that will increase students' knowledge of and respect for the law and the function of law enforcement agencies.
- B. To act swiftly, in cooperation with school administrators, in response to major disruptions and flagrant criminal offenses on or near school property, such as; disorderly conduct by unwanted visitors, disruptive students, the possession and use of weapons on school property, the sale and/or distribution of illegal substances, riots, fights, and threats.
- C. To report serious crimes that occur on school property and to cooperate with law enforcement officials in their investigation of crimes that occur at school.
- D. To encourage SRO's to provide traffic control and enforcement on school property, or in the vicinity of schools, when deemed necessary for the safety and protection of students and the general public when a regular patrol officer is not available.
- E. To build a positive relationship with students, faculty and parents.

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- F. To provide security at extra curricular activities at school, whenever possible, such as athletic events, concerts, etc.

IV. Appointment

- A. The selection process for SRO's will be determined by the Chief of Police, in cooperation with school administrators.
- B. The following basic qualifications shall be considered to become a SRO
 - 1. Shall possess current Montana POST basic certification, or equivalent and eligible for Montana POST basic certification, and should preferably have at least two years law enforcement experience.
 - 2. Shall possess an even temperament and set a good example for students.
 - 3. Shall possess sufficient communications skills that would enable the officer to function effectively within the school environment.
 - 4. Shall possess a sufficient knowledge of applicable local, state and federal laws.
- C. Officers assigned as SRO's serve at the direction of the Chief of Police and can be reassigned at any time.
- D. Once selected, an officer must attend an approved School Resource Officer training course prior to being assigned to a school. Prior to receiving formal training, officers selected as SRO's may accompany a trained SRO already assigned to a school for the purpose of learning and becoming accustomed to the environment.

V. Program Administration

- A. The SRO program will be administered by the Livingston Police Department.
- B. School resource officers are employees of the City of Livingston, and subject to the same rules and regulations, operating procedures, policies, benefits, and all other conditions of employment as are other police department employees, unless provided for otherwise in this policy or

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pursuant to any collective bargaining agreement. The Chief of Police must approve exception.

VI. SRO Duties and Responsibilities

- A. Meet all requirements of a law enforcement officer
- B. Become certified as a school resource officer
- C. Attend in-service school resource officer training, or pursue other relevant training.
- D. Interact with students on a positive basis, including, spending time with students during lunch, between classes, and participating in school activities such as assemblies, etc.
- E. Develop and maintain a professional relationship with school administrators and faculty, including attending faculty meetings, conferences and other functions when requested.
- F. If requested to do so, prepare for and give presentations at faculty in-service meetings, parent-teacher meetings, school board meetings, and community organization meetings.
- G. In cooperation with, and approved by, school faculty and administration, shall answer questions and conduct classroom presentations for students relevant to law enforcement, criminal law, or any other applicable education field. If requested, the SRO shall assist teachers in preparing for, or instructing, lessons related to criminal law or law enforcement.
- H. Project a professional image and have personal habits that are consistent with the role of a SRO.
- I. Enforce parking and traffic laws in school areas, and assist with traffic problems on school property as needed.
- J. Enforce criminal laws on school property, or surrounding areas, and investigate crimes committed on school property.
- K. Assist law enforcement officers with criminal investigations involving students.

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- L. If requested, assist school officials with disciplinary matters, investigations, or other relevant issues.
- M. Act as a liaison between law enforcement and the schools.
- N. Maintain knowledge of applicable school policies and student handbooks.
- O. Adhere to applicable school rules and regulations.
- P. At the request of school officials, follow up on excessive truancy cases.
- Q. As requested and approved, provide security at school related functions within the City of Livingston.

VII. Investigation, Interrogation, Search and Arrest

- A. School resource officers are law enforcement officers, and will act within the scope of their official duties at all times. They will comply with Livingston Police Department rules and regulations, standard operating procedures, policies, and directives. They will adhere to applicable state laws, and follow acceptable law enforcement practices relevant to the SRO position.
- B. SRO's shall investigate crimes committed on school property. Whenever practical, the SRO will apprise the school principal or vice principal of the circumstances prior to initiating the investigation, and a determination will be made jointly as to what course of action should be taken. All investigations will be conducted in cooperation with school administrators. The Chief of Police shall be notified prior to initiating
- C. investigations of serious crimes or investigations that are likely to extend beyond the capability of the SRO to effectively or safely manage.
- D. Interview/Interrogation of Students.
 - 1. Generally, students should not be interviewed or interrogated at school for offenses that occurred off school property, or that do not relate to school functions. Exceptions must be approved by the school principal. In all cases, the school principal or vice principal will be notified of the intent to interview or interrogate students.

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The principal and the SRO will mutually agree on an appropriate time and place to conduct the interview. The principal will be given the option of being present. Interviews and interrogations will be conducted in accordance with the law, police department policy and school policy.

2. Prior to interrogating any student who may be charged with a criminal offense, they must be advised of their constitutional rights per Miranda vs. Arizona. Students under the age of 16 will not be interrogated under any circumstances without notifying a parent or guardian. The parent, guardian, or their designated attorney will be allowed to be present during the interview if they so choose. Prior to interrogating students over the age of 16, a reasonable attempt will be made to contact a parent or guardian. They will be allowed to be present during the interview if they so choose. If parents wish to be present during an interview, a time will be mutually agreed upon that will accommodate their schedule.

E. Misdemeanor Offenses

1. The commission of all misdemeanor offenses should be brought to the attention of the school principal or vice principal as soon as practical. The SRO and principal(s) shall review the circumstances and nature of the crime and determine the appropriate course of action to take. Once a student has been identified as having committed a misdemeanor crime, the following options may be considered.
 - a. verbal warning/counseling
 - b. disciplined by school officials
 - c. referred to the juvenile probation officer, or cited into city court (whichever is applicable), if the student is under 18 years of age.
 - d. issue a notice to appear in city court or forward a request for prosecution to the city attorney's office if the student is 18 years of age or older.
 - e. taken into custody by the SRO and removed from school property

It is preferred that students who commit minor offenses be disciplined by school officials in accordance with school policy.

F. Felony Offenses

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1. The commission of all felony offenses on school property should be brought to the attention of the school principal or vice principal as soon as possible. The Chief of Police shall be notified as soon as practical. An investigation will be conducted on all felony cases. If a student is identified as having committed a felony offense, or there is probable cause to believe they committed a felony offense, they will be issued a youth offense report and referred to the juvenile probation officer. If, due to the circumstances, there is a question of whether or not to issue a youth offense report, the county attorney shall be notified and he/she will determine whether or not to issue a youth offense report. If the student is 18 years of age or older, a request for prosecution shall be forwarded to the county attorney's office unless the circumstances require an immediate arrest.

If a student, or anyone else, commits a violent felony or otherwise poses an immediate threat to the safety of other students, school staff, school property or the general public, the SRO shall take appropriate action to alleviate the threat. It is preferred that students, or others, who commit a serious felony on, or in the vicinity of, school property be arrested in a timely manner, removed from school property and subsequently charged accordingly. In these circumstances, the SRO has the authority to take appropriate legal action prior to notifying school officials.

G. Arrest

1. Students should be arrested and removed from school grounds only if the existing circumstances require immediate arrest and/or removal, and with consent of the school principal or vice principal whenever practical. If possible, custodial arrests should be conducted in a "low-key" manner, causing the least amount of disruption and attention as possible. The SRO has the authority to detain any student if they observe the student committing a criminal offense, or violating a school rule that would normally allow a school official to detain the student. Although the SRO may, upon request from school officials, detain or assist in the detention of a student for violating school rules, they will not "arrest" the student. The student will immediately be turned over to the custody of school officials, who will handle the matter in

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accordance with school policy. In these situations, the role of the SRO is merely to provide assistance and keep the peace.

2. Procedures for the arrest of a juvenile (under the age of 18)
 - a. For minor offenses, or when the student poses no threat to the safety of others, it is preferred that a youth offense report be issued unless it has been agreed upon that discipline will be administered by school officials. A written warning may be issued if deemed appropriate, however it should be documented on a youth offense report form. Unless already detained by the SRO, school officials will contact the offending student at a time and place of school officials' choice. The student will be brought to a private location, apart from other students. If a student is issued a youth offense referral, their parents shall be notified as soon as possible if they have not already been notified. In the event the parents cannot be notified, the juvenile probation officer will be contacted and advised of the situation. Recommendations of the juvenile probation officer will be followed.
 - b. If it is determined that a student should be taken into custody and removed from school property, the SRO will transport them to the police department in accordance with department policy. A parent or guardian will be notified and the juvenile will be released to their custody. If it is determined the juvenile poses a risk to the safety of others, or for some reason should not be released from custody, the juvenile probation officer and/or county attorney will be notified and will determine an alternative placement.
 - c. Per department policy and state law, students arrested for traffic offenses are subject to being issued notices to appear in city court. Citations issued for these offenses that occur on school property will be at the discretion of the SRO and the appropriate school administrators. Parents will be contacted as soon as possible and advised of the situation
3. Arrest of students 18 years of age or older
 - a. For minor offenses, or when the student poses no threat to the safety of others, it is preferred that a request for prosecution be forwarded to the appropriate prosecuting

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attorney unless it has been agreed upon that discipline will be administered by school officials. An arrest warrant or criminal summons may then be issued and served at a later time.

- b. Unless already detained by the SRO, school officials will contact the offending student at a time and place of the school officials' choice. The student will be brought to a private location, apart from other students. The student will be arrested in accordance with state law and department policy, and transported to the Park County detention center per department policy. If a student is arrested on school property, a reasonable attempt shall be made to notify a parent or guardian as soon thereafter as practical.

H. Search and Seizure

1. When requested by school officials, the SRO may assist school personnel in searching the property or possessions of a student when done in compliance with school policy. In these situations, the SRO is merely assisting school officials in order to protect the safety of all persons involved. Items seized will remain in the custody of school officials. Contraband or weapons that are recovered will be turned over to the SRO for eventual destruction or disposal. The school, in accordance with school policy, will administer discipline resulting from evidence recovered during a search made by school officials. Criminal prosecution will not be considered, except in cases of serious felony offenses, and mutually agreed upon by the SRO, school officials and the city or county attorney. If evidence is recovered that warrants a criminal investigation, or criminal charges may arise, the city or county attorney will be notified as soon as practical. He/she will determine the legality of the search, provide legal advice and assist in the issuance of a search warrant if deemed necessary.
2. The SRO shall respect the constitutional rights of students to be free from unreasonable searches and seizures. Searches of a student's person, property or possessions initiated by the SRO shall be in strict compliance with department policy, state law and constitutional guidelines. Searches of any nature shall only be conducted when there is probable cause to believe the search will uncover evidence that a student has committed, is committing, or is

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about to commit a criminal offense. Situations which would justify any restrictive search on school property include:

- a. Pat down search of a person following a custodial arrest for the purpose of protecting the officer and others, or collecting evidence or fruits of the crime.
 - (1) SRO officers will not conduct a pat down search on someone of the opposite sex. They should request that a school official of the same sex conduct the search.
- b. Pat down search of a person if the SRO has reasonable suspicion the person possesses a weapon or destructive device.
- c. Search of a common area in which no expectation of privacy exists.
- d. Following the consent of the student, the school principal or vice principal, and their parent or guardian.
- e. Execution of a valid search warrant.

VIII. Use of Force

- A. SRO's are expected to provide security on school property, and take reasonable actions to protect the safety of students, faculty and visitors. Given these expectations, the possibility exists that there may be a need to use reasonable levels of force to accomplish these means. SRO's are entitled to use that force, including deadly force, which is objectively reasonable to make an arrest or gain control of a situation, and is in strict accordance with the Livingston Police Department's Use of Force Policy and applicable state laws. Officer safety, citizen safety, and the overall goals and objectives of the SRO program must be considered in all use of force decisions.

IX. Dress Code

- A. SRO's are representatives of the Livingston Police Department and should project a professional image at all times when on duty or attending school functions. They are required to adhere to police department regulations regarding proper dress and grooming, and will wear the prescribed uniform of the Livingston Police Department while on duty or while attending functions as a representative of the police department. If approved by the Chief of Police and the respective school principal, SRO's may instead wear the appropriate "plain clothes" during certain

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days or at certain times. The SRO will carry their duty weapon, badge and department identification with them at all times while on duty or while acting in their official capacity. If the SRO is carrying a weapon while wearing "plain clothes" at public functions, it should be properly concealed or otherwise carried in compliance with state law and as specified in Standard Operating Procedure #017. SRO's providing security at school functions will wear the prescribed uniform and all normal duty equipment unless otherwise approved by the chief of police.

X. Conduct

- A. The school resource officer's personal behavior and attitude must be beyond reproach. He/she must refrain from any conduct which adversely affects the school environment or tends to bring discredit to him/herself, the police department or the school district.
- B. The SRO shall not use harsh, sarcastic, abusive, coarse, profane or insulting language in the execution of their duties.
- C. The SRO shall not use their official position for personal gain, to include accepting gratuities or gaining free admission to any public event. It is recognized that the SRO's presence at school functions is encouraged and beneficial toward accomplishing the over-all goals of the SRO program. Exceptions may include privileges that are granted
- D. The SRO shall comply with all school rules, regulations and policies regarding personal conduct

XI. Evaluations

- A. The Chief of Police will develop an evaluation system in which all SRO's will be evaluated twice yearly, or more often if need be. Applicable school principals shall participate in the evaluations.

XII. Written Reports

- A. All action taken or investigations conducted by the SRO resulting from a violation of criminal law will be properly documented in a timely manner, including entering all necessary data and written narrative reports into the Livingston Police Department's computerized records maintenance system. Citations, youth offense reports and other documents will be filed in a timely manner.

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- B. Action taken or investigations conducted (of significance) that do not involve a violation of criminal law, or are of a minor nature and criminal charges will not be initiated, will be documented in writing. The SRO will maintain this documentation. The SRO shall organize and maintain personal files that contain information and documentation necessary to enhance the program and evaluate its effectiveness. Such documentation may include; activity logs, written reports, instructional lesson plans, written correspondence, statements, criminal activity intelligence, personal notes, and other information deemed appropriate by the SRO, school officials or police department administration.

XIII. Confidentiality

- A. The SRO will comply with state law, department policy and school district policy regarding the dissemination of confidential information.

