



<b>APD Policy CHAPTER 5 CODE OF CONDUCT</b>	<b>ABERDEEN POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL</b>
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
<b>Applicable State Statutes:</b>	<b>RELATED POLICIES: Chapter 17</b>
<b>DATE IMPLEMENTED: June 15, 2020</b>	
<b>SPECIAL INSTRUCTIONS:</b>	<b>NUMBER OF PAGES: 33</b>

**I. PURPOSE**

- A. Establishes a code of conduct for the employees of the Aberdeen Police Department.
- B. Articulate legal and proper conduct while defining illegal behavior or misconduct on the part of employees.
- C. Reiterate the City of Aberdeen's policy prohibiting sexual and other forms of unlawful harassment in the workplace.
- D. Set guidelines for receiving and administering civil process procedures.
- E. Provides a written directive for governing bias-based policing.
- F. An agency and its personnel could be subject to liability in federal court for failing to disclose to a prosecutor any evidence that may be favorable to a defendant. The purpose of this policy is to ensure that agency personnel comply with the landmark United States Supreme Court decisions of Brady v Maryland (1963) and Giglio v United States (1972) and their progeny.
- G. The purpose of this policy is to establish guidelines governing Extra Duty Details and Outside employment by employees of this agency.
- H. The purpose of this policy is to prohibit sexual harassment and discrimination within this agency. The policy also provides for the reporting and department response to sexual harassment or discrimination.

- I. Law enforcement officers are empowered with authority by their government to protect the public from criminal activity. When an officer abuses this authority for sexual purposes, and violates another person, the officer not only commits a crime against the victim, but also damages the credibility and trust of the entire law enforcement community with the public. The purpose of this policy is to caution all officers that any violation of the public trust involving sexual misconduct will result in severe consequences including prosecution to the fullest extent possible.

## II. DEFINITIONS

- A. DEPARTMENT. Aberdeen Police Department
- B. COUNTY. Brown County
- C. CHIEF. Chief of Police
- D. SUPERVISOR. Any officer the rank of Sergeant or above or any officer acting in the absence of the commanding officer or any civilian employee placed in a position of authority to direct, monitor, and evaluate the performance of others and given the responsibility to oversee the operation of a functional area of the Department.
- E. COMMANDER. Any member the rank of Captain or above.
- F. SERGEANT: A sergeant who has been designated as the officer in charge of a shift, detail or unit.
- G. WATCH COMMANDER: The ranking or designated on-duty officer designed to be in charge of a patrol shift. Often times the use of the term watch commander is synonymous with the term sergeant.
- H. SENIOR OFFICER. A member in any given rank with the longest service in that rank.
- I. MEMBER. Duly appointed police officer or civilian employee in the Police Department.
- J. MANUAL. Manual of Written Policy and Procedure Directives of the Department.
- K. ORDERS. Commands or instructions, oral or written, given by one member who has been delegated authority and/or responsibility over another member.
- L. PATROL UNIT. Departmental vehicle.
- M. POLICE INCIDENT. An occurrence or incident suggesting or requiring police action or service by members.
- N. SHIFT. Scheduled tour of duty.
- O. DUTY TO DISCLOSE: The landmark decision of Brady v Maryland (1963) places an affirmative constitutional duty on a prosecutor to disclose exculpatory evidence to a defendant. This duty has been extended to police

agencies through case law, requiring law enforcement agencies to notify the prosecutor of any potential exculpatory information.

- P. EXCULPATORY EVIDENCE/BRADY MATERIAL: Evidence in the government's possession that is favorable to the accused and that is material to either guilt or punishment, including evidence that may impact the credibility of a witness.
- Q. EXTRA DUTY DETAILS: Performance of law enforcement duties not within regularly scheduled hours provided to any business, person, or enterprise, which has made application to the Department/Office and has been approved for a permit to secure the services of an employee of the Department/Office. These services will be compensated according to a contractual arrangement established by the Department.
- R. OUTSIDE EMPLOYMENT: Employment of a non-police nature in which vested police powers is not a condition for employment. The work provides no real or implied law enforcement service to the employer and is not performed during assigned hours of duty.
- S. SEXUAL HARASSMENT - Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct when:
  - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
  - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- T. TWO TYPES OF SEXUAL HARASSMENT:
  - 1. Quid Pro Quo Harassment: A circumstance by which an employee is afforded a favorable employment action in exchange for a sexual favor. Examples:
    - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
    - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
    - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
  - 2. Hostile Work Environment: A circumstance by which an employee is confronted with an environment involving sexually explicit language, photos, or conduct. Examples:
    - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
    - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

U. SEXUAL HARASSMENT PROGRESSION:

- 1. Non-Physical
  - a. Pressure for Dates
  - b. Sexual Jokes
  - c. Teasing
  - d. Remarks
  - e. Questions
  - f. Suggestive Looks/Gestures
- 2. Physical/Non-Physical Intimidation:
  - a. Sexual Favors
  - b. Pinching
  - c. Touching
  - d. Phone Calls
  - e. Blocking
  - f. Cornering
  - g. Sending Materials of Sexual Nature
- 3. Physical/Bodily Harm
  - a. Sexual Assault
  - b. Attempted Sexual Assault

V. SEXUAL DISCRIMINATION: The disparate treatment of an employee with respect to work benefits, conditions, assignments, promotions, etc. based upon the gender of the employees unless such disparate treatment is necessary based upon some bona-fide occupational qualification i.e. undercover assignment where a male is necessary due to the nature of the infiltration.

W. CRIMINAL SEXUAL MISCONDUCT: The abuse of authority by a law enforcement officer for sexual purposes that violate the law.

X. SEXUAL MISCONDUCT: Any sexual activity while on-duty or stemming from official duty. Sexual misconduct includes but is not limited to use of official position and official resources to obtain information for purposes of pursuing sexual conduct.