RACIAL PROFILING/BIAS POLICING POLICY

Effective Date: October, 2007

Supersedes Policy Dated: Dec, 2005; May, 2003



I. PURPOSE

- A. To reaffirm the Livingston Police Department's commitment to unbiased policing and to clarify the circumstances in which officers may, or may not, consider race, ethnicity, color, nationality, age, sexual orientation, gender, disability or religion to develop reasonable suspicion or probable cause for a law enforcement contact or surveillance.
- B. To reinforce procedures that serve to assure the public that this agency is providing services and enforcing laws in a fair and equitable manner.

II. DEFINITIONS

- A. Racial Profiling / Bias Policing
 - 1. The detention, official restraint, or other disparate treatment of an individual based solely on their individual race or ethnicity.
- B. Minority Group
 - 1. Individuals of African American, Hispanic, Native American, Asian, or Middle Eastern descent.

III. POLICY

- A. Investigative detentions, traffic stops, arrests, searches and property seizures by officers will be based on a standard of particularized suspicion, or probable cause in accordance with the 4th Amendment of the U.S. Constitution, Article II of the Montana Constitution, and in compliance with 46-5-401 MCA.

Unless combined with other particularized factors, the race or ethnicity of an individual shall not be the sole factor in determining the justification for:

- 1. The detention of an individual or the investigatory stop of a motor vehicle.
- 2. Particularized suspicion that an offense has been, is being, or will be committed.
- 3. Developing probable cause to take into custody or to arrest an individual.
- 4. Initiating other nonconsensual encounters that do not constitute legal detentions, or as a basis for requesting consent to search.
- 5. Routinely stopping members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law.

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Effective Date: October, 2007

Supersedes Policy Dated: Dec, 2005; May, 2003



- B. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on reliable locally relevant information that links a person or persons of a specific race or ethnicity to a particular unlawful or suspicious incident(s).
- C. All stops or investigatory detentions of any vehicle, person or persons will be documented by notifying the communications center via radio. Notification may be made to the communications center via cell phone to a recorded line if the officer feels radio communication may hinder the investigation. The communications center shall document and record each stop.
- E. If a vehicle is stopped for a violation of a vehicle law, the officer shall attempt to identify the driver by demanding the person's driver's license pursuant to 46-5-401 MCA or requesting their name and address if they do not possess a driver's license. The officer will either issue a Notice to Appear (NTA) or a Written Warning if probable cause exists that a violation of a vehicle law occurred.

Personal information from the NTA or Written Warning will be entered into the computerized records management system. At a minimum, the following information will be entered pursuant to each vehicle stopped for a traffic violation, which includes filling in all information included within the "Racial Profiling" section of the citation page;

- 1. Driver's name and address.
- 2. Driver's license number and issuing state, if possessed.
- 3. Vehicle information.
- 4. Date and time of stop.
- 5. Location of stop.
- 6. Reason for the stop.
- 7. Disposition (citation issued, warning, etc.)
- 8. Whether or not a search was conducted.
- 9. The type of search, if applicable (consent, warrant, frisk, etc.)
- 10. Driver's racial status, as determined by the officer's perception.
 - a. Officers shall use their best subjective observation skills to document the race or ethnicity of the driver. Officers shall not ask the race or ethnicity of the driver.

IV. COMPLIANCE

- A. All police department personnel shall comply with this policy.

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- B. Supervisors or senior officers on shift shall ensure that all personnel under their immediate command are familiar with and understand the contents of this policy. Supervisors or senior officers of shift shall take all reasonable measures to ensure and monitor compliance.
- C. Officers shall promptly report violations to their immediate supervisor, who shall report them to the chief of police as soon as practical.
- D. Allegations of violation of this policy that are written and filed with this agency shall be thoroughly investigated by the Chief of Police, or his/her designee, in accordance with the department complaint policy and procedures. Within 10 days of the receipt of the written complaint the Chief of Police, or his/her designee, shall review the complaint and make personal contact with the complainant. After the investigation is complete, the Chief of Police, or his/her designee, shall inform the person who submitted the complaint, in writing, of the results of the investigation.
- E. Violations of this policy shall result in disciplinary action as set forth in department rules and regulations and City policy and procedures.
- F. In an effort to comply with the provisions set forth in 44-2-117 MCA, the Chief of Police will conduct annual reviews of data collected from vehicles stopped for violations of traffic laws and subsequently entered into the computerized records management system. If the review reveals a pattern of any officer(s) of the Livingston Police Department stopping members of minority groups for violations of vehicle laws in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction, an investigation will be conducted to determine whether the officer(s) routinely stop members of said minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law. If any officer is found to have engaged in biased based traffic stops, appropriate counseling and training will be provided within 90 days of the annual review or upon determining the officer has engaged in biased based traffic stops.

PERSONNEL COMPLAINT POLICY

Effective Date: October, 2007

Supersedes Policy Dated: November, 2003



I. PURPOSE

- A. This guideline recognizes that effective law enforcement exists in a community which has established a proper relationship between the agency and public. This relationship must be based on mutual confidence and trust. Whenever the integrity of a law enforcement agency is in question, effective law enforcement breaks down.

Officers must act independently with the authority vested in him/her. The officer must be free to initiate action without fear of reprisal, but must meticulously observe the rights of all people.

The responsibility rests with the Chief of Police to provide a system of disciplinary procedures which not only subjects personnel to corrective action when improper conduct occurs, but also protects them from unwarranted criticism or charges when duties have been properly performed. It is imperative that adequate provisions be made for prompt investigation and disposition of all complaints regarding the conduct of employees of the agency. It shall be the policy of the agency to accept and investigate all complaints of alleged misconduct on the part of agency personnel.

There are four basic objectives of personnel investigation:

1. To protect citizens from misconduct by an employee.
2. To identify and take appropriate action against employees who violate the law, department policy, rules, regulations, or procedures.
3. To protect the department and those employees who conduct themselves appropriately.
4. To identify policies and procedures that may need review or change, and to find ways to improve the quality of service to the community.

II. DEFINITIONS

- A. Personnel Complaint – All complaints involving personnel of the agency that could be defined as an allegation of misconduct reported from any source. This misconduct could be criminal or non-criminal in nature.
- B. Disposition Classification:
1. Unfounded: The investigation conclusively proved that the allegations or act complained of did not occur.

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2. Exonerated: The acts that formed the basis for the complaint or allegation did occur, but were justified, lawful or proper according to department policy or standard operating procedures.
 3. Not Sustained: The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made.
 4. Sustained: The investigation disclosed a preponderance of the evidence to prove the allegation(s).
 5. Sustained with Qualifications: When the investigation discloses the action complained of did in fact occur, but not in the manner or to the degree stated.
 6. Unresolved: The investigation cannot proceed because the complainant failed to disclose promised information to further the investigation; or the complainant wished to withdraw the complaint; or the complainant is no longer available to provide necessary information. This finding may also be used when information provided is not sufficient to determine the identity of the officer(s) involved.
- C. Misconduct - A violation of any statute, ordinance, agency policy, rule, regulation, procedure, lawful order, or rule of law. Conduct which by its nature is detrimental to operations of the department.

III. PROCEDURE FOR ACCEPTING COMPLAINTS

- A. Initial inquiries from citizens regarding the operations of the police department may be handled by any police department employee. If they are unable to satisfy the inquiry, the matter should be referred to a supervisor. If either is able to satisfy the inquiry, the matter will be considered resolved. If not, the inquiry will be considered a complaint. A complaint alleging misconduct by personnel of the agency may be made by any person, at any time, to any member of this agency. When a member of the department receives information of a complaint, the information or person should be referred to the supervisor or senior officer on duty. The complainant shall be provided with a copy of the "Information about our Complaint Policy" and a Personnel Complaint Form. They will be advised of the procedures to initiate the complaint. The complainant may choose to return the complaint form at a later time, or fill it out immediately. If the complaint chooses to fill it out immediately, in the presence of an officer, the officer may sign it in place of the notary and forward the form to the Chief of Police. Complaints received via phone may be accepted, and an offer will be made to send the proper forms to the complainant if they desire.
- B. If it is not possible to obtain the substance of the complaint in writing from the complainant, or the complainant does not wish to reveal their identity, the officer receiving the complaint

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verbally shall obtain whatever information they can and fill out a Personnel Complaint Form. If applicable, the name of the complainant will reflect "refused" or "anonymous." The officer shall document the specific allegations in the narrative section of the form, indicating how the complaint was received. The officer will sign the form and forward it to the Chief of Police. Although it is preferred that complaints be reduced to writing by a known complainant, anonymous complaints will be accepted and investigated.

- C. If the complainant wishes to speak with a specific officer, they will be advised when the officer will be on duty and an effort will be made to arrange for a meeting with the desired officer.

IV. INVESTIGATION OF COMPLAINTS

- A. The Chief of Police, Assistant Chief of Police or a designee shall promptly conduct an appropriate investigation. The Chief of Police shall, within 10 days of receiving a written complaint alleging racial profiling, acknowledge receipt of the complaint in writing by sending a certified letter to the address provided in the written complaint or other such address requested by the complainant.
- B. If it is determined that the alleged misconduct amounts to a criminal law violation, the City and County Attorney's Offices will be notified of all alleged or suspected criminal violations. The Montana Division of Criminal Investigation, or another outside agency, shall be requested to conduct any criminal investigation involving a department employee. Once it is determined that a criminal investigation has been or will be initiated, further internal investigation will be conducted in cooperation with the criminal investigator. The internal investigation may be suspended pending the outcome of the criminal investigation.
- C. Upon completion of any investigation, the findings will be documented in writing.

V. PERSONAL INVOLVEMENT WITH INVESTIGATION OF COMPLAINT

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

VI. DISPOSITION OF INVESTIGATED COMPLAINTS

- A. The person who submitted the written complaint will be informed of the results of the investigation in writing. Notification will include the findings, but will not include what specific discipline, if any, that was administered.

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- B. A permanent record of each internal investigation will be kept by the Chief of Police.
- C. Employees found to have engaged in misconduct are subject to appropriate disciplinary action as determined by the Chief of Police and/or City Manager in accordance with Department Rule No. 6 and City policy and procedures.

MUTUAL ASSISTANCE POLICY

Effective Date: April, 2011

Supersedes Policy Dated: November, 2004



I Policy

- A. Officers of the Livingston Police Department are obligated to provide police services to the City of Livingston. Their primary jurisdiction is within the boundaries of the corporate City limits, where they have absolute authority to perform their duties in accordance with law and department policies and procedures. Pursuant to Section 44-11-101 MCA, it is also recognized that officers of the Livingston Police Department may be called to assist other law enforcement agencies with emergency protection of life and property, and as otherwise necessary for the public health, welfare, safety and well-being.

Officers of the Livingston Police Department are authorized to voluntarily assist other law enforcement agencies upon request. Such assistance will be in compliance with this policy and any "Mutual Assistance Agreement" that is in effect with any law enforcement agency.

II Requests for Assistance

- A. Assistance may be rendered outside the City limits only after receiving a specific request by an officer or official representative of the agency having jurisdiction. This request must be made through the communications center over the radio or on a recorded telephone line. Exceptions may be granted in emergency situations where there are compelling reasons to believe immediate assistance is necessary to safeguard lives, and it is reasonable to believe an officer having jurisdiction is unable to or incapable of making a specific request for assistance. In these situations, officers will make a diligent effort to obtain prior authorization to assist from an official representative of an agency having jurisdictional authority. This authorization should be coordinated through the communications center on a recorded telephone line.

III Jurisdiction

- A. Officers of the department may provide assistance anywhere within 5 miles of the City limits of the City of Livingston. Response to non-emergency matters will be limited to those areas immediately adjoining the City limits, leaving officers readily available to quickly respond to calls for service from within the City.

Assistance beyond the immediate area adjoining the City limits will only be provided upon prior approval of the senior officer on duty or the chief of police. Authorization will be granted only in those situations involving emergency protection of human life and property **and**; (1) There is insufficient time for the requesting agency to coordinate adequate resources having full jurisdiction, **or** (2) The situation calls for whatever resources or assistance the Livingston Police

Department may be able to provide (extra personnel, equipment, specially trained officers, etc).

MUTUAL ASSISTANCE POLICY

Effective Date: April, 2011

Supersedes Policy Dated: November, 2004



In no case will on-duty officers of the department provide assistance beyond 5 miles if there is only one officer on duty, or their response will otherwise leave the City of Livingston without police protection. If assistance is requested in these situations, on-duty officers may respond only after receiving approval from a sergeant or the chief of police, and off-duty officer(s) have been called in and are readily available to handle calls within the City. Off-duty officers may be called in to provide mutual assistance upon approval of a sergeant or the chief of police.

IV Enforcement Authority

- A. While on a request for mutual assistance, officers have the same powers, duties, rights, privileges, and immunities as a peace officer of the requesting entity.

V Control and Supervision

- A. The requesting party shall have and exercise general control of directing officers to places they are needed and assigned to specific tasks. Officers of the requesting party will be primarily responsible for making and processing arrests and the impounding and safeguarding of lives and property within the territorial boundaries of their jurisdiction.

However, Livingston Police Department supervisors, or the senior officer on duty, shall exercise ultimate control over his/her officers in response to the general directions of the requesting party. They have the authority to approve or disapprove of activities requested, and may order the assisting officer(s) to terminate further assistance at any time. Officers shall comply with all applicable department policies and procedures; ie. a mutual assistance request shall not relieve the officer of this responsibility, even if the activity is in compliance with the requesting parties' policies or procedures.

PERSONS WITH MENTAL DISORDERS POLICY

Effective Date: October, 2013

Supersedes Policy Dated: October, 2007



I. PURPOSE

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

II. POLICY

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

III. DEFINITIONS

- A. Mental Disorder - Any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions as prescribed in 53-21-102(9)(a) MCA.
- B. Emergency Situation - Any situation in which a person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment as prescribed in 53-21-102(7) MCA.
- C. Professional Person - A medical doctor, and advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing as prescribed in 37-8-202 MCA, or a person who has been certified by the Department of Public Health and Human Services, or a licensed psychologist as prescribed in 53-21-106 MCA.