Y. INTIMATE PART: Genital area, inner thigh, groin, buttocks, or breasts of a person.

Z. ACTOR: The person accused of sexual assault

- AA. SEXUAL CONTACT: Any contact for the purpose of sexual gratification of the actor with the intimate parts of a person not married to the actor.

### III. RULES AND REGULATIONS

#### A. 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, 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 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 of 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 to my chosen profession, Law Enforcement.

#### B. CODE OF CONDUCT

Consistent with law, it is the policy of this agency to establish and promulgate to all members the rules and regulations for the operation of the Police Department and guidance for its members.

A code of conduct is necessary for the achievement of organizational goals. Primary among these goals is a requirement that all members of the Department adopt a general standard of conduct both on and off duty consistent with the professional standards of the law enforcement community, and the values and mission of the Department. The Aberdeen Police Department adopts the "**LAW ENFORCEMENT CODE OF ETHICS**" as the recommended standard of conduct expected of its officers.

The Department acknowledges that circumstances and events may exist which, in the best interest of the member, department and community, preclude sworn members, while off duty, from personally taking official police action. Consistent with this, the Department cautions sworn members, when off duty, to use discretion when invoking police powers, particularly involving the use of a

firearm. This in no way, however, relieves a sworn member of his obligation to notify the on duty watch commander if police power is invoked while off duty. At the time of their employment, all personnel will be given the oath of office and a copy of the Police and Procedure Manual. Each employee will review and acknowledge that they understand the Code of Ethics. A copy of the Oath of Office will be placed in their personnel file.

## **C. COMMAND AND SUPERVISORY RESPONSIBILITIES AND AUTHORITY**

### **1. Chief of Police**

- a. **Authority** - The Chief of Police is the chief executive officer of the department and the final department authority in all matters of policy, operations and discipline. The Chief exercises all lawful powers of his/her office and issues such lawful orders as are necessary to ensure the effective performance of the department.
- b. **Responsibilities** - Through the Chief of Police, the department is responsible for the enforcement of all laws and ordinances coming within its legal jurisdiction. The Chief is responsible for planning, directing, coordinating, controlling, and staffing all activities of the department; for its continued and efficient operation; for the enforcement of rules and regulations within the department; for the completion and forwarding of such reports as may be required by competent authority; and for the department's relations with the citizens of the community, the City government, and other allied agencies.

### **2. Command Staff Officers – Authority and Responsibilities**

Subject to the direction from higher command, a commanding officer has direct control over all members within his/her command. In addition to the general and individual responsibilities of all members and supervisors, a commanding officer is responsible for the following:

- a. **Command** - The direction and control of personnel under his/her command to ensure the proper performance to duties and adherence to established rules, regulations, policies, and procedures. Providing for continuation of command and/or supervision in his/her absence.
- b. **Loyalty** - The development and maintenance of loyalty to the department.
- c. **Discipline and Morale** - The maintenance of discipline and morale within the command and the investigation of personnel complaints not assigned elsewhere.
- d. **Intradepartmental Action** - The promotion of harmony and cooperation with other units of the department. Initiation of proper action in cases not regularly assigned to his/her command, when

delay necessary to inform the proper unit might result in a failure to perform a police duty.

- e. Organization and Assignment - Proper organization and assignment of duties within his/her unit to ensure proper performance of departmental functions and those of his command.
- f. Reports and Records - Preparation of required correspondence, reports and maintenance of records relating to the activities of his/her command. Assurance that information is communicated up, down, or laterally through the chain of command as required.
- g. Maintenance - Assurance that quarters, equipment, supplies and material assigned to his/her command are correctly used and maintained.
- h. See job description in attachments for further information.

### 3. Sergeant – Authority and Responsibilities

In addition to the listed responsibilities of a WATCH COMMANDER, and patrol officer as listed in Chapter 16: PATROL FUNCTIONS:

- a. Sergeants are charged with being knowledgeable about the duties of their subordinates. They are to inspect for and correct any deficiencies in procedures and safety precautions.
- b. Sergeants are to train their personnel in new statutes, procedures, policies, regulations, and all other matters that will serve to improve the officers and the department.
- c. Sergeants may periodically observe their officers as they appear and testify in court paying particular attention to the officer's competence at testifying and his/her appearance and demeanor.
- d. Shift supervisors shall carefully review all reports submitted by the patrol officers and insure they correct deficiencies in either content or reporting procedures.
- e. Shift supervisors are responsible for the timely investigations and follow up of their subordinates calls for service
- f. Shift supervisors are responsible for the consistency of data entry for their subordinates in RMS.
- g. See job description in attachments for further information.

### 4. Watch Commander – Authority and Responsibilities

- a. The Watch Commander should not assume any duty or task that would prevent him/her from exercising on-scene control over the shift.

- b. The watch commander shall immediately notify a command officer and/or the Chief of Police of any serious or unusual occurrence, important casualty, serious crime or unsafe public conditions.
- c. The watch commander is responsible to see that each officer on his/her shift is properly assigned a vehicle, patrol district or responsibility, and such other equipment as may be needed to carry out routine or special duties.
- d. The watch commander is responsible for assuring that an adequate number of officers are scheduled for and appear for duty.
- e. The responsibility for requesting additional personnel to respond to a crime scene will be the responsibility of the watch commander. The watch commander will notify the Operations Division Commander, or another commander, before initiating call back contacts. Investigative personnel, including an evidence technician, must be requested through the Services Division Commander or other command officer.
- f. The watch commander is responsible for reviewing the facts and circumstances surrounding all arrests to determine that sufficient probable cause existed. The watch commander should instruct officers that, when practical, questions involving the existence of sufficient probable cause should be discussed prior to any arrest.
- g. Watch commanders when practical (week to 10 days) will inspect the patrol vehicles for assigned equipment and for any damage not previously reported. The watch commander shall report for disciplinary purposes officers found to have caused, either intentionally or negligently, damage to vehicles or to other departmental equipment.
- h. Watch Commanders shall obtain from their subordinates' compliance with departmental rules, regulations, policies and procedures and lawful orders given by superior officers. In order to obtain such compliance, the watch commander shall pay strict attention to his/her own compliance with such rules, regulations, policies and procedures.
- i. Prior to daily assignment the watch commander may periodically assemble the uniformed officers and inspect each officer to insure that the officer is properly equipped and fit for duty. He/she shall then instruct the patrol officers relative to current teletypes, alarms, orders, and conditions requiring the attention of the patrol force.
- j. When practical Watch Commanders shall patrol the entire city and respond to all radio calls of a serious nature and supervise patrol officers in the handling of such calls.