IV. PROCEDURES

- A. Officers should recognize behaviors that are potentially destructive and or dangerous to themselves or others. These behaviors may indicate the presence of a mental disorder. Officers should evaluate the behaviors in the total context of the situation. Persons with mental disorders may exhibit some or all of the following signs or symptoms:
 - 1. Unrelenting fear.
 - 2. Extremely inappropriate behavior given the situation.
 - 3. Extreme rigid or inflexible behavior.
 - 4. Abnormal memory loss.
 - 5. Delusions.
 - 6. Hallucinations of any of the five senses.

PERSONS WITH MENTAL DISORDERS POLICY

Effective Date: October, 2013

Supersedes Policy Dated: October, 2007



7. Extreme fright or depression.
8. Extreme paranoia.
9. Manic behavior.
10. Disorganized speech.
11. Nonsensical speech.
12. Disorientation.

- B. When responding to incidents involving persons with a suspected mental disorder, officers should assess the situation. Upon contact with the person or witnesses, officers should attempt to determine if the person presents a danger of death or bodily harm to themselves or others. Factors to consider in making this determination may include some or all of the following:

1. Threats made by the person.
2. Access to weapons.
3. Witness statements.
4. Knowledge of the person's history.
5. Lack of emotional control.
6. Likelihood of harm to someone if officers are not present.
7. Prior suicide attempts.
8. Violent behavior.
9. Substance abuse.
10. Intoxication.
11. Physical condition.

- C. Suggestions for interacting with persons with a suspected mental illness include:

1. Manage your own emotions.
2. Be respectful of the person.
3. Takes steps to calm the situation.
4. Move slowly.
5. Communicate with the person by talking slowly, listening, repeating information and explain what you are going to do before you do it.
6. Be understanding about their present condition.
7. Don't try to change the person's beliefs.
8. Stay positive.
9. Be aware of your body language.
10. Do not threaten the person with arrest.
11. Ask about medications and current care.

V. PROTECTIVE CUSTODY

PERSONS WITH MENTAL DISORDERS POLICY

Effective Date: October, 2013

Supersedes Policy Dated: October, 2007



- A. Pursuant to 53-21-129 MCA, when an emergency situation exists, law enforcement officers may take any person into custody who appears to have a mental disorder and to present an imminent danger of death or bodily harm to the person or others. These people are under protective hold and may not be incarcerated in the detention center unless they have committed a crime and criminal charges are deemed appropriate. Reasonable force may be used, taking into consideration the exigency of the situation and balancing the need for immediately taking the person into custody against the likelihood of escalating the situation.
- B. Any of the following criteria may be used to determine that an emergency situation exists, and taking a person into protective custody is the preferred response:
 - 1. The person has purposely inflicted injury to themselves, requiring immediate medical attention.
 - 2. There is sufficient evidence to indicate that the person has actively and recently attempted suicide.
 - 3. The person clearly states that they intend to harm themselves or anyone else.
 - 4. Based on the person's mental condition or emotional state, they are clearly incapable of caring for themselves and their physical safety is in imminent danger.
 - 5. Other sufficient evidence or information indicates that the person has a mental disorder, poses an imminent threat to any person or property, and the officer determines that taking a person into protective custody is necessary to safeguard the person and or the public. Officers may take into account the person's actions and verbal statements, threatening behavior, witness statements, direct threats made toward others, etc.
- C. Officers shall also take a person into custody upon the written order of a court, the written order of the county attorney or upon receiving written notification from a mental health professional that an emergency situation exists.
- D. The Crisis Response Team (CRT) shall be notified (522-2161) as soon as possible when an officer determines that a person will be taken into custody. If the person has consumed alcohol, an attempt shall be made to determine their BAC level. The Crisis Response Team will not normally respond to conduct an evaluation until their BAC is .08 or less.
- E. Persons taken into custody shall be taken to the hospital, where a medical examination and any necessary treatment will be conducted. Once cleared medically, the person will be taken to a dedicated hospital room or other location deemed appropriate pending an emergency evaluation by a CRT member. Officers will attempt to supervise the person until the CRT arrives, workload permitting. An officer shall closely supervise the person at all times if they are not manageable or present a safety risk to persons or property. If the person's BAC is above .08, and they are manageable, personnel from the Southwest Chemical Dependency Center may be called to supervise them.

PERSONS WITH MENTAL DISORDERS POLICY

Effective Date: October, 2013

Supersedes Policy Dated: October, 2007



- F. As an alternative to taking a person to the hospital, they may be taken to the Hope House in Bozeman under the following conditions:
 - 1. There is no known medical condition that needs to be managed, including history of alcohol related seizures/DTs.
 - 2. BAC less than .08
 - 3. BAC greater than .08 but less than .2 AND the person is cooperative and willing to be admitted.
 - 4. Prior to transport to Hope House officers should call (556-6500), advise them of the situation and make prior arrangements. The officer or Hope House staff will contact CRT as soon as possible to conduct an evaluation. Officers may also call Hope House to determine whether or not a person should be transported there.
 - 5. After arriving at Hope House, officers shall transfer the person to their custody and fill out required paperwork.

VI. PERSONS WITH MENTAL DISORDERS WHO ARE ARRESTED

- A. Persons with a mental disorder may be arrested for a criminal offense when probable cause has been established and criminal charges are appropriate.
- B. If criminal charges are appropriate and incarceration is deemed necessary, they shall be detained in the Park County Detention Center in accordance with routine procedure. The CRT will be notified and briefed as soon as possible.
- C. If the person's BAC is above .08 the detention center staff will notify the CRT when their BAC drops below .08.
- D. If the person bonds out or is otherwise released from the detention center prior to being evaluated by the CRT, and they meet the criteria for taking them into protective custody, the person will be taken into protective custody and the provisions of this policy will apply.

VII. PERSONS NOT TAKEN INTO PROTECTIVE CUSTODY

- A. If an officer responds to any incident involving someone who appears to have a mental disorder and are not deemed to be at risk of imminent danger of death or bodily harm to themselves or others, the officer should assist the person in obtaining medical or mental health care whenever possible. This may include attempting to contact the person's mental health provider or contacting relatives or friends who can assist the person.
- B. If a person appears to have a mental disorder and may present a risk to themselves or someone else, but is not taken into custody, the responding officer(s) may forward all supporting information to the county attorney. Based on sufficient information, the county attorney may issue a written order to take the person into protective custody.

EMPLOYEE SOCIAL NETWORKING USE POLICY

Effective Date: April, 2011



I. Purpose

The purpose of this policy is to establish written guidelines concerning personal web pages or internet sites, including social networking sites.

II. Policy

This policy provides guidance to employee conduct as it relates to their employment or representations of employment through the numerous social networking venues. All personnel shall use Internet resources and social networking sites in a responsible, professional, ethical and lawful manner. To achieve and maintain the public's highest level of respect, we must place reasonable restrictions on conduct and appearance, and hold to these standards of conduct whether on or off duty. An employee's actions must never bring the department into disrepute, nor should conduct be detrimental to its efficient operation.

III. Procedures

- A. Employees have a right to personal web pages or social networking sites; however, employees are expected to exercise good judgment and demonstrate personal accountability when choosing to participate on social-networking sites. They shall comply with all Department Rules and Regulations pertaining to personal conduct.
- B. Employees may identify themselves as members of the department on social networking sites. However, if they do, their postings and actions shall be considered reflective of the department. If an employee identifies their employment they take on the responsibility for representing the department in a positive and professional manner from that period forward. Employees should also realize that even if they don't identify themselves as members of the department, many people viewing their internet postings will recognize them as a representative of the department.
- C. Employees may not represent themselves in a public forum in any manner that reflects a lack of good moral character, post any material on the Internet that may adversely affect the efficiency or integrity of the department, cause a negative public reaction or adversely affect the reputation of the department. Employees should understand that information transmitted electronically is subject to interception by anyone. They should consider possible adverse consequences of internet postings, such as future employment, cross-examination in criminal and civil cases, accusations of misconduct, and public as well as private

EMPLOYEE SOCIAL NETWORKING USE POLICY

Effective Date: April, 2011



embarrassment. An employee's comments or postings could be used to attack or impeach them in court, which in turn could have an effect on their employment.

- D. Employees are prohibited from posting, transmitting, and/or disseminating any pictures, video or audio recordings, likenesses or images of official department training, official activities, work-related assignments, patches, logos or any other object or material that specifically identifies the Livingston Police Department on any personal or social networking website or web page without the express consent of the Chief of Police.
- E. No employee shall release, either directly or indirectly, information regarding confidential agency investigations and intelligence, administrative investigations, personnel issues and disciplinary actions, or other information that has not been released publicly concerning crimes, accidents or violations of the law that are not considered public information or would have an adverse effect on departmental operations.

BODY ARMOR POLICY

Effective Date: June, 2012



I. Purpose

To provide officers with guidelines for the proper care and use of body armor

II. Policy

It is the policy of the Livingston Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

III. Definitions

Field Activities: Regular duty assignments or assigned tasks that place officers or could reasonably be expected to place officers in situations where they would be required to act in enforcement rather than administrative or support capacities.

IV. Procedures

A. Issuance of Body Armor

1. Issued body armor must comply with protective or related requirements prescribed under current standards of the National Institute of Justice.
2. All officers shall be issued agency approved body armor.
3. Body armor that is worn or damaged shall be replaced by the agency. Body armor that must be replaced due to misuse or abuse by the officer shall be paid for by the officer.

B. Use of Body Armor

1. Officers shall wear only agency approved body armor.
2. Officers that are assigned uniformed patrol duties and non uniformed duties are required to wear body armor while engaged in field activities unless exempt as follows:
 - a. When an agency approved physician determines that an officer has a medical condition that would preclude wearing body armor.
 - b. When an officer is involved in plain clothes work that his / her supervisor determines could be compromised by wearing body armor.
 - c. When the department determines that circumstances make it inappropriate to mandate wearing body armor.

BODY ARMOR POLICY

Effective Date: June, 2012



C. Body Armor Inspections

1. Supervisors shall be responsible for ensuring that body armor is worn and maintained as required by this policy through routine observation.

D. Care, Maintenance and Replacement of Body Armor

1. Officers shall routinely inspect their issued body armor for signs of damage and general cleanliness.
2. As dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions.
3. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with the manufacturer's instructions.
4. Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to their supervisor.
5. Body armor will be replaced in accordance with the guidelines and protocols established by the National Institute of Justice.

Mounted Patrol Policy

Effective Date: March, 2014



I. Policy

The Livingston Police Department recognizes that horse mounted officers can provide effective methods of patrol, crowd control, and traffic enforcement; to prevent crime; to improve public relations; to build community partnerships; and to assist with search and rescue operations.

II. Selection Process for Mounted Patrol Officers

- A. Officers shall have a minimum of one year patrol experience.
- C. Officers must have the ability to maintain, manage and care for a horse.
- D. Officers must be able to provide personal transportation for the horse to and from work assignments.
- E. Officers should have experience riding and working with horses.

III. Horses

- A. Before being allowed to work, a mount must successfully complete a Basic Mounted Patrol school.
- B. The horse must have a negative Coggins test certificate.
- C. The horse must prove to be gentle and even-tempered and must not show any negative habits such as kicking or biting.

IV. Mounted Unit Assignments

- A. Prior to starting patrol, the mount is to be groomed, with appropriate tack.
- B. Mounted assignments are coordinated with the assistance of the shift supervisor and/or Chief of Police. Officers must have a portable radio, monitor radio traffic and advise the communications center of their activity.
- C. Officers are responsible for removing any manure that their mount may deposit on any sidewalk or crosswalk.
- D. Mounted Patrol assignments are secondary to regular patrol duties and will be utilized for special events or during times when this is sufficient staffing for regular patrol duties (normally two other officers on shift). If call volume

Mounted Patrol Policy

Effective Date: March, 2014



increases and/or regular patrol officers become occupied for an extended amount of time, the mounted patrol officer will expedite in transitioning to basic patrol duties.

- E. If a truck and trailer are used to transport to the patrol area, the vehicle is to be positioned to provide maximum safety while loading and unloading the mount and to minimize traffic obstructions.
- F. If an assignment will be occurring after dark, the officer should make every effort to equip his/her mount with reflective gear.
- G. If the mount must be left unattended, it shall be secured in a place and manner in which the animal cannot be injured or cause injury to innocent civilians. It is preferable to leave the animal either at a trailer or tied at a secure location.
- H. When necessary to dismount and enter a building, a mounted officer should attempt to secure his horse properly prior to entry. If that is not feasible due to the situation, the mounted officer may request assistance from a citizen to hold the horse. Great care should be taken to select an appropriate person.
- I. Due to liability concerns, no person who is not a member of the mounted unit (sworn or citizen) shall be allowed to ride the officer's mount while in service for the department.

V. Horse Care and Maintenance

- A. Horses shall be maintained by their owners in a state that they can be readily used and can be considered "good in flesh."
- B. In the event of inclement weather, the on-duty supervisor will make the decision as to whether the horses will be utilized. Common sense and the best interest of the horse should prevail.
- D. In the event a horse is injured or killed on duty, the officer will notify the supervisor on duty and the Chief of Police as soon as possible. If a veterinarian is obviously needed, the veterinarian shall be summoned first.
 - 1. On duty horse injuries or death shall be documented in the form of a department memo written to the Chief of Police.
 - 2. On duty horse injuries will be evaluated by the department to consider reasonable expenses to be reimbursed to the officer on a case by case basis.
- E. Each horse will be Coggins tested and vaccinated annually.

Mounted Patrol Policy

Effective Date: March, 2014



VI. Mounted Uniforms and Equipment

- A. The sworn mounted officer uniform can be altered between English and Western riding gear. The uniform will reflect professionalism, no matter the riding style. A duty belt is required. An ASTM/SEI Certified helmet is preferred while mounted.
- B. The mount shall be equipped with a saddle and other equipment that is consistent with the rider's chosen riding style.

VII. Recognized Uses of Mounted Patrol

- A. Mounted units are to be used to supplement regular patrol, as staffing permits. A special focus should be placed upon patrolling the downtown area and other areas with high pedestrian activity.
- B. Mounted units should be considered for areas with limited access or mobility, such as alleys and pathways. Horse mounted officers are particularly effective in crowd control, whether the crowd is violent or not violent, and can be used for observing or issuing directions to the crowd. When moving a crowd, horses should be deployed in tactical formations and should be a lead element when used in conjunction with foot officers.
- C. Mounted officers may be used for a variety of special events. These may include, but are not limited to school activities, parades, dignitary escorts, concerts, and public celebrations. All requests by special event organizers for mounted officers should be made to the Chief of Police.