- k. When the watch commander's patrol vehicle is, for some reason, taken out of service, he/she shall make arrangements to continue patrol in another vehicle.
- l. Watch commanders are singularly responsible for the assignment and control of officers and control of officers engaged in tactical situations until the watch commander is relieved.
- m. Watch commanders will investigate and attempt to resolve citizen complaints against officers when practical. They shall report such complaints to the Operations Division Commander.
- n. Watch commanders will submit explanations of any extraordinary circumstances or situations that occurred during the tour of duty. This report will be submitted to the Operations Division Commander and the Chief of Police.
- o. Watch commanders must be familiar with sources of mutual aid, emergency operation plans and methods of evacuation of the population.

#### **D. PROFESSIONAL CONDUCT AND RESPONSIBILITIES OF EMPLOYEES**

1. Unbecoming Conduct. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of any member of the Department, whether in the City of Aberdeen or not, which tends to undermine the good order, efficiency or discipline, the Department or any member thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or laid down shall be considered **CONDUCT UNBECOMING** a member and subject to disciplinary action.
2. Professional Image. Members of the Department are to maintain a professional image. Any behavior that would reflect negatively on the Department or would violate the public trust is prohibited.
3. Violation of Law, Rules and Regulations. The violation or attempted violation by a department member of any Federal, State, County or Municipal law or ordinance is prohibited. Members shall observe and obey all laws and ordinances, all rules and regulations of the department and all directives or special orders of the department.
  - a. Establishing Elements of Violation. Existence of facts establishing a violation of a law, ordinance, or rule, is all that is necessary to support any allegation of such as a basis for a charge under the section. It is not necessary that a formal complaint be filed or sustained. Nothing in this Manual prohibits disciplining or charging members merely because the alleged act or omission does not appear herein, in departmental orders, or in laws and ordinances within the cognizance of the department.
  - b. Reporting Violations of Laws, Ordinances, Rules, or Directives. Members knowing of other members violating laws, directives, ordinances, or rules of the department, or disobeying orders, shall

report same in writing as soon as practical to the Operations Division Commander through official channels. If the member believes the information is of such gravity that it must be brought to the immediate personal attention of the Chief of Police, official channels may be bypassed.

4. Insubordination. An officer's or civilian member's failure or refusal to obey a lawful order issued by a supervisor or acting supervisor is prohibited.
5. Unsatisfactory Performance. Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their position.
  - a. Unsatisfactory performance may be demonstrated by the following criteria which are not all inclusive:
    - 1) Lack of knowledge of the application of laws required to be enforced.
    - 2) Unwillingness or the inability to perform assigned tasks, or to carry out duties in a manner required by laws or rules.
    - 3) Failure to take appropriate action on any situation deserving police action.
  - b. Prima fascia evidence of unsatisfactory performance includes, but is not limited to the following:
    - 1) Repeated poor evaluations: Performance
    - 2) Written records of corrective recommendations and failure to correct unsatisfactory performance.
    - 3) Excessive or unjustified sick leave: Attendance
    - 4) Repeated violations of rules and regulations: Conduct
6. Manner of Issuing Orders. Orders from supervisor to subordinate shall be in clear, understandable language, civil in tone and issued in pursuit of departmental business.
  - a. Unlawful Orders. No command or supervisory officer shall knowingly issue any order that is in violation of any law, ordinance, or departmental directive.
    - 1) Obedience to Unlawful Orders. Obedience to an unlawful order is never a defense for an unlawful action; therefore, no member is required to obey any order, which is contrary to federal or state law or local ordinance.
    - 2) Responsibility for refusal to obey rests with the member who shall be required to justify his action.
  - b. Obedience to Unjust or Improper Orders. Members who are given orders that they feel to be unjust or contrary to directives, rules and regulations, must first obey the order to the best of their ability and then proceed to appeal as provided. It is acceptable for a member to ask for clarification about an order or if time allows, express concern about the order.

- c. Conflicting Orders. To permit effective supervision, direction, and control, employees shall promptly obey any lawful order of a supervisor, including any order relayed from a supervisor by an employee of the same or lesser rank. In the event an employee is given two different orders that may conflict, the last order given shall be complied with unless the order is retracted or modified. If an employee receives conflicting orders, the employee must inform the person giving the last order of the conflict of orders. The person giving the conflicting order should then resolve the conflict by retracting, modifying, or requesting the employee to comply with the latest order. In the event the conflicting order is not altered or retracted, the employee shall not be held responsible for disobedience of the order or directive previously issued.
- d. Reports and Appeals – Unlawful, Unjust, Improper Orders. A member receiving an unlawful, unjust or improper order shall at first opportunity, submit a report to the Chief of Police through official channels. This report shall contain the facts of the incident and the action taken. Appeals for relief from such orders may be made at the same time. Intra-departmental action regarding such an appeal shall be conducted through the Office of the Chief of Police.

- 7. Conduct Toward Supervisor and Subordinate Officers and Associates.

We are committed to maintaining a harmonious working environment. Comments in the workplace that reflect a bias or prejudice concerning race, color, religion, sex, sexual orientation, national origin, disability, age or veteran status violate our policy. To maintain a harmonious working environment, each one of us must refrain from making offensive and derogatory slurs, insults, remarks and jokes about anyone's protected status. What people feel and what they reveal are often different: the person you tell an inappropriate joke to could be offended by it but laugh anyway. We do not want anyone to be offended by comments and jokes based on protected status. From this point forward, each one of us must demonstrate a commitment to follow this policy. I know that I can count on your cooperation. If, however, someone chooses to ignore their commitment to this policy, that act will result in consequences. Vigorous enforcement of our policy against offensive and derogatory comments is necessary. Therefore, from now on: If biased comments are made by anyone, immediate and appropriate remedial action will be taken upon learning of the situation. This will include immediately investigating all complaints and taking appropriate corrective action. We will respond to biased comments, made in our presence but in languages other than those we understand, when the comments are translated for us. If you believe anyone is in violation of this policy, report the facts to your Division Commander or the Cities HR Director, so that the matter can be investigated and appropriate action taken. Members shall treat supervisor, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another.

When on duty and particularly in the presence of other members or the public, officers should be referred to by rank.

8. Public Criticism. Members shall not publicly criticize instructions or orders they have received, Department policies, operations, or staff in a defamatory, obscene, unlawful or untruthful manner. Criticism that tends to impair the operation of the Department by reducing organizational efficiency and discipline is also prohibited.
9. Moral Conduct. Any officer directly involved in any investigation cannot become emotionally or sexually involved with any witness, complainant, suspect, defendant or victim, from the time the case becomes known to the Police Department to the final disposition of the case. Every member shall maintain a level of moral conduct in his/her personal life that is in keeping with the highest standards of the law enforcement profession. No member shall be a participant in any incident involving moral turpitude which compromises or has the potential to compromise his/her ability to perform as a law enforcement officer or employee of the Aberdeen Police Department, or causes the Department to be brought into disrepute.
10. Loyalty. Loyalty to the Department and to departmental associates is an important factor in departmental moral and efficiency. Members shall maintain a loyalty to the Department and their associates as is consistent with the law and professional ethics.
11. Cooperation. Cooperation between the ranks and units of the Department is essential to effective law enforcement. Therefore, all members are strictly charged with establishing and maintaining a high spirit of cooperation within the Department.
12. Assistance. All members are required to take appropriate police action toward aiding a fellow peace officer exposed to danger or in a situation where danger might be impending.
13. General Responsibilities. Within the City of Aberdeen, officers shall at all times take appropriate action to:
  - a. Protect life and property;
  - b. Preserve the peace;
  - c. Prevent crime;
  - d. Detect and arrest violators of the law; and
  - e. Enforce all federal, state, and local laws and ordinances coming within Department jurisdiction. (See Agency Jurisdiction)
14. On Duty Responsibilities. Members of the Department shall, at all times, respond to the lawful orders of superior officers and other proper authorities as well as calls for police assistance from citizens. Proper

police action must be taken whenever required. The administrative delegation of the enforcement of certain laws and ordinances to particular units does not relieve members of the unit from the responsibility of taking prompt, effective police action within the scope of those laws and ordinances.

15. Questions Regarding Assignment. Members in doubt as to the nature or detail of their assignment shall seek such information from their supervisors by going through the chain of command.
16. Knowledge of Laws and Regulations. Every member is required to establish and maintain a working knowledge of all laws and ordinances in force in the City, the rules and policies of the department and the orders of the department and divisions thereof. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule or policy in question.
17. Performance of Duty. All members shall perform their duties as required and directed by law, departmental directive, policy, or order, or by order of a supervisor or senior member. All lawful duties required by competent authority shall be performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.
18. National Colors and Anthem. Uniformed members will render customary honors to the United States national colors and anthems, as well as other foreign governments' colors and anthems as conditions permit. Customary honor for officers in uniform with a hat on is to stand at attention and salute the flag or face the source playing the national anthem. Officers without a hat should stand at attention with their right hand over their heart.
19. Untruthfulness/False Statement. The very character of this Department as well as its reputation depends largely on the integrity of its personnel. Integrity, as defined by this department is the state of being of sound moral principle, honest, (truthfulness), and sincerity.  
  
All employees, civilian and sworn, shall be truthful whether under oath or not. Personnel shall not make false statements, verbal or written, nor shall personnel alter or change any official departmental or other document which would render the content inaccurate.  
  
Any employee (officer or civilian) who is found to have committed such falsity shall immediately be disciplined up to and including dismissal, in accordance with applicable law and department policy.
20. Workplace Violence. We are committed to maintaining a working environment free from workplace violence. To maintain a violence-free working environment, it is vital that each of us watch for and report any threat of violence to us so that a prompt and thorough investigation can be conducted. A violent act may cause severe physical, mental and emotional damages. We do not want anyone to experience the potential consequences of someone not reporting a threat. Not taking threats

or inappropriate behavior seriously enough is unreasonably risky. Thinking or wishing this problem would just go away does not work. From this point forward, each one of us must demonstrate a commitment to our safety by reporting any threat of violence. I know that I can count on your cooperation. However, corrective action will be taken if someone fails to report a threat and harm is done. Confirmed threats by employees will result in appropriate corrective action or discharge. Recognize that stress can lead to violent outbursts. If you would like assistance with stress management, let us know.