VIII. Training

- A. All horse/rider teams must successfully complete basic training prior to use in any assignment.
- B. Since the mounts are privately owned, primary responsibility of training outside of structured unit training is that of the owner or rider.
- C. At least once a year, every attempt should be made to attend mounted patrol related training.

ACKNOWLEDGMENT

I hereby acknowledge receipt of the Livingston Police Department policy, procedures and rules and regulations manual. It is my responsibility to maintain this manual as a piece of issued equipment, and to comply with all policies, procedures and rules and regulations therein during my employment with the City of Livingston Police Department. Failing to comply with any conditions contained in the manual may result in disciplinary action. I further understand that it is my responsibility to update the manual with revised or added material when needed.

I agree to thoroughly review the contents of this issued manual within two weeks of being hired. Please return this form to your supervisor within two weeks stating that you have read and understand the contents.

I have read and understand the policy, procedures and rules and regulations manual.

Name of employee_____

Date_____

Signature_____

LIVINGSTON POLICE DEPARTMENT SEXUAL AND VIOLENT OFFENDER REGISTRATION PUBLIC DISSEMINATION OF INFORMATION POLICY

It is the policy of the Livingston Police Department to release any offender registration information that it possesses that is considered public criminal justice information, or registration information that it possesses relevant to the public if it is determined that a registered offender is a risk to the safety of the community and that disclosure of the registration information that it possesses may protect the public. Considering the level of risk posed by the offender to the public, information may be disseminated by newspaper, paper flyers, posters, the internet, or any other media as determined by the chief of police.

To provide reasonable public access to this information, updated lists of offenders who have registered with the Livingston Police Department, as well as other pertinent information, will be displayed in a public awareness bulletin board located in the law enforcement section of the City-County building and on the City website, www.livingstonmontana.org. Citizens requesting general information, or requesting specific information on a particular offender, should be referred to the bulletin board or website for this information. Information may also be obtained on the Montana Sexual and Violent Offender web-site: <http://svor.doi.state.mt.us>. *At no time will a list of registered offenders, or a picture of any offender, be provided to any member of the public without approval of the chief of police.*

At a minimum, offender information will be disseminated to the public by the following means:

Violent Offenders - Name, address, and the offense the offender is required to register under will be posted in the public awareness bulletin board and on the City website.

Level 1 Sex Offenders - Name, address, date of birth, physical description, the offense the offender is required to register under and the most recent photograph will be posted on the public awareness bulletin board and on the City website.

Level 2 Sex Offenders, and Level I Offenders who have committed an offense against a minor - Name, address, date of birth, physical description, the offense the offender is required to register under, the type of victim targeted by the offense, the license plate number(s) and a description of any vehicle owned or operated by the offender, any conditions imposed by the court upon the offender for the safety of the public and the most recent photograph will be posted and maintained on the public awareness bulletin board and the City website. The most recent photograph will be posted on the bulletin board. This offender information, including a photograph, will be disseminated in at least two publications of the Livingston Enterprise newspaper.

Level 3 Sex Offenders - Name, address, date of birth, physical description, the offense the offender is required to register under, the name of the community in which the offense occurred, the type of victim targeted by the offense, the license plate number(s) and a description of any vehicle owned or operated by the offender, any conditions imposed by the court upon the offender for the safety of the public, the date of the offender's release from confinement (or if not confined, the date the offender was sentenced, with a notation that the offender was not confined) and the most recent photograph will be posted and maintained on the public awareness bulletin board and the City website. This offender information, including a photograph, will be disseminated in at least two publications of the Livingston Enterprise newspaper. Upon a Level 3 offender moving into Livingston, a sexual offender education and notification public meeting will be held at the discretion of the chief of police. If such a meeting is scheduled, the date, time and location will be posted on the public awareness bulletin board, posted in the local newspaper(s) and announced over the local radio station.

Citizen abuse of this information to threaten, intimidate, harass or assault registered offenders will not be tolerated and violators may be subject to criminal prosecution. Registered offenders who suffer from such treatment from the public are encouraged to notify law enforcement.

This policy was adopted in December, 2001. Revised; October, 2008.

LIVINGSTON POLICE DEPARTMENT

Information about our Complaint Policy

The Livingston Police Department is committed to receiving and accepting complaints and compliments about the actions and performance of all our personnel. We believe the public is entitled to efficient, fair and impartial service. We investigate the allegations of employee misconduct, respond to inquiries about employee actions or department policy, and document all commendations received from the public.

We formally investigate all allegations and inquiries for the following reasons:

1. To protect citizens from misconduct by an employee.
2. To identify and take appropriate action against employees who violate the law, department policy, or rules and regulations.
3. To protect the department and those employees who conduct themselves appropriately.
4. To identify policies and procedures that may need review or change, and to find ways to improve the quality of service to the community.

As a citizen, you are encouraged to contact the Police Department if you have a complaint about the actions of a police officer, or if you believe his/her conduct was inappropriate or that he/she has violated the law. Department supervisors can answer questions about department policies and procedures, and laws. Any department employee can help you initiate a complaint against an officer.

Although we encourage citizens to report employee misconduct, complaints must be made in good faith. False or highly exaggerated complaints serve no good purpose for either the citizens or the officer and serve only to thwart our complaint-taking process. Anyone who willfully makes any false accusation for the purpose of discrediting a police department employee may be prosecuted under Montana Code Annotated 45-7-201 (Perjury), 45-7-202 (False Swearing) or 45-7-203 (Unsworn Falsification to Authorities).

How to Begin

To initiate a complaint, compliment or inquiry you should contact any member of the police department. You can accomplish this at any time by calling the Communications Center at 222-2050, or coming to the police department at 414 East Callender Street and making the request to the Communications Center located in the law enforcement wing at the rear of the building. You should request to see the shift commander or senior officer on duty. If you would like to meet with a specific officer, the communications center or any on duty officer can advise you when they are working. Complaints may also be made directly to the chief of police during normal business hours, Monday through Friday, 8:00 am – 5:00 pm.

Initial inquiries may be made by phone or in person to any police department employee. If they are unable to satisfy your inquiry, you will be referred to a shift supervisor. If either is able to satisfy your inquiry, the matter will be considered resolved. If not, your inquiry will be considered a complaint and will require written documentation from you to proceed further.

Complaints must be made on the Livingston Police Department Personnel Complaint Form, which can be hand delivered or mailed when completed. Depending on the severity of the complaint, you may be asked to provide additional written or taped statements of the complaint with more details concerning the incident and why you believe the officer's conduct was inappropriate.

Complaints should be made by the person aggrieved/wronged, or who has credible information to substantiate the complaint. Third party or anonymous complaints will be accepted, but please be aware that they can often times be difficult to investigate as an investigator may need additional information and the complainant may be the only source available. For this reason, please provide contact information when submitting your complaint. Complaints received from parents or legal guardians of aggrieved minors will be investigated in the same manner as a complaint received from an aggrieved adult.

Your complaint will be investigated in a timely manner and you may be contacted for an interview by whoever is assigned to investigate the complaint.

If your complaint is an allegation of criminal conduct, the investigation may be referred to an outside agency. After the investigation is completed, one of the following findings will be used to close the complaint.

1. **Unfounded** – The investigation conclusively proved that the allegations or act complained of did not occur.
2. **Exonerated** – The acts that formed the basis for the complaint or allegation did occur, but were justified, lawful, and proper according to department policy or standard operating procedures.
3. **Not Sustained** – The investigation failed to discover sufficient evidence to clearly prove or disprove the allegations made.
4. **Sustained** – The investigation disclosed a preponderance of the evidence to prove the allegation(s) made.
5. **Sustained with Qualifications** - The investigation discloses the action complained of did in fact occur, but not in the manner or to the degree stated.
5. **Unresolved** – The investigation cannot proceed because the complainant failed to disclose promised information to further the investigation; or the complainant wished to withdraw the complaint; or the complainant is no longer available to provide necessary information. This finding may also be used when information provided is not sufficient to determine the identity of the officer(s) involved.

If a complaint is sustained against an employee, appropriate action will be taken. The action may involve counseling, written reprimand, suspension from duty, termination, criminal prosecution, or other action. In accordance with the law and to respect an employee's privacy, we cannot release what specific internal discipline was imposed on the employee. If you are not satisfied with the results, you may contact the Livingston City Manager at 414 East Callender Street.

Complaint Form Instructions

Please fill out the attached Personnel Complaint Form completely and describe in detail the incident that led to this complaint. Please be clear and as specific as you can, and include as much information as possible. If you do not know the name(s) or badge number(s) of the officer(s) involved, please try to describe them to the best of your ability. If you need more space than the form allows, please attach additional sheets as needed. Please type or print neatly and legibly.

Your statement must be accurate and true, and you must sign it under oath before a Notary Public. A notary is available at the Livingston City Offices and at the Livingston Emergency Services Communications Center at no charge. You may hand deliver the form to the Police Department at 414 East Callender Street, or mail it to:

Chief of Police
PO Box 897
Livingston, MT 59047

If you need help or have further questions, you may contact the Chief of Police at 823-6025, Monday through Friday, 8:00 am – 5:00 pm. Should you move or change phone numbers, please forward this information to the Chief of Police. Upon receiving your signed complaint from, you will receive a letter advising you of our receipt of your complaint and an initial status update.

LIVINGSTON POLICE DEPARTMENT

PERSONNEL COMPLAINT FORM

Name of Complainant:	Address (Street, Apt #, City, State, etc):	Date of Birth:
Place of Employment and Address:	Home Phone No.	Work Phone No

Date and Time of Incident:	Location of Incident:
----------------------------	-----------------------

Employee(s) Named:		
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Witnesses:		
Name	Address	Phone No.

Statement of Complaint

Please state in exact detail what occurred, who was involved, what misconduct occurred, what injuries (if any) you suffered, and all other facts related to the incident. Do not include unsubstantiated information such as gossip or rumor. Attach any reports or documentation, such as photographs, medical records, etc. which relate to the incident. Continue your statement on additional sheets of paper, if needed, and attach pages to this document.

I HEREBY REQUEST the Livingston Police Department investigate the conduct alleged in this complaint and take appropriate action as authorized by law. Having been duly sworn, I hereby state under penalty of Perjury (45-7-201 MCA), False Swearing (45-7-202 MCA) or Unsworn Falsification to Authorities (45-7-203 MCA) that I am the complainant in this complaint, that I have prepared, read and fully understand all matters related to this complaint, that this investigation as an official proceeding is confidential to the degree required by law and that all information provided in this complaint is true and complete, to the best of my knowledge.

Signature of Complainant

Date

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____
Notary Public for the State of _____
County _____
My commission expires: _____

DEPARTMENTAL USE ONLY

Received by Chief of Police: Date: _____ Signature _____

Type of Complaint _____
(force, arrest, discrimination, racial profiling, language, criminal conduct, discourteous, conduct, procedure, service, harassment, driving)

Investigator Assigned : _____

Synopsis of complaint, findings, and resolution (May be used for short investigations on minor issues. Complete separate detailed investigative reports for serious issues):

Investigating Officer Signature _____ **Date** _____

Findings: Unfounded _____ Exonerated _____ Not Sustained _____ Sustained _____

Sustained with Qualifications _____ Unresolved _____

Final Action Taken: Policy Review _____ Employee Counseling _____ Letter of Reprimand _____

Suspension _____ Termination _____

Other (specify)

Resolution letter sent to complainant: Date: _____ If not, why? _____

Chief of Police Signature: _____ **Date:** _____

Appendix B

Livingston Police Department Discipline Guide

Livingston Police Department Discipline Guide



September 2015

INTRODUCTION

This document was designed for use by the members of the Livingston Police Department as a **guide** to assist and inform in the application of discipline and corrective action. The guide is intended to establish clear and defined expectations during the administration of discipline and corrective action in a consistent manner with appropriate levels.

When discipline is warranted, each situation is unique and is based on the totality of the circumstances where all factors are considered. Each situation is examined taking these individual factors into consideration. These factors are relative in each situation and to each employee.

While discipline or corrective action needs to be administered as fairly and consistently as practical, equally important to the process is the obligation to balance the needs of the employee with the needs of the organization and the public trust. Compromising any one of those three elements weakens the Department's ability to function properly, effectively and efficiency.

Dale Johnson

Chief of Police

PENALTY GUIDE

Supervisors and employees must recognize that penalty schedules cannot accurately, fairly or consistently address every situation. Times and issues require that discipline must be flexible in its ability to modify behavior to conform to current social expectations. Investigations of alleged misconduct must be based on an individual analysis of each employee for each incident. Any penalty should be based upon the need to modify the employees' behavior, set expectations for other employees, and maintain the public trust.

One of the responsibilities of an Internal Affairs Investigation is to review all complaints to evaluate the fairness and consistency of the adjudication and any proposed penalty. With the institutional knowledge gained over time, estimations of penalties based on recent penalty trends for similar acts or omissions have been developed. The Penalty Guide represents an anthology of common offenses and their commensurate penalties derived from that accumulated institutional knowledge.

The penalty ranges listed are estimations that represent only a starting point from which the appropriate level of discipline may reflect. Management insight should be used to garner the appropriate penalty recommendation for all alleged acts of misconduct, taken as a whole, rather than the summation of penalties for individual acts of misconduct. Every penalty recommendation must consider the employee's complaint history; relative job knowledge and experience; motives; intent; and damage caused, both tangible and intangible. This assessment must be balanced with the impact the alleged act had on other employees, the Department, and the community we serve.

It must be remembered that this is a guide. As such, it may not always reflect the appropriate penalty for every set of circumstances. Indeed, for a given set of circumstances, the appropriate penalty may be higher or lower, depending on *current* issues and the impact of the particular misconduct on the community and/ or fellow employees. When deviating from the Penalty Guide, a detailed explanation needs to be documented for the deviation.

The Chief of Police will have the final decision making authority in all penalties.