## **E. GENERAL CONDUCT**

1. Prohibited Activity on Duty. Members are prohibited from engaging in the following activities while on duty with the exceptions as noted:
  - a. Sleeping, loafing; Officers experiencing fatigue should contact supervisors.
  - b. Recreational reading except at meals, watching movies, videos, etc. on the MDT in the patrol vehicles which have not job-related relevance.
  - c. Conducting private business; exceptions, scheduled medical appointments, picking up medication
  - d. Drinking intoxicating beverages, except in performance of a police duty, and then, only with the specific consent of a commanding officer and never in uniform; and
  - e. Gambling, unless to further a police cause.
2. Loitering. No members on duty or in uniform shall enter taverns, theatres, or other public places except to perform a police task. Loitering and unnecessary conversation in such locations are forbidden. Members off duty and not on any official standby shall not loiter in departmental areas.
3. Roll Call. Unless otherwise directed, members shall report to daily roll call at a time and place specified, properly uniformed, and equipped. Members are subject to calls from the beginning of their shift to the end of their shift. They shall give careful attention to orders and instructions avoiding unnecessary talking or movement. Upon completion of roll call members should begin their daily patrol duties.
4. Relief. All members are to continue at their assignment and on duty until properly relieved by another member or until dismissed by a supervisor or commander.
5. Meals. Meal periods are subject to modification by the commander or supervisor.
6. Reporting. Members shall complete reports involving arrests, detentions, committals, child abuse, domestic violence and all other serious crimes

within the members scheduled day of work on the day of the incident was received by the officer. In the event the officer cannot complete the report because of an illness, multiple reports taken during a work shift, or other unforeseen circumstance the officer shall contact their on duty superior for approval to complete the report at a later time. The on duty supervisor approving this shall be responsible for communication of the incomplete status of a report to the appropriate Captain, records staff or states attorney.

7. Absence Without Leave. Every member who fails to appear for duty at the date, time, and place specified for so doing without the consent of a supervisor or commander is "absent without leave." Such absences within the period of one day must be reported in writing to the Division Commander. Absences without leave in excess of one day must be reported in writing to the Chief of Police.
8. Reporting Sick Leave. Whenever a member becomes ill and cannot report for work the member is to notify their supervisor or in the absence of the supervisor, the Watch Commander, if possible, at least two hours prior to duty time. Employees shall report to their Division Commander when an injury or illness requires them to be absent for three or more days. The Division Commander may require a medical report when an employee misses more than three days of scheduled work. The use of sick leave without just cause, or the furnishing of any false information regarding a member's physical condition, may result in disciplinary action. Members claiming physical or mental incapacity relating to their employment may be requested to submit to a Department referred physician examination. For Covid 19 related sickness procedures see attachments for folder on covid memos.
9. Inspections. From time to time, the Chief of Police may call for full dress inspections of the department or any part thereof. Members directed to attend such inspections shall report in the uniform prescribed with the equipment specified. Unauthorized absence from such inspection is chargeable as "absent without leave."
10. Training. All members shall attend in-service, firearms and other assigned training. Such attendance is considered a duty assignment.
11. Physical Fitness for Duty. All members of the department shall maintain good physical condition which allows them to perform the duties of their job description.
12. Consumption of Intoxicants Off Duty. Members shall not consume intoxicants while off duty to the extent that evidence of such consumption is apparent when reporting for duty. They shall not at any time, including off duty consume intoxicating beverages to the extent that such consumption results in obnoxious or offensive behavior which discredits the department, or to the extent that such consumption renders them unfit to report for their next regular tour of duty. If a member has been consuming intoxicating beverages, and receives a call for duty, that

member shall immediately notify the Watch Commander of such usage. If the member feels his consumption is to the extent where it affects his ability to respond, the member should inform the Watch Commander he is unable to comply with call for duty. Any member that arrives at a scene that has consumed intoxicants 12 hours prior to the call shall submit to preliminary breath test to the on scene supervisor to ensure his ability is not impaired.

13. Intoxication. Members shall not at any time consume, purchase, or be under the influence of alcohol or other intoxicating substances while on duty other than in an authorized capacity. While off-duty, employees shall not enter/remain in the station while intoxicated unless approved by the Watch Commander.
14. Intoxicants on Department Premises. Members shall not bring into or keep any intoxicating liquor or other intoxicating substances on departmental premises or in City vehicles except to:
  - a. Package liquor containers for temporary storage in locker spaces when the seals are unbroken. Liquor brought into the Department shall be properly identified, and stored according to current policy.
  - b. Perform a necessary police task.
15. Possession or Use of Controlled Substances. The possession of illegal controlled substances by a member while on or off duty is prohibited, except in the performance of duty. **Property or evidence related to controlled substances will not be kept in personal lockers, vehicles, desks, or secured in any location other than an authorized property locker or designated property processing work space.**

While on duty, a member is not to use or be under the influence of any medication that impairs or compromises their ability. If a member is using medication that impairs or compromises their ability to perform their regularly assigned duties and responsibilities, the member must notify their immediate supervisor. The supervisor shall then notify the Chief and or the Command staff about the circumstances so it can be reviewed with the Human Resources Department for recommendation. Any light duty assignment for that member must be approved by command staff. If a light duty is not an option, the member will be sent home until the member is no longer impaired and his status is reviewed by the Chief.

16. Prescription Drugs. Law Enforcement services are expected to be delivered by employees who are physically and mentally prepared for whatever might be required to satisfactorily perform assigned police duties. It is essential that all police employees who will or might be called upon to act in an enforcement capacity, control prisoners, or transport persons in an agency vehicle be in a position to act in a professional and competent manner. It is well known that law enforcement employees may be taking prescription drugs, which have been legitimately prescribed to them for medical/psychological needs. This policy is designed to ensure that the employee, the community, and other officers are not impacted by the effects of such medication.

- a. **Procedure:** Agency employees are divided into two categories for purposes of this policy:
- 1) **Enforcement Employees:** those employees who are either in a direct enforcement capacity or who may be called upon to act in an enforcement capacity, are assigned to control prisoners, and employees who may be called upon to transport persons in agency vehicles. This includes all sworn personnel unless the employee is on restricted duty and prohibited from carrying firearms. Non-sworn employees who fit in this category include employees who engage in some form of enforcement duty, detention duties, drive agency vehicles, or transport persons being detained.
  - 1) **Non-Enforcement Employees:** The function of non-enforcement employees does not normally place them in a position where the use of prescription drugs will compromise their own safety, the safety of fellow employees, or the safety of citizens. These employees are not subject to this policy and are not required to notify the agency when they are taking prescribed medications unless they operate a motor vehicle in the performance of their duties for the Agency.
  - 2) **All Employees designated as Enforcement Employees are subject to the provisions of this policy.**
  - 3) **Enforcement Employees** who have been prescribed drugs by a medical, psychological or other professional resource person shall provide this agency with a document from the person prescribing the medication which:
    - (a) Identifies the specific drug, and
    - (b) Expressly concludes whether the drug will or will not impair the employee's ability to perform normal and specifically assigned law enforcement tasks.
    - (c) The employee shall provide this notice from the professional resource who prescribed the medication and which includes a copy of the prescription drug label to the agency supervisor designated by the chief.
    - (d) This notice should be provided to their chain of command prior to reporting for their assigned duty or regular shift assignment.
  - 4) **Agency Response:** The designated agency person shall determine whether the prescribed drug is:
    - (a) Listed as an authorized medication not requiring any assignment consideration;

- (b) Listed as a medication which requires assignment alteration; or
- (c) A drug which is not listed
- (d) In cases where the drug is not listed on either the authorized duty or restricted duty list, the designated employee will contact the predetermined pharmaceutical professional who shall provide a conclusion as to which category the prescribed medication belongs.
- (e) Employees who are prescribed medications listed on the unrestricted list will be allowed to continue their normal assignment.
- (f) Employees who are prescribed medication which require an alteration of assignment will be advised that they are not authorized to perform enforcement function or off-duty details. These employees shall be immediately reassigned to a restricted assignment that will not place them in a position to encounter enforcement duties as defined by this policy. During the period in which they are required to take the prescribed medication, their authorization to carry a department issued firearm and operate agency vehicles will be suspended.
- (g) The documentation of the medication use will be filed in a secure file in the Human Resources Department until such time that the medication is no longer being used by the employee and the civil liability statute of limitations has passed. Following that period, all documentation of medication use by the employee shall be destroyed. The designated agency employee shall perform an annual audit of this file to ensure that it is current and that the required purging has been completed.

17. Temporary Discharge from Duty. A supervisor may temporarily relieve from duty an employee under his/her supervision for a period of not more than one (1) workday on the grounds that the employee is unfit for duty.

- a. Unfit for duty may include any physical or mental condition which, in the judgment of the supervisor:
  - 1) Renders the employee incapable of adequately performing duties;
  - 2) Cause him/her to perform them in such a way as to embarrass or discredit the Department; and/or
  - 3) Jeopardize the safety of any person or property.

- b. The supervisor shall immediately notify the Division Commander of the employee relieved from duty, the reasons for the action, and his/her recommendation for any subsequent action.
18. Tobacco Use While on Duty. Members shall not smoke, vape or use tobacco products while in public view, while in any public building or structure and while driving or in a department vehicle. Smokeless tobacco products can also be prohibited or banned based on reoccurring problems with employee use.
  19. Address and Telephone Number. Immediately upon employment, members shall record their correct residence address and telephone number with their commanding officer. Changes in address or telephone number shall be reported to their commanding officer within 24 hours of the change. This shall be done in writing and within the specified time whether the member is working or on leave. This information will be forwarded to the administrative secretary for updating the personnel contact list.
  20. Equipment. All equipment used on duty or owned by the Department must be clean, in good working order and conform to department specifications.
  21. Uniform and Equipment Damage Claim. Any claims for damage to clothing, equipment, and eyeglasses caused by performance of duty shall be made in accordance with current departmental directives.
  22. Compensation for Other Damages Sustained on Duty. Members shall not seek in any way, nor accept from any person, money or other compensation for damages sustained or expenses incurred by them in the line of duty without first notifying the Chief of Police in writing.
  23. Department Property and Equipment. Members are responsible for the proper care of department property and equipment assigned to them. Damaged or lost property may subject the responsible individual to reimbursement charges and appropriate disciplinary action.
  24. Damaged-Inoperable Property or Equipment. Members shall immediately report to their commanding officer or supervisor any loss or damage to departmental property assigned to or used by them. The immediate supervisor will be notified of any defects or hazardous conditions existing in any department equipment or property.
  25. Care of Department Buildings. Members shall not damage, mark, or deface any surface in any City building. No material shall be affixed in any way to any wall in departmental buildings without specific authorization from a supervisor or commanding officer.
  26. Notices. Members shall not mark, alter, or deface any posted notice of the department. Notices or announcements shall not be posted on bulletin boards without permission of a commanding officer. No notices of a derogatory nature will be posted any time.

27. Policy Manuals on Digital Storage Device. All members are issued a digital storage device containing the Aberdeen Police Department manual. All members are responsible for their policy manual on the device and be aware of its contents.
28. Surrender of Department Property. Members are required to surrender all department property in their possession upon separation from the service. Failure to return non-expendable items may cause the person to reimburse the department for the fair market value of the article(s). Employees of this Department shall be held responsible for all equipment issued to them.
- a. Whenever a police employee is under suspension for a consecutive period of more than two (2) and less than thirty (30) days, as a result of disciplinary action, he/she shall be required to surrender to their Division Commander, for the period of suspension, his/her issued weapon, badges, and all issued cards which identify him/her as an employee of this Department.
  - b. Any employee of this Department under indefinite suspension pending a hearing for removal must turn in to the Operations Division Commander, all departmental property issued to him/her.
  - c. Where it is established that this equipment is lost or damaged through negligence, the employee concerned will be obligated to replace the same at his/her own expense. Every employee of this Department shall assume a personal responsibility for all departmental property issued to him/her, or placed in service for his/her use or convenience.
29. Departmental Vehicles, Use of. Members shall not use any department vehicle without permission of a supervisor or commanding officer. Department vehicles shall never be used for personal business or pleasure without authorization of the Chief of Police.
30. Reporting Accidents. Accidents involving City personnel, property and/or equipment must be reported in accordance with adopted procedures. Personnel involved are subject to city employee guidelines for drug testing.
31. Transporting Citizens. Citizens will be transported in department vehicles only when necessary to accomplish a police purpose. Such transportation will be done in conformance with departmental directive or at the direction of a commanding officer. **Additionally, any transport that is in accordance with an extension of an assignment such as transporting persons from a disabled vehicle, an accident, a domestic disturbance, etc., to further a community service is permissible.** A person may also be transported if there is any danger or perceived danger to the person, if he/she is not transported. However, an officer transporting a person in this manner must notify the Communications Center of the transport. Beginning and ending mileage will be given when transporting a person of the opposite sex. The

Communications Operator will record the appropriate times. Citizens in any type of medical distress should be transported by ambulance to be medically cleared by a physician.