LEGEND

A= Verbal Warning
 B= Written Warning
 C= 1 - 2 day(s) suspension

D= 3 - 4 day suspension
 E= Two week Suspension (80 hour)
 F= Termination recommendation

	Violation Description	1st Occurrence	2nd Occurrence	3rd Occurrence
Alcohol				
	Unfit for duty due to alcohol use prior to shift	C	D-F	F
	Under the influence of alcohol while on-duty	D-F	F	F
	Improperly possessed alcoholic beverage while on-duty	B-C	D-E	F
	Improperly consumed alcoholic beverage while on-duty	D-F	F	F
	Improperly consumed/ purchase alcoholic beverage while in uniform when off-duty	D-F	F	F
Discourtesy (on-duty involving public)				
	Discourteous/ improper remark to a member of the public	A-B	C	C-F
	Inappropriate gesture	A-B	C	C-F
	improper remark in public	A-B	C	C-F
Discourtesy (on-duty - no public involving)				
	Discourteous/ improper remark to/ regarding a member or fellow employee	A-B	C	C-F
	Inappropriate gesture	A-B	C	C-F
	improper remark in the workplace	A-B	C	C-F
Dishonesty/ Theft				
	Knowingly receives any compensation of which not entitled	F	F	F
	Converts found/ recovered/ seized property to personal use	B-F	F	F
	Converts city property/ resources to personal use	B-F	F	F
	Improperly takes/ appropriates/ converts the property of another	B-F	F	F
	Purposely falsify time sheet (own or others')	F	F	F
Domestic Violence				
	Domestic Violence conviction	F	F	F
	Violation of Order of Protection (as determined by the court)	D-F	F	F
Driving				
	At-fault traffic collision	B-C	B-D	B-F
	improper/ unsafe driving (on/off duty)	B-C	B-D	B-F

	Violation Description	1st Occurrence	2nd Occurrence	3rd Occurrence
	Driving Under the Influence (off-duty)			
	Driving under the influence (conviction)	E	F	F
	Driving under the influence (conviction) with traffic collision	F	F	F
	Driving under the influence (conviction) with Injury traffic collision and/or aggravated circumstances	F	F	F
	Ethnic Bias			
	Improper remark(s) showing ethnic/ cultural bias	B-C	C-D	E-F
	Show/ display material showing ethnic/ cultural bias	B-C	C-D	E-F
	Knowingly/improperly detaining someone due to ethnic/ cultural bias	C-F	F	F
	Failure to Appear			
	Failure to appear/ late for court or other administrative hearing when properly notified	A-B	B-C	C-F
	False & Misleading Statements			
	Knowingly make false or misleading statement(s) during official inquiry/ investigation	D-F	F	F
	Knowingly make false or misleading statement(s) Under Oath	F	F	F
	False imprisonment/ Search			
	Knowingly detain/ transport someone without cause	D	F	F
	Knowingly arrest someone without cause (false arrest)	F	F	F
	Gender Bias/ Sexual Harassment			
	Improper remark(s) showing sexual/ gender bias	B-D	E-F	F
	Show or otherwise display material showing sexual/gender bias	C	D	E-F
	Create/ allow hostile work environment showing sexual/ gender bias	E-F	F	F
	Insubordination			
	Improper comments to a supervisor (one-on-one/ limited parties present)	B-C	D-E	F
	Improper comments to a supervisor (public setting/ group setting)	B-D	D-E	F
	Refusal/ fail to obey direct order	C-D	F	F
	refusal/ fail to follow requirements of restricted duty letter	B-D	C-D	E-F

	Violation Description	1st Occurrence	2nd Occurrence	3rd Occurrence
	Narcotics/ Drugs			
	Improperly possess/ ingest/ sell/ distribute illegal narcotics/ drugs	F	F	F
	Improperly possess/ ingest/ sell/ distribute prescribed narcotics/ drugs	F	F	F
	Present where illegal narcotics/ drugs being used	B-C	D-E	F
	Knowingly transport/accompany person to buy/ obtain illegal narcotics/ drugs	F	F	F
	Neglect of Duty			
	Failure to care for Department/City property or assets resulting in damage	B	C	D-F
	Intentional Damage to Department/City Property or Assets	C-F	E-F	F
	Improper/ Unsafe Use of Department/City Property	B	B-C	B-F
	Fail to properly activate and use equipment (radio, cameras, etc.)	A-B	C-D	E-F
	Failure to care for property of arrestee/victim/other	B	C	D-F
	Failure to properly handle/ process evidence	B	C	D-F
	Fail to have car audio/ video activated as required	A-B	C-D	E-F
	Tardy/ late for work (without proper notice)	A-B	B-D	D-F
	Failure to show up for work (without proper notice)	B-C	C-E	E-F
	Sleeping while on duty	B	C	D-F
	Conducting excessive personal business while on-duty	B	C	D-F
	Fail to return to duty from breaks on time	A-B	B-D	D-F
	Failure to handle assigned calls	B-C	C-E	E-F
	Failure to take appropriate action/ provide appropriate service	B-C	C-D	E-F
	Fail to report On-Duty Use of Force incident	B-C	C-E	E-F
	Failure to complete reports timely manner	A-B	B-C	D-F
	Unauthorized weapon or ammunition	B-C	C-D	D-F
	Failure to properly search arrestee/ detainee	B	C	D-F
	Fail to properly care for/ monitor person in-custody	B-F	C-F	F
	Work off-duty without permission (outside employment)	B	C	D-F
	Release of Confidential Reports/Information/Records	B-F	C-F	F
	Improper use of City vehicle	B	B-C	D-F
	Neglect of Duty - Supervisor			
	Fail to take appropriate action	B-C	C-E	F
	Fail to initiate/ process Personnel Complaints	C	D	E-F
	Fail to review/ approve Department Report(s)	B-C	B-C	D-E

	Violation Description	1st Occurrence	2nd Occurrence	3rd Occurrence
	Police/ Procedure			
	Violate any codified/ published/ or otherwise specified/ articulated Department Policy/ Rule or Regulation/ S.O.P.	A-C	B-D	C-F
	Reports/ Documents			
	Knowingly prepare/ submit false Department report	F	F	F
	Knowingly prepare/ submit inaccurate/ incomplete Department report	B-C	C-D	E-F
	Shooting Policy (including TASER)			
	Discharge of Weapon in violation of Department policy	B-E	E-F	F
	Negligent discharge - injury to self/ others	B-E	F	F
	Negligent discharge - no injury	B-E	C	D-F
	Unauthorized Force			
	Specified/ articulated incident/ acts	B-F	C-F	D-F
	Unbecoming Conduct			
	Unnecessarily involved in dispute resulting in response of law enforcement	B	C-D	E-F
	Failure to cooperate with internal Investigation	B-F	C-F	D-F
	Off-duty; improper remark to on-duty law enforcement personnel/ co-worker	B-C	C-D	D-F
	Fail to maintain personal finances resulting in collectors contacting the Police Department or City Administration	A-B	B-C	C-E
	Use official position to acquire gratuities/ gifts/ special favors	B	C	D-F
	Retaliate against another for filing a complaint	B-E	E-F	F
	Attempt/ convert on-duty contact for social relationship	B-E	D-E	E-F
	Improper use of Department computer system/ database/ records / software	B-F	C-F	F
	Improper message/ communications through MDT/ radio transition	B	B-C	C-E
	Failure to maintain valid driver's license/ registration/ car insurance	B	C	D-F
	Compromise an official investigation	B-F	F	F
	Knowingly allow minor to consume alcohol	C-D	D-E	F
	Knowingly provide alcohol to minor (not your own)	C-F	D-F	F
	Off-duty; unnecessarily involved in altercation	B-C	C-D	D-F
	Off-duty; unnecessarily strike another	B-D	D-E	F
	Criminal act (other than DUI) - no conviction	B-F	C-F	D-F
	Criminal act (other than DUI) - with conviction	B-F	F	F
	Smoking in patrol vehicle	B	B-C	C

	Violation Description	1st Occurrence	2nd Occurrence	3rd Occurrence
	Sexual contact with another while on duty	D-E	E-F	F
	Any act/ conduct not otherwise specified/ articulated by the Department to be unbecoming/ inappropriate/ unsafe/ negligent/ unethical	B-F	D-F	D-F
	Violate a Court Order (other than Domestic Violence)	B-F	B-F	B-F

Appendix C

Livingston Police Department CBA 2020-2024

Collective Bargaining Agreement
Between
The City of Livingston
And
Montana Federation of Public Employees
Livingston Police Unit

July 1, 2020 – June 30, 2024

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PREAMBLE

This Agreement, made and entered into this ____ day of _____, 2020, by and between the CITY OF LIVINGSTON, hereinafter referred to as the Employer, and the Montana a Federation of Public Employees Livingston Police Unit (MFPE), hereinafter referred to as the Association. In consideration of the mutual covenants herein set forth, the Employer and the Association agree and shall be bound as follows:

ARTICLE 1. – RECOGNITION

The City of Livingston recognizes the Association as the exclusive representative for collective bargaining purposes for all full time and part time employees consisting of the Sergeants, Police Investigators, Patrol Officers, Probationary Patrol Officers, Supervising Communications Officers, and Communications Officers employed by the City of Livingston, Montana Police Department excluding the Chief of Police, Assistant Chief of Police, and Communications Technical Advisor.

Part time employees will not be hired to replace the 6 full time Communications Officer positions.

ARTICLE 2. - UNION SECURITY AND DUES

Upon written authorization of any employee of the Employer and who is covered by this written agreement, the Employer shall deduct from the pay of the employee the monthly amount of dues as certified by MFPE and forward the aggregate amount to MFPE. The Association will indemnify, defend and hold the Employer harmless against any claim made and against any suit instituted against the Employer, including attorney's fees and costs of defense thereof, on account of any provision of this Article.

The Employer agrees that each paycheck shall contain an explanation of all deductions.

It will be the responsibility of the Employer to inform that Association of any addition or change in status on an employee. This information will be made available to the Association immediately after the change occurs in writing as to when the change occurred.

ARTICLE 3. – NON-DISCRIMINATION

The Employer agrees not to discriminate against any employee for his activity on behalf of, or membership in, the Association. The Employer and the Association agree that there shall be no unlawful discrimination against any employee because of race, creed, color, religion, national origin, sex, sexual orientation, age, marital status, familial status, political belief, or mental /physical disability (as defined by the Americans with Disabilities Act, i.e. ADA), unless such disability effectively prevents the performance of the essential duties required of the position which are bona fide occupational qualifications that cannot be accommodated without undue hardship to the City.

The Employer may grant reasonable leaves of absence to employees whenever required in the performance of duties as "duly authorized representatives of the Association," provided necessary manpower is available to cover shifts.

ARTICLE 4. – WORKING CONDITIONS

A. Workday – Workweek – Shift Rotation

1. Workday – A scheduled workday for patrol officers or detectives shall not exceed ten (10) hours of work in any twenty-four (24) hour period. A scheduled workday for sergeants shall not exceed eight (8) hours of work in any twenty-four (24) hour period. A scheduled workday for communications officers shall not exceed eight (8) hours in any twenty-four (24) hour period.
2. Workweek – The workweek shall be a fixed and regular recurring seven (7) day period. In accordance with the City Policy Manual, the workweek is agreed to run from Sunday (0000 hours) through Saturday (2400 hours). The City reserves the right to modify the workweek, as necessary, with at least 30 days notice to the Association.
3. For communications officers and sergeants, an employee's work period shall consist of a regularly recurring five (5) consecutive days of employment followed by two (2) consecutive days off. Regular part time communications officers will receive two (2) consecutive days off each workweek.
4. For patrol officers, an employee's work period shall consist of a regularly recurring four (4) consecutive days of employment followed by three (3) consecutive days off.
5. The School Resource Officer (SRO) will work five (5) eight (8) hour shifts during the school year, Monday through Friday. The SRO's schedule may be modified by the employer, in compliance with any contractual agreement with the school district, in the event of an emergency situation or to address unforeseen staffing shortages within the department. During the summer months, and times when school is not in session, the SRO will work regular patrol shifts as assigned by management.
6. Except in emergency situations, employees will not be required to work over fourteen (14) consecutive hours and will be guaranteed at least eight (8) hours off, other than training, court, or call out in the event of an emergency. This limitation may be waived by mutual consent between the employee and management.
7. Patrol Officers are guaranteed rotation of shifts approximately every sixty (60) days, to coincide with the beginning of each odd month of the year; that is, shift rotations will occur in the first week of January, March, May, July, September, and November. Shifts are

defined as: 7:00 a.m. – 5:00 p.m., 5:00 p.m. – 3:00 a.m., and 9:00 p.m. – 7:00 a.m. Additional shifts may be added as personnel and departmental needs change. The Association and the Employer agree that the Employer can modify shifts in response to a departmental need.

8. Sergeant's shifts are defined as: 7:00 a.m. – 3:00 p.m., 3:00 p.m. – 11:00 p.m., and 11:00 p.m. – 7:00 a.m., beginning each Monday at 7:00 a.m. through Saturday at 7:00 a.m.
9. Normal rotation for patrol officers and sergeants will be forward; that is, to the next occurring shift in the duty day.
10. The department will attempt to appoint and schedule a day shift detective, contingent upon adequate staffing levels and departmental needs. The day shift detective will normally work the scheduled hours of 8:00 a.m. – 4:00 p.m., Monday through Friday, with ability to flex hours as needed to perform duties. A Detective may be assigned patrol duties as necessary to fill vacant shifts or to accommodate staffing shortages.
11. Any abnormal changes which are to be made must be made in writing notifying the affected employee(s) within a reasonable time period, except in the case of an emergency.
12. The above shifts may be restructured by mutual consent of both of the parties.
13. Employees will be allowed to trade shifts as long as both parties agree and by approval of management. To maintain proper supervision, patrol officers may not trade shifts with sergeants if the trade will result in more than one sergeant working the same shift, leaving another shift without a sergeant on duty. In no event shall the City of Livingston be responsible for the payment of additional overtime or other premium pay incurred by any employee as a result of the shift trade. Employees shall be paid for the hours they are scheduled to work, including holiday or premium pay. Employees trading shifts for one (1) full consecutive work week or longer will be paid for the hours they actually work, including any premium pay.
14. Management hereby agrees that it will, subject to Management's budget and operational constraints, reasonably attempt to have no less than two patrol officers on duty at all times, particularly during the hours of 7:00 p.m. and 3:00 a.m. and during times where certain community events or other activities may contribute to the need for more than one officer.
15. Management hereby agrees that it will, subject to Management's budget and operational constraints, reasonably attempt to have no less than two dispatchers on duty at all times, particularly during the hours of 10:00 a.m. and 2:00 a.m. and during times where certain community events or other activities may contribute to the need for more than one dispatcher.