- a. No police department member will transport a private citizen in a departmental vehicle for other than a police purpose without receiving direct approval from a Watch Commander or in his/her absence, a Commanding Officer. Officer safety should be of paramount importance.
32. Leaving Jurisdictional Limits. Members are not to go beyond the jurisdiction's limits while on duty. If in the performance of their duties it requires them to leave the jurisdiction the members should notify the supervisor, the purpose to receive permission to do so. Members can leave the jurisdiction when directed by supervisor to do so.
33. Private vehicles, Use of. Members are not to use private vehicles or equipment for official purposes unless directed and/or authorized to do so by a supervisor.
34. Gift, Gratuities, Fees, Rewards, Loans, Soliciting, Etc. Members shall not under any circumstances solicit any gift, gratuity, loan, or fee where there is any direct or indirect connection between the solicitation and their departmental membership. No member of the department shall solicit any gift or gratuity from other members who are junior in rank.
35. Acceptance of Gifts, Rewards, Gratuities, Fells, Loans, Etc. Members shall not accept either directly or indirectly any gift, gratuity, reward, loan, fee, or any other thing of value arising from or offered because of police employment or any activity connected with said employment, unless approved by the Chief of Police. Members shall not accept any gift, gratuity, loan, fee, or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of said member or any other member in any matter of police business; or which might tend to cast an adverse reflection on the department or any member thereof.
36. Solicitation of Favorable Acts. Members are not to solicit anyone to intercede with City or Department officials regarding Department promotions, assignments, or disciplinary proceedings.
37. Other Transactions. Members are prohibited from buying or selling anything of value from or to any complainant, suspect, witness, defendant, prisoner, or other person involved in any case which has come to their attention or which arose out of their departmental employment except as may be specifically authorized by the Chief of Police.
38. Disposition of Unauthorized Gifts, Gratuities, Etc. Any unauthorized gift, gratuity, loan, fee, reward, or other thing falling into any of these categories coming into the possession of any member shall be forwarded to the Chief of Police together with a written report explaining the circumstances connected therewith.

39. Citizen Complaints. Employees shall courteously and promptly record any complaint made by a citizen against an employee or the Department. If possible, supervisors are to receive and resolve the complaints. If the complaint cannot be resolved, the member receiving the complaint will forward all information to the Operations Division Commander. Handling of citizen complaints shall be according to the established departmental procedures.
40. Allegations of Misconduct. All allegations of misconduct shall be reported to the Operations Division Commander, who shall investigate or have investigated allegations of misconduct and report all findings to the Chief of Police.
41. Communications/Correspondence - Restrictions. Members shall not:
  - a. Use department letterheads for private correspondence.
  - b. Send correspondence out of the department over their signatures without the general permission of a Division Commander or the Chief of Police.
42. Department Address (Private Use Of). Members shall not use the department as a mailing address for private purposes. The department address shall not be used on any motor vehicle registration, operators or chauffeur's license, cell phone statements, personal bill, or other correspondences unless approved by the Chief of Police.
43. Telephones. The Aberdeen Police Department telephone service is for official business. While personal calls are allowed, they must be kept at a minimum.
44. Radio Discipline. All members of the Department operating the police radio either from a mobile unit or in the communications center, shall strictly observe regulations for such operations as set forth in departmental directives and by the Federal Communications Commission.
45. Responding to Calls. Members of the department shall respond without delay to all calls for police assistance from citizens or other members. Emergency calls take precedence; however, all calls shall be answered as soon as possible consistent with normal safety precautions and vehicle laws. Failure to answer a call for police assistance promptly, without justification, is misconduct. Except under the most extraordinary circumstances, or when otherwise directed by competent authority, no member shall fail to answer any land wire, cell phone or radio call directed to him. The communications center will be informed when leaving the air, and when returning to a duty status.
46. Sexual Misconduct. It is the policy of this Department to train all officers concerning the potential for criminal sexual misconduct within law enforcement, how to recognize it, and the requirements for reporting any violation to the appropriate authorities.

- a. Procedure:
  - 1) Sexual activity of any nature while on duty is prohibited.
  - 2) Sexual Misconduct is prohibited and shall be disciplined up to and including termination.
  - 3) Any contact for the purpose of sexual gratification of the actor with the intimate parts of a person while on duty is prohibited.
  - 4) A police officer shall not engage in sexual contact with another person who is in custody and such officer has supervisory or disciplinary authority over such other person.
  - 5) Training: All sworn officers of this department including supervisors will receive specific training about the elements of sexual misconduct involving law enforcement officers. The training will also include all elements of this policy.
  - 6) Reporting Requirements: Any employee of this Department, who is made aware of any violation of this policy, is required to report the violation to their supervisor. The supervisor will immediately contact the Internal Affairs Section, or the command level personnel having Internal Affairs responsibility who will immediately initiate an investigation in accordance with their established investigative policy. The investigation will involve other investigative elements of the Department as necessary and any forensic evidence will be protected and processed immediately. The accused officer's supervisor will not attempt to resolve a complaint of this nature with the complainant and is required to make immediate contact with Internal Affairs or the command level personnel having Internal Affairs responsibility.
- b. Discipline:
  - 1) Any officer found to be in violation of the provisions of this policy shall be disciplined up to and including termination and criminal charges where established.
  - 2) Any employee having knowledge of a violation of this policy, who fails to report said violation should also be disciplined up to and including dismissal and criminal charges if appropriate. If the violation involves supervisory personnel, the reporting officer will notify the appropriate command level officer and will not be strictly held to his or her chain of command.