16. Dispatch shifts shall be bid by seniority.

B. Association Privileges.

1. The Association shall be allowed the use of the facilities of the Employer for meetings when such facilities are available and the meeting would not interfere with the business of the Employer.
2. Authorized Representatives of the Association will be allowed to visit the work area of employees during working hours, with the approval of the Shift Supervisor, and confer on employment related matters to the extent that such visits do not unduly disrupt the work activities of the Department.
3. The Employer shall provide reasonable bulletin board space for the use of the Association in communicating non-political matters with its members with the exception of internal union election notices.
4. PARKING SPACES: Evening and Night Communications Officers shall be provided with a specifically designated parking place in the lot on the south side of the City County building. Said space is to facilitate the safety and well being of the Communications Officers after the hours of darkness.
5. All employee personnel files will be kept confidential and in accordance with the City of Livingston Policy and Procedures Manual. Employees retain the right to examine their personnel file during normal office hours.
6. The canine officer is assigned a specially equipped take home patrol vehicle that may be used for official business, including traveling to and from authorized training and transporting the police canine as authorized by the Chief of Police.

In addition the Employer will provide compensation for any actual and real costs associated with the boarding of the canine during vacation taken by the designated Canine Officer or for any required travel or official business during which it would be inappropriate for the canine to accompany the officer.

7. When the canine is retired, at the end of its effective working life, as determined by the Chief, or his/her designee, the City must offer the canine to its handler for one dollar (\$1.00). If the handler/officer purchases the canine, that handler / officer assumes all responsibility and expenses for the canine from the point of purchase forward. If an officer ceases to be a canine handler (voluntary or otherwise) during the effective working life of the canine, the Chief or his/her designee, will determine the disposition of the canine.

ARTICLE 5. – HOLIDAYS

- A. Full time employees, except Sergeants, will be compensated at the rate of eight (8) hours pay at their basic hourly wage for all herein specified holidays. Regular part time employees will receive prorated holiday pay based on the number of regularly scheduled work hours. This holiday compensation will be reflected in the employees' base pay and is considered part of their base salary as specified in Addendum "A" of this agreement.
- B. The following days will be recognized as compensated holidays:
- New Year's Day – January 1
 - Martin Luther King Day – third Monday in January
 - President's Day – third Monday in February
 - Memorial Day – last Monday in May
 - Independence Day – July 4
 - Labor Day – first Monday in September
 - Columbus Day – second Monday in October
 - Veteran's Day – November 11
 - Thanksgiving Day – fourth Thursday in November
 - Christmas Eve (Sergeants only)
 - Christmas Day – December 25
 - Employee's birthday (Except Sergeants)
 - State General Election Day (when applicable)
- C. If an employee, other than a Sergeant, whose birthday falls on a holiday, has to work on that holiday, the employee shall receive an extra day off as compensation. The day off will be mutually agreed upon by the employee and management. For purposes of pay, the holiday will be treated as one.
- D. All employees will be paid an additional straight time pay at their regular hourly wage, in addition to their regular base salary, for all hours actually worked on a holiday. All employees will be paid at two times their regular hourly wage, in addition to their base salary, for overtime hours worked on a holiday. For the purposes of this section, holiday work hours shall begin at 12:01 a.m. and end at 12:00 a.m. (midnight) 24 hours later. Example: An employee who works from 1700 hours on Christmas Day until 0300 hours on December 26th as part of their regular 40-hour work week will be compensated for 7 hours additional holiday pay in addition to their regular wage.
- E. In lieu of holiday pay, Sergeants will receive paid days off for all designated holidays.

ARTICLE 6. – LEAVES

A. Annual Leave

1. All full-time employees shall earn paid vacation as follows:

	Work day credit <u>per month</u>	Work day credit <u>per year</u>
1 day through 10 years:	1¼	15
<i>This is the first day of employment through the completion of 10 years of employment with the City.</i>		

	Work day credit <u>per month</u>	Work day credit <u>per year</u>
11 years through 15 years:	1½	18
<i>This is the beginning of the 11th year of employment (10 years and First day) through the completion of 15 years of employment with the City.</i>		

	Work day credit <u>per month</u>	Work day credit <u>per year</u>
16 years through 20 years:	1¾	21
<i>This is the beginning of the 16th year of employment (15 years and first day) through the completion of 20 years of employment with the City.</i>		

	Work day credit <u>per month</u>	Work day credit <u>per year</u>
21 years and over:	2	24
<i>This is the beginning of the 21st year of employment (20 years and first day) and over.</i>		

2. A regular part time employee is entitled to prorated vacation benefits after working the qualifying period of six months. A temporary employee does not earn vacation leave credits.
3. Vacation credits may not be accrued to a total exceeding two times the maximum number of days earnable annually at the end of any calendar year. Any accumulation of annual vacation leave in excess of this total at the end of the calendar year must be used in the first ninety (90) days of the next calendar year or be forfeited. Employees terminating employment with the city will receive compensation for the unused vacation leave accrued provided the probationary period has been completed. Compensation for unused vacation will be paid at the present rate of pay, not including overtime.
4. Vacations must be approved by the Supervisor and the Department Head and should be scheduled as soon as possible in the calendar year and entered on the Department

vacation calendar. Vacation requests may be denied due to lack of available staffing to cover scheduled shifts, lack of adequate supervision, or other situations where approval would adversely impact operations of the department.

B. Sick Leave

1. All regular full-time employees earn sick leave from the first day of employment; however, they are not entitled to use paid sick leave until they have been employed continuously for the qualifying period of 90 days. Employees who are sick before they finish the qualifying period may ask their supervisor to grant paid sick leave with the understanding that their leave balance will be affected if their employment is terminated before completing the qualifying period.

Employees may use sick leave for personal illness or physical incapacity, sickness of immediate family member, or death in the immediate family of the employee (refer to bereavement leave). Immediate family is defined as the employee's spouse, any member of the employee's house hold, or any parent, child, grandparent, or grandchild, and corresponding step or in-law relationships. Sick leave benefits shall apply to bona fide cases of sickness, accidents, doctor or dental appointments, maternity/paternity leave, and requests for the employees' presence due to immediate relatives' illness or emergency. Falsification of illness or injury, or abuse of sick leave may result in disciplinary action.

2. Full time employees will be credited with one (1) day per month (8 hours) up to twelve (12) working days per year (96 hours) for sick leave at regular pay. Part time employees receive pro-rated sick leave credit. For calculating sick leave, 2,080 hours (52 weeks X 40 hours) equals one year. Sick leave must be credited at the end of each pay period. Employees may not accrue sick leave while in a leave-without-pay status. There are no restrictions as to the number of hours of sick leave credits that may be accumulated after the qualifying period of 90 continuous days employment has been satisfied.
3. A diagnosis of sickness from a qualified doctor must be submitted to the Department Head and attached to the employee's time sheet for any sick leave in excess of three (3) continuous working days, or at such other times as directed by the City in advance to the employee. At the City's request and expense, an employee may be subject to an examination by a physician following a sick leave or other absence occasioned by illness or injury to ensure the employee can complete the necessary functions of the position. A statement by a licensed physician may also be required to certify that the illness of a family member requires the immediate personal supervision of the employee.
4. Sick leave utilized due to illness or death in an employee's immediate family is limited to five working days.

5. An employee who uses all accumulated sick leave and vacation leave hours on an extended illness will be placed on a leave of absence without pay to hold their job. During a leave of absence of more than fifteen (15) days, no benefits are accumulated or allowed and the employee is responsible for the cost of insurance premiums during any period where no salary or benefits are due. Family and Medical Leave Act (FMLA) may apply.
6. There shall be no duplication of benefits i.e.: sick leave, workers compensation payments, vacation, etc. for the same hours. Sick leave records for all employees will be kept in the Office of the Personnel/Payroll Clerk.
7. Sick leave must be taken in minimum increments of one-quarter hour. Prior to using sick leave, an employee MUST inform his/her Department Head or supervisor as soon as practical, but not less than one hour before they are required to report to work. The employee must complete a standard request form and submit it to their Department Head for approval upon his return. The employee must receive advance approval for medical, dental or eye appointments. Absences improperly requested or charged to sick leave may, at the City's discretion, be charged to leave without pay. Vacation leave may be used at the mutual approval of the employee and the City in lieu of sick leave if the employee chooses.
8. An employee who has passed their probationary period, and separates from the City, shall be entitled, upon termination, to cash compensation pay-out for unused leave equal to one-fourth of the accumulated sick leave. The payout will be based upon the employee's salary at time of termination.

C. Funeral Leave

1. Upon the death of a member of the employee's immediate family, full time employees shall receive up to five (5) working days (not to exceed 40 working hours) funeral leave within a seven (7) calendar day period. All funeral leave consists of full pay, not to be counted against the employee's vacation or sick leave. Immediate family shall include: Spouses, partners, ex-spouses where minor children are in the custody of the surviving spouse, children, fathers, mothers, grandparents, brothers, sisters, step parents, step siblings, and the corresponding "in-law" relationships.
2. Regular part time employees will receive the same funeral leave benefits as regular full-time employees.

D. Other Leaves of Absence

Military Leave, Maternity Leave, Paternity Leave, Leaves without Pay, Family and Medical Leave, and other leaves of absences will be granted in accordance with the City Policy and Procedures Manual and applicable State and Federal Laws.

E. Jury Duty

Each full time and part time employee is encouraged to fulfill his/her public responsibility to serve on Jury Duty. The City will compensate eligible employees in accordance with the provisions of State Law for the service as a juror or a subpoenaed witness.

ARTICLE 7. – HEALTH, SAFETY AND WELFARE

- A. The health and safety of the employees shall be reasonably protected while in the service of the Employer. The Employer shall carry Workers Compensation on its employees. Employees are required to immediately report all personal injuries received in the course of employment, or as soon as the injury becomes apparent, except where an employee is unable to report.
- B. Industrial Accident/a.k.a. Workers' Compensation: Any employee who is injured in the performance of his duties, so as to necessitate medical or other remedial treatment and render him unable to perform his duties shall be paid by the City the difference between his full salary and the amount he receives from workers' compensation until his disability has ceased, as determined by workers' compensation, or for a period not to exceed one (1) year, whichever shall first occur. Payment of such a partial salary shall be discontinued if the officer is disabled for an undetermined duration and is granted a disability retirement allowance. If an application for such a retirement allowance is not made by the officer, application therefore may be made by the City Manager. If the City Manager makes such application, it must be supported by a physician's Opinion. Whenever, in the opinion of the City, supported by a physician's opinion, the officer is able to perform specified types of temporary light duty, in accordance with City policy, payment of his regular partial salary amount shall be discontinued if he refuses to perform such temporary light duty when it is available and offered to him.
- C. False Arrest Insurance
The Employer agrees to provide a false arrest insurance plan.
- D. Medical Examinations/Health Screening
Employees may, at their option, undergo a routine wellness screening as determined by the City and by a health care provider of the City's choosing. The city will determine the type of screening, frequency, and location. Employees will receive advance notice of the date and time, and, once notified shall make reasonable accommodation to participate. For employees covered by City group health insurance, the City will pay the deductible, or co-payment portion of those costs directly attributable to the approved medical examination or screening. If the employee is not in the City Health Insurance group, then the City will pay the entire cost of the physical.
- E. Job safety hazards will immediately be brought before a supervisor or the department head for their review and correction. He/she will take action to correct the hazard within a reasonable time. Miscellaneous items that can be corrected by the employee will remain their responsibility to do so.

- F. Communications Officers workstation chairs will be replaced at a rate of one (1) per fiscal year.

ARTICLE 8. – OVERTIME AND CALL-OUT

A. Overtime

1. Overtime will be scheduled and/or assigned to fill vacant shifts, provide adequate staffing or otherwise meet operational needs. Management reserves the right to adjust regularly scheduled shifts to start and end earlier or later to accommodate a shift vacancy. Example: A 2100-0700 hours shift may be adjusted to 1900-0500.
2. Overtime hours will be posted on the respective department bulletin board if the hours become available at least 72 hours in advance. All eligible employees may sign up for posted overtime hours. If more than one (1) employee applies, seniority will prevail (employees will not be allowed to work over 14 consecutive hours or have less than 8 consecutive hours time off). If nobody signs up prior to 72 hours before the shift, the overtime will be assigned in reverse order of seniority (The least senior employee who is scheduled off that day). This person will be listed on the overtime sign up sheet and be assigned to work unless someone else signs up. For Dispatch, if no one signs up for the open shift, it will be split in half between the Communication Officer on the shift immediately preceding the open shift and the Communication Officer immediately following the open shift.
3. Overtime that becomes available within 72 hours of the scheduled time to be worked will be offered on a seniority basis, giving preference to the employee with the most seniority who volunteers to work the entire number of hours. If nobody volunteers to work, the shift will be assigned to the least senior employee who is scheduled for that day off. For Dispatch, if no one signs up for the open shift, it will be split in half between the Communication Officer on the shift immediately preceding the open shift and the Communication Officer immediately following the open shift.
4. If nobody volunteers to work an entire shift, the hours may be split as agreed upon by eligible employees and with seniority prevailing.
5. Overtime hours that are 4 hours or less may be assigned to employees whose shifts are in conjunction with the overtime hours if nobody volunteers to work.
6. Pre-approved vacations or other absences may be taken into consideration when assigning overtime to the least senior employee.

- B. All hours worked, including Sick and Vacation time (used in place of regular work hours), over 40 hours will be paid at time and a half (1 ½), provided that the hours have not already been paid at time and a half (1 ½). Hours will only be counted once; no hours

will be double counted. This section applies to all employees of the department – full and part time.

- C. "Work week" is defined as a seven (7) consecutive calendar day period beginning at 0000 hours on Sunday and ending at 2400 hours the following Saturday.
- D. All call-out time, a minimum of two (2) hours or actual hours worked, whichever is greater, will be paid at time and a half (1 ½). The call-out hours shall be counted as overtime hours and not as part of the 40-hour work week specified in Article V, section (A)(2). Call out time is considered an unscheduled request to report to duty, with less than 4 hours notification, and not coinciding with previously scheduled work times.
- E. Association employees shall receive a minimum of three (3) hours for Court Call outside of the work shift, except for Court Call hours worked within one hour preceding or following previously scheduled work hours. These will be counted as a minimum of one hour, or the actual time spent. Court Call hours will be counted as hours worked toward the 40-hour work week specified in Article V, section (A)(2).
- F. Training Pay – ALL EMPLOYEES
 - 1. If the City requires an employee to attend training or educational programs, the City will pay all costs pertaining to the training or educational program. Attendance at mandatory training sessions and out of town travel time will be considered time worked and count toward the 40-hour work week. Travel time to and from local training sessions is not considered time worked. The City may adjust the employees weekly work schedule, such as providing alternate days off, if training time will result in an employee accumulating over 40 hours in a work week.
 - 2. If an employee desires to voluntarily attend training, they shall submit a written request to attend training to the department head, or their designee, describing the content, schedule, location, costs and reasons for the training. Request shall be granted on an individual basis, based on the benefits for the department and the employee, and considering budgetary allowances. Voluntary training time, including travel time, shall not be considered time worked. The City may provide an alternate day(s) off if an employee attends approved training on their day(s) off. In the event the request is denied, and the employee chooses to pay for their own training, the employee must receive authorization to be absent from work if the training is during work hours.
 - 3. While an employee is attending the MLEA Basic Course, the employee will be compensated at the regular rate of pay, with all other employment benefits, for 40 hours in a workweek. An employee will not be paid for time spent during training over 40 hours in a workweek.
- G. Continuing Education Reimbursement

1. The City of Livingston encourages employees to continue their education. The City agrees to reimburse an employee 50% of tuition costs and 100% of book costs upon the successful completion of an approved planned program directed toward a job-related degree. To be eligible to participate in the reimbursement program, employees must agree to a planned program of courses leading to a job-related degree and receive prior written approval from the department head and the City Manager. Once their plan has been accepted by the City, employees need only to submit individual course enrollment to the department head for approval. Reimbursement will be made following the successful completion of each semester's courses and submission of grades and receipts.
2. For budgeting purposes, all requests shall be submitted to the department head no later than April 1st of any year. Approval will be granted pending budget limitations.
3. All course books and materials shall become property of the City of Livingston. Any books not desirable to the City shall be sold back to the College Book Store with the funds being returned to the City or may be purchased from the City by the employee for an amount equal to what the College Book Store would have paid.
4. Course attendance is considered voluntary and outside the regular work schedule. The City of Livingston will not compensate an employee for time spent in class, study, projects or any additional time an employee may direct toward the completion of the course. An employee's time involved in course studies will not count toward premium pay, holiday pay or overtime.
5. Communications Officers shall complete a guaranteed minimum of 40 hours of POST certified training annually at the expense of the City to enhance professional skill sets. This training may be completed in class, online or by other means approved. The Communications Officers' training budget shall be increased from \$3000 to \$4000. An additional \$2000 will be allocated by City for training travel.

ARTICLE 9. – POLICIES AND PROCEDURES, RULES AND REGULATIONS

The Employer agrees to furnish each employee here under with a copy of the City Policy and Procedures Manual, Departmental Policy and Procedure Manual, Rules and Regulations and other policies of employment, and agrees to furnish each employee with a copy of any changes. Association employees hereby adopt the City of Livingston Personnel Policy and Procedures Manual in effect July 2015, including the Alcohol and Controlled Substance Use and Testing, and subsequent revisions, and agree to comply with all provisions that do not conflict with this agreement. The Association agrees to appoint a representative to the City Policy and procedures Review Committee to review the manual and forward recommendations to the City Manager for approval.

ARTICLE 10. – MANAGEMENT RIGHTS

- A. The City and its management retains all rights to manage and operate its organization. Such rights shall include such areas as, but not be limited to:
- Direct employees
 - Hire, promote, transfer, assign, and retain employees;
 - Relieve employees from duties because of lack of work, or funds or under conditions where continuation of such work would be inefficient and nonproductive;
 - Maintain the efficiency of government operations;
 - Determine the methods, means, job classifications and personnel by which government operations are to be conducted;
 - Take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
 - Establish the methods and processes by which work is performed. These rights shall not abrogate the terms of this agreement set forth in other Articles.
- B. The employer shall have one (1) year from the date of hire or appointment of either a civilian or uniformed law enforcement employee to determine competency. If an employee transitions from a Civilian to a Police Officer position, and additional one (1) year probationary period will apply to determine competency. If an employee uses one week (5 consecutive days) or more of sick leave, worker's compensation, light duty or leave without pay, the probationary period will be extended by that length of time. The City Manager or their designee may dismiss a probationary employee without cause during such probationary period. After the probationary period, employees shall only be terminated for cause or for reduction in force.
- C. In order to accommodate a reasonable amount of training, management may alter the canine handler's work hours or work schedule as necessary, and as scheduling allows, to allow flexible and variable canine training hours that are required to maintain working proficiency. Authorized training hours will be documented by the canine handler and are considered part of the 40-hour work week. Unless specifically authorized ahead of time, additional training time is considered voluntary. The canine handler agrees to attend an annual refresher training and recertification course with an approved nationally accredited K9 Certifying organization to maintain certification in patrol related and special purpose areas. This refresher training and recertification will be considered mandatory training, with the City paying wages and expenses in accordance with Article IX, Section C of this agreement.

ARTICLE 11. – SENIORITY

- A. There shall be 2 (two) seniority lists, one for each work area – (1) Sworn Officers (authority to arrest) and (2) Non-sworn employees, Communications enforcement. The list shall be posted on the bulletin board and revised as necessary.

- B. Employees shall have the right to protect their seniority designations if they believe an error has been made.
- C. Part time employees will earn seniority based upon .5 FTE per year.
- D. Lay-offs caused by reduction in force shall be in order of seniority within the work area within the respective Department; that is, the employee last hired shall be the first released. Full time and part-time employees who are scheduled to be released shall be given at least ten (10) working days notice. All recalls to employment shall likewise be in order of seniority within the work area within the respective Department; that is, the last employee released as a result of reduction in force shall be the first rehired. The Employer shall notify such employees to return to work and shall furnish the Association Secretary a copy of such notices. If the employee fails to notify the Employer within ten (10) working days of his/her intention to return to work, the employee shall be considered as having forfeited his/her right to re-employment.

Employees who terminate their services or are terminated by the City will be furnished upon request a letter stating their classification, length of service and reason for leaving or termination.

ARTICLE 12. – DISCIPLINE

- A. Upon suspected violation of federal, state or local laws, City policies or procedures, employee conduct/behavior/performance standards, or department policies, procedures or rules and regulations, the employee may be subject to disciplinary action. Discipline will be for good cause. A discipline guide was mutually developed and agreed upon during the 2015 negotiation process.
- B. Procedure
 1. Allegations of wrong-doing shall be investigated by the department head, or his/her designee, such as a supervisor, or as directed by the City Manager.
 2. As determined during the investigative process, the employee will be advised of the allegation and shall be given an opportunity to voluntarily respond orally or in writing.
 3. If an investigative interview is requested, the employee will be notified in writing of the time and location. They will be given reasonable advance notice and informed in writing of the suspected violation and in general terms what the interview will be regarding. The City may compel employees to answer questions. Refusing to answer questions upon demand is considered insubordination and will subject an employee to disciplinary action up to and including termination. Investigative interviews will be audio recorded.
 4. In situations where disciplinary action may be taken, employees have the right to request an attendee of their choosing (ie. Union representative, co-worker, attorney) to be present during any interview. The attendee is permitted to clarify questions being asked to the employee and give advice to the employee, but they cannot bargain with the City, answer questions for the employee, prevent the employee from answering questions, advise the

employee to give false or misleading answers, or otherwise interfere with or disrupt the investigation.

5. Employees are afforded protection under the "Garrrity Rule," in which compelled statements made to the City under threat of disciplinary action, and pursuant to an internal investigation, will be used for internal purposes only and will not be used against the employee as part of any criminal investigation.
6. Upon completion of the investigation, the department head and/or their designee will notify the employee in writing that the investigation has been completed and scheduling a time and place to meet for the purpose of discussing the investigative findings and to give the employee an opportunity to provide any additional or clarifying information.
7. During a follow-up meeting with the department head and/or their designee the employee will be provided written notice of the findings, to include specific disciplinary action, if any. The employee will sign the document as proof of receipt and a copy will be provided to them.
8. If an employee disagrees with a specific instance of discipline or termination action, the employee has the right to add a rebuttal letter to the documentation placed in the personnel file for the corresponding disciplinary action. The rebuttal letter must be received by the city within ten (10) working days of the final disciplinary action. The rebuttal will be placed in the personnel file with no additional comment, investigation, or removal of objected materials by the City. Lack of review and/or comment regarding a rebuttal by the City does not indicate agreement with its contents.
9. At any time during the investigation, the employee may be placed on paid administrative leave. This shall not be considered a disciplinary action.

C. If discipline is warranted, it will be rendered in one of the following forms:

1. **Verbal Counseling**

The City Manager and/or designee will meet with the employee and explain the problem and the necessary corrective action. The City Manager and/or designee will also outline the time period in which the employee must correct the problem and the consequences should the employee not comply. This meeting and the issues discussed will be documented in writing as a record of verbal counseling on a standard form provided by the City. The employee and the City Manager and/or designee will sign the record of verbal counseling, which attests that the meeting took place, the employee understood the problem, and the corrective action required.

The record of verbal counseling will be given to the employee, one copy will be retained in a file maintained by the supervisor, and one copy will be forwarded to a 'record of

verbal counseling file' maintained by Human Resources. Human Resources will retain a record of verbal counseling for a period of one (1) year, after which time the record of verbal counseling will be destroyed. If a second disciplinary issue, of the same nature or of a different nature than the first instance, occurs within one (1) year of the first instance, the first record of verbal counseling (found in the 'record of verbal counseling file') will be placed permanently in the employee's personnel file, along with documentation of the second disciplinary issue.

2. **Written Reprimand**

The City Manager and/or their designee will document the problem in the form of a written reprimand. They will meet with the employee, present the letter, and explain the problem. During the meeting they will clarify the necessary corrective action, the time period to comply, and the consequences should the employee not satisfactorily complete the necessary action. The letter to the employee will clarify that the employee is receiving a written reprimand as part of the formal disciplinary procedure. A copy of the written reprimand must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required, and received the written reprimand. A copy of the written reprimand will be given to the employee and a copy placed in the employee's personnel file.

3. **Suspension (without pay)**

The City Manager and/or their designee will document the problem in a letter to the employee and indicate that the employee is being suspended without pay. They will meet with the employee, present the letter, explain the problem and inform the employee of the severity of the discipline. During the meeting they will clarify the necessary corrective action, the time period to comply, and the consequences should the employee not do the necessary action. The letter to the employee will clarify the effective dates of the suspension, the date that the employee is to return to work and the work schedule. A copy of the letter must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required, and that the form of discipline was suspension. A copy of the letter will be given to the employee and a copy placed in the employee's personnel file.

4. **Demotion – Loss of Duty**

The City Manager and/or their designee will document the problem in a letter to the employee and indicate the specific conditions of the demotion to include modified job duties and compensation, as warranted. They will meet with the employee, present the letter, explain the problem and inform the employee of the severity of the discipline received. During the meeting, they will clarify the necessary corrective action, the time period to comply and the consequences should the employee not do the necessary action. They will determine if the demotion is a temporary disciplinary measure or a permanent job modification. In the event the demotion is a permanent job modification,

the employee's job description will be updated to reflect such. A copy of the letter must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required and that the form of discipline was a temporary or permanent demotion and loss of job duties/responsibilities. The payroll clerk will be notified of the employee's modified job classification. A copy of the written documentation will be given to the employee and a copy placed in the employee's personnel file.

5. **Termination**

If the appropriate disciplinary action is termination, a letter to the employee will document the problem and summarize the results of the investigation. The letter will detail the effective cause and date of termination. The letter shall also include a copy of the appropriate Grievance Procedure Policies advising the employee of their right to use the procedures.

- D. If the employee doesn't agree that the discipline was warranted or if they consider the disciplinary action inappropriate, the employee may follow the collective bargaining grievance procedure or applicable law.

ARTICLE 13. – GRIEVANCE PROCEDURE

- A. It is the intent of the City to encourage employees to bring to the attention of management their complaints about work related situations and to communicate their concerns or complaints. If a complaint is unresolved, this formal grievance procedure is provided to appeal any decision by management.
- B. A grievance is defined as an employee's expressed feeling of dissatisfaction concerning conditions of employment or treatment by management, supervisors or other employees. An employee will initially attempt to resolve the grievance informally with the immediate Supervisor.
- C. For the purpose of this article, 'working days' are defined as Monday through Friday excluding holidays.

STEP I – When an employee cannot resolve the grievance informally, the employee should bring the matter formally, in writing to the immediate Supervisor, within ten (10) of the event giving rise to the grievance, or of the time the employee could reasonably expect to have knowledge of the event. The immediate Supervisor will give a written response within ten (10) working days.

STEP II – If the employee is not satisfied with the Supervisor's response, or the Supervisor fails to respond within ten (10) working days, the employee may appeal in writing to the department head within ten (10) working days of the Supervisor's decision or failure to respond. The department head will review the grievance with the employee and Supervisor and issue a decision within ten (10) working days.

STEP III – If the employee is not satisfied with the department head's response, or the department head fails to respond, the employee may appeal in writing to the City Manager within ten (10) working days of the department head's decision or failure to respond. The City Manager will review the grievance and the decisions of the Supervisor and department head and may call a meeting with the grievant and his/her representative. A decision will be communicated to the employee within fifteen (15) working days.

STEP IV – If the decision of the City Manager is not satisfactory, the employee and/or his representative may have the grievance arbitrated by an impartial third party upon written request. If the Association desires to take the issue to arbitration, the Association shall provide written notice to the City within fifteen (15) days of receipt of the City Manager's decision. Within five (5) working days after submission of a written request to arbitrate, a request for a list of Arbitrators will be made to the Montana Board of Personnel Appeals. Within five (5) working days of the receipt of the list, each party will alternately strike names from the list and the name remaining shall be the Arbitrator.

- C. The Arbitrators fees shall be shared equally by the aggrieved party and the City. The Arbitrator shall have no authority to alter, amend or delete any Policy of the City, or provisions of this Agreement. The Arbitrator shall render a decision within thirty (30) working days of any Hearing or within thirty (30) days after the deadline for submission of briefs requested by the Arbitrator after the hearing and such decision shall be final and binding on both the aggrieved employee and the City.
- D. State law shall apply in all suspensions and/or dismissals that are not in conflict with the above paragraphs and the state law for suspensions and/or dismissals shall be followed.

ARTICLE 14.- JOB POSTING

The parties hereby adopt the City of Livingston Policy and Procedures Manual in the filling of vacancies and job postings.

ARTICLE 15.- COMPENSATION

- A. Salaries and Wages – Conditions relative to and governing wages, salaries, longevity, and other benefits not previously covered in the Agreement, are contained in Addendum A of this Agreement, which is attached and by this reference made a part hereof as though fully set forth herein.
- B. Equal Pay for Equal Work / Working Out of Classification.
 - 1. In the event a Shift Commander (Sergeant) is absent from an assigned shift, a senior officer will be in charge. When there is no Sergeant is on shift, the senior officer on duty will be paid an additional \$1.25 per hour for actual hours worked during the absence of the Shift

Commander. The senior officer is determined to be the patrol officer, excluding the Chief of Police, Assistance Chief of Police, and the detective (unless assigned to patrol duties) who has the most longevity with the department. If this absence exceeds two (2) work weeks, or 80 consecutive working hours, the senior officer shall receive the Shift Commander rate of pay starting on the third work week, retroactive to the first day, and continue until a Shift Commander returns to the shift. When the Sergeant is on shift, with the senior officer, the Senior Officer will basically function as a regular patrol officer.

2. In the event a Communications Supervisor is absent from an assigned shift, the senior communications officer working that shift will be in charge. When there is no Communications Supervisor on shift, the senior communications officer on duty will be paid an additional \$1.25 per hour for actual hours worked during the absence of the Communications Supervisor. The senior communications officer is determined to be the communications officer who has the most longevity with the department. If this absence exceeds two (2) work weeks, or 80 consecutive working hours, the senior communications officer shall receive the Communications Supervisor's rate of pay starting on the third work week, retroactive to the first day, and continue until a Communications Supervisor returns to the shift. When a Communications Supervisor is on shift with a senior communications officer, the senior communications officer will basically function as a regular communications officer.

C. Paid Sick, Vacation and funeral leave used in place of regular work hours shall be counted as hours worked.

D. The City shall provide one hundred (100) rounds of handgun ammunition per month for target practice for police officers utilizing Department issued firearms. Management may issue the monthly ammo during specified training or formal practice sessions to ensure that ammo is being used for appropriate training purposes. If an officer is unable to attend for legitimate bona fide reasons, the ammunition shall be provided to the officer at the earliest convenience. The officer must then show reasonable proof that the previous month's allocation of ammunition was utilized before the next month's allocation will be given out. At no time shall ammunition provided be stockpiled by the officer. Exception to the distribution policy may be granted by the Chief of Police in special circumstances. Rifle and shotgun rounds will be distributed and expelled during training sessions with a firearms instructor.

1. Officers choosing not to utilize the Department issued firearm shall be provided duty ammunition by the Department/Employer at the Employers expense.

E. The City shall provide a two to four (2-4) hour block of instruction each month for training purposes. Training will be conducted under the guidance and planning of management, but all uniformed personnel are encouraged to provide input to the department head on training subjects. Absences must be approved by the administration prior to training. The Employer reserves the right to cancel no more than three trainings per calendar year.

ARTICLE 16. – WAGES, CERTIFICATIONS, ETC.

A. The attached base pay schedule, specified as Addendum “A”, is part of this contract and reflect the following general base pay wage increases for all employees.

B. Patrol Officer Pay Classifications

1. Probationary Patrol Officer – A newly hired officer who has not completed their one-year probationary period.
2. Patrol Officer I Classification – An officer who has completed their one-year probationary period and has been appointed to permanent status.
1. Patrol Officer II Classification – An officer who has 4 years of service and has successfully completed 200 hours of POST certified schooling (not including MLEA basic training hours).
4. Patrol Officer III Classification – An officer who has 6 years of service and possesses Post Intermediate Certification.
5. Lateral Transfer – For purposes of pay classification only, a newly hired officer who possesses or is eligible to possess Montana POST Basic Certification may assume the appropriate pay classification if they meet the criteria based on their experience with another law enforcement agency.

C. DEPARTMENT CERTIFICATIONS:

1. For each Certification (in any order) the City will compensate per month per employee receiving certification as follows:

a. Police Officer Only:

(1)	P.O.S.T Advanced	25.00
(2)	P.O.S.T. Instructor’s Certification	20.00
(3)	Field Training Officer (FTO) while working with a probationary officer	.75 per hour
(4)	P.O.S.T. Command	25.00
(5)	P.O.S.T. Administrative	25.00

b. Communications Officers Only:

(1)	P.O.S.T. Supervisory	25.00
(2)	P.O.S.T. Command	25.00

(3)	P.O.S.T. Administrative	25.00
(4)	Terminal Agency Coordinator	25.00
(5)	Dispatch Teletype Criminal History Level	25.00
(6)	EMD	25.00
(7)	Certified Communications Training Officer compensation while working with a probationary communications officer during that officer's first 12 weeks of employment	.75 per hour

c. Certifications Available to all Department Personnel:

(1)	Maintenance of First Responder	50.00
(2)	First Responder Instructor	60.00
(3)	EMT	80.00
(4)	Possession of Baccalaureate Degree (any discipline) or Associate's Degree in Law Enforcement or Criminal Justice	50.00
(5)	Possession of a Baccalaureate Degree in Law Enforcement or Criminal Justice	75.00
(6)	'Good Governance' Certification (MSUExt)	.25 per hour

2. Personnel achieving more than one medical-related certification shall be compensated at the highest value.
3. Designated School Resource Officer(s) shall receive a stipend of \$150 per month
2. Designated Detective (s) shall receive a stipend of \$300 per month.
3. Designated Code Enforcement Officer shall receive a stipend of \$150 per month.
4. Designated Canine Officer shall receive a stipend of \$400 per month.

D. LONGEVITY

Each Police Officer and Communications Officer shall receive ½% of their monthly base wage per month for each year of employment dating from the employee's anniversary date of employment.

E. INSURANCE

1. The City will increase the insurance stipend to Association employees by the percentage of the premium increase received from the carrier annually during the term of this agreement, subject to the flexplan rules. If an employee is receiving enough Insurance contribution from the City to pay at least the single rate, then that employee must be

enrolled in the group plan. In the unlikely event of a premium decrease, the stipend shall be unchanged during the applicable fiscal year.

2. If a part time employee works at least an annual average of 20 hours per week, the City will pay the difference between employee prorated insurance benefit to provide single health insurance coverage under the City of Livingston group, and no additional FLEX Plan benefit.
3. If an employee works less than an annual average of 20 hours per week, that employee shall have one of the following options:
 - a. Pay the difference between employee prorated insurance benefit to receive single health insurance coverage under the City of Livingston group.
 - b. Not receive group health insurance coverage, nor any prorated insurance benefits.
4. The employee shall pay for any increase in premium amounts over those above the City's contribution. The City may change carriers providing substantially the same coverage, however any changes in coverage would be mutually agreed upon between both parties.

F. UNIFORMS ALLOWANCE

1. Police Officers shall receive one thousand dollars (\$1,000) each year for uniform and equipment purchases. One-fourth ($\frac{1}{4}$) of such sum be due and payable at the end of each three (3) months of employment.
2. Communication Officers shall receive one thousand (\$1,000) each year for uniform and equipment purchases. One-fourth ($\frac{1}{4}$) of such sum will be due and payable at the end of each three (3) months of employment.
3. Regular part time employees will receive the same uniform allowance as regular full-time employees.

G. SHIFT DIFFERENTIAL

1. All employees working between the hours of 7 p.m. until 7:00 a.m. shall receive an additional one dollar (\$1.00) per hour.
2. Communications Officers shall receive an additional fifty cents (0.50) per hour for all shifts, as compensation for their being unable to leave the Law Enforcement Center.

H. CELL PHONE ALLOWANCE FOR OFFICERS

The City recognizes that cell phones are a valuable tool for officers in the performance of their duties. Officers who possess a personal cell phone and consistently utilize it for official business shall receive \$50 per month, paid quarterly, compensation pay to offset their personal costs.

I. COMMUNICATIONS OFFICERS CAREER LADDER

1. Communications officers shall receive the followed stepped career ladder increases:
 - a. 1 year of longevity AND completion of Basic Certificate shall receive \$1.00 per hour increase to base wage;
 - b. 5 years of longevity AND completion of Intermediate Certificate shall receive \$1.00 per hour increase to base wage;
 - c. 10 years of longevity AND completion of Advanced Certificate shall receive \$1.00 per hour increase to base wage.

Article 17. – HEALTH AND WELLNESS

The Association and the City agree that an employee's overall health profile is a significant factor in the retention of employees. Both parties agree to improve and maintain the health of Association members by instituting a Wellness Initiative as set forth herein.

1. Physical Wellness Incentive

The physical wellness incentive shall be based on the Montana Physical Ability Test (MPAT). Participation in this initiative is voluntary. Employees who choose to participate will be awarded compensation hours or financial payment for successfully passing the agreed upon tests.

- a. Tests will be coordinated and administered by the Union once during the first six months of the year (January-June) and once during the second six months of the year (July-December). Tests will be conducted during the same day and in close proximity to one another, with the date and time announced two weeks prior by posting a notice on the bulletin board and via e-mail to all employees.
- b. Compensation will be awarded as follows:

Completion Time	Pay Award	Comp Time Award
4 minutes 30 seconds or less	\$750	30 hours
5 minutes 30 seconds or less	\$500	20 hours
6 minutes 30 seconds or less	\$250	10 hours
Over 6 minutes 30 seconds	\$0	0 hours

Each officer will have the opportunity to take the test when administered. The highest level achieved will be awarded for each test cycle. An officer may choose at the time of each cycle if he/she wants a pay or comp time award (pay and comp may not be combined in a single cycle.)

Compensation time used must be approved by a supervisor or management, contingent upon adequate staffing to cover shifts, and must be used within 6 months following testing or the awarded hours will be forfeited.

2. Mental Wellness Incentive

- a. The City of Livingston and the Livingston Police department recognizes the type of work and the cumulative effects of stress on the ability for the association members to effectively perform their duties and to keep up on the requirements of their job performance. The purpose of this program is to establish a voluntary mental health incentive program to encourage association members to take care of their mental health and continue a healthy lifestyle. The department will work with the employers' current Employee Assistance Provider, to provide services to the association member.
- b. The Association member can attend up to six (6) sessions with a mental health professional each calendar year (January 1 – December 31) to qualify for this incentive. Once they have attended a session, the association member shall provide documentation to the Chief of Police. The employee will then be compensated with three (3) hours of straight comp time per session, up to six (6) sessions in total, which must be used within 3 months following the sessions or the awarded hours will be forfeited. Once the comp time is recorded in the association members' account, the documentation of the services will be returned to the Association Member.
- c. The Association member shall not be required to provide any further information to the employer or reveal the content of the counseling session. All counseling sessions' information shall fall under the protection of HIPAA.
- d. Each Association member may voluntarily capitalize on this incentive six (6) times per year, earning a maximum of 18 hours of comp time. The association member may attend more sessions with EAP but will only receive comp time for a maximum of six (6) sessions. Due to the nature of this program, association members will not attend a session while on-duty or in uniform so as to not cause conflict with the performance of their duties.

ARTICLE 18. - RESIDENCY

Employees shall be subject to the residency requirement set forth in Section 4.4.12 of the City of Livingston Personnel Policy and Procedures Manual.

ARTICLE 19. - NO STRIKE - NO LOCKOUT

The Association and the Employer agree that there will be no strike or lockout during the term of this Agreement.

ARTICLE 20. - SAVINGS CLAUSE

Should any Article, Section, or portion thereof of this Agreement be held unlawful or invalid by any court or board of competent jurisdiction, such decision shall apply only to the specific Article, Section, or portion thereof directly specified in the decision. Upon issuance of such a decision, both parties agree to inform the other of their knowledge of the issuance of the decision and upon written request of either party, the parties agree immediately to negotiate a substitute for the invalidated Article, Section or portion thereof.

ARTICLE 21. - TERMS OF AGREEMENT

This Agreement shall remain in full force and effect from July 1, 2020 until June 30, 2024.

It is the intent of both parties to have these negotiations resolved by May 31st of the same year. The agreement shall automatically renew from year to year thereafter unless either party notifies the other in writing, at least sixty (60) days prior to its termination date that it desires to terminate the Agreement or to make changes. Contract wording changes may be made ONLY when mutually agreed upon by the City and the Association.

In the event the Employer and the Association are unable to reach an agreement on new contract terms prior to the expiration date of this Agreement as stated, the agreement will remain in effect until a new agreement is reached.

Signature Page Follows

IN WITNESS WHEREOF THE PARTIES HERETO, Acting by and through their respective and duly authorized officers and/or representative, have hereto set their hands and seals on this ____day of _____, 2020.

FOR THE CITY OF LIVINGSTON

FOR THE LIVINGSTON POLICE
DEPARTMENT ASSOCIATION (MFPE)

Michael Kardoes, CITY MANAGER

Alex Walker, PRESIDENT

ATTEST:

Joe Dompier, MFPE FIELD REP

Faith Kinnick, Recording Secretary

Quinton Nyman,
MFPE EXECUTIVE DIRECTOR

ADDENDUM A – Base Pay Schedule

Position	2019-2020 Base Salary	2020-2021 Base Salary	2021-2022 Base Salary	2022-2023 Base Salary	2023-2024 Base Salary
Police Officers (LPD)		3% Increase	4% Increase	3% Increase	5% Increase
Probationary Patrol Officer	43,678	44,988	46,788	48,192	50,601
Patrol Officer 1	44,546	45,882	47,718	49,149	51,607
Patrol Officer 2	46,001	47,381	49,276	50,755	53,292
Patrol Officer 3	47,360	48,781	50,732	52,254	54,867
Sergeant	55,819	57,494	59,793	61,587	64,666
Communications Officers (911)		10% Increase	4% Increase	3% Increase	5% Increase
Communications Officer	33,219	36,541	38,003	39,143	41,100
Communications Shift Supervisor	36,050	39,655	41,241	42,478	44,602

ADDENDUM B – Discipline Guide

Remains same as Contract 2017-2018.