## **F. INVESTIGATIONS, ARRESTS AND DETENTIONS**

- 1. Command of Scene. At the scene of any crime, accident, or other police incident, the ranking officer present shall assume command and direct

police personnel in such a manner as to ensure the most orderly and efficient accomplishment of the police task. When two or more officers of the same rank are present and one of these is assigned to the investigative detail that will follow up the investigation, that ranking officer will be in charge. This provision is intended to provide for the coordination of the efforts of the several subordinate members who may be assigned to the incident; therefore, it is incumbent upon the ranking officer assuming such control to become acquainted with the facts and ensure that appropriate action is being taken or is initiated.

2. General Responsibilities of Members at Crime Scenes. The **first** member to arrive at the scene of a crime or to a police incident is responsible for the following actions as they may apply to the situation:
  - a. Summoning medical assistance and administering first aid as required to prevent further injury or loss of life;
  - b. Arrest of violators;
  - c. Security of scene.
3. Responsibilities of Assigned Member at Crime Scene. (See **Chapter 17, Investigative Functions.**)
4. Relief of Member Conducting Preliminary Investigations. Upon completion of the preliminary investigation, the assigned officer shall stand relieved unless otherwise directed by a supervisor.
5. Identification as Police Officer. Except when impractical or where the identity is obvious, officers shall identify themselves by displaying the official badge, or identification card before taking action. When asked, officers will give their name and ID number in a courteous manner. Employees shall not use their official identification to avoid the consequences of an illegal act or to obtain services not offered to the general public.
6. Charging. An officer shall use both the Aberdeen City Ordinance and the South Dakota Codified Laws for the purposes of determining an appropriate charge and charging language. The South Dakota Codified Laws shall supersede the Aberdeen City Ordinance for charging and when similar language is in conflict.
7. Field Releases of Those Charged. Officers should consider cite and releases for minor violations which do not include violence. Defendants who are non-residents, have a history of failure to appear or indicate he/she will not appear in court will normally be taken into custody.
8. Arrests. Officers shall not make any arrest, search, or seizure which they know is not in accordance with law and departmental procedures. In making arrests, members shall strictly observe the laws of arrest and the following provisions:
  - a. Only necessary restraint to ensure safe custody and the safety of the officer shall be employed.

- b. The arresting officer is responsible for the safety and protection of the arrested person while in his/her custody. He/she shall immediately notify the transporting officers of any injury, apparent illness, or other conditions, which indicate that the arrested person may need special care. Persons in need of special care shall not be transported in patrol vehicle.
  - c. The arresting officer is responsible for the security of the personal property in the possession of the arrested person or under his/her control at the time of arrest. Except for vehicles, this responsibility transfers to the transporting officers when they accept custody of the arrested person.
- 9. Custody of Prisoners. Officers charged with the custody of prisoners shall observe all laws and departmental orders regarding this activity. Prisoners shall be kept securely, treated firmly and humanely, and shall not be subjected to unnecessary restraint. Prisoners are not to be left unattended.
- 10. Use of Physical Force. Malicious assaults or batteries committed by members constitute gross misconduct. The use of physical force shall be restricted to circumstances specified by law when necessary to accomplish a police task successfully. Whenever a member, either on or off duty, is required to use physical force against another person, he/she shall complete an incident report and forward a copy to the Operations Division Commander as soon as practical. When the report will be delayed, the officer or his/her supervisor will orally brief the Operations Division Commander.
- 11. Security of Departmental Business. Members shall not reveal police information outside the department except as provided elsewhere in this manual or as required by law or competent authority. Specifically, personnel matters, information contained in police records, other information ordinarily accessible only to members and names of informants, complainants, witnesses, and other persons known to the police are considered confidential. Silence shall be employed to safeguard confidential information.
- 12. Altering Records. Stealing, altering, forging, or tampering with any police record, report or citation is prohibited. The removal of any department record, citation, card, report, letter, document, or other official file from the Department, except by process of law or as directed by the Chief of Police or a supervisor, is prohibited. Unless properly authorized, the obtaining, duplicating, or attempting to obtain or duplicate information from Department files, sources, or reports is prohibited.
- 13. Compromising Criminal Cases. Members shall not interfere with a criminal investigation being conducted by another officer, or the proper administration of the criminal justice system.
  - a. Members shall not attempt to interrupt the legal process except where a manifest injustice might otherwise occur, nor participate

in or be concerned with any activity that might interfere with the process of law or another officer's investigation.

- b. Except in the interest of justice members shall not attempt to have any traffic citation or notice to appear reduced or voided.
  - c. Any member having knowledge of such action and failing to inform his supervisor thereof shall be subject to punitive action.
14. Assisting Criminals. Members shall not communicate in any manner, either directly or indirectly, any information which might assist persons suspected of criminal acts to escape arrest or punishment or which may enable them to dispose of or conceal evidence of unlawful activity.
15. Recommending Attorneys and Bail Bond Brokers Prohibited. Members shall not suggest, recommend, advise, or otherwise counsel the retention of any attorney or bail bond broker to any person coming to their attention because of police business.
- a. This does not apply when a relative of the member seeks such service.
  - b. In no case may such advice to a relative be given where a fee, gratuity, or reward is solicited, offered, or accepted from the attorney or bail bondsman.
16. Property and Evidence. Property or evidence which has been discovered, gathered, or received in connection with departmental responsibilities will be processed in accordance with established departmental procedures. Employees shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold any property or evidence in connection with an investigation or other police action, except in accordance with established departmental procedures.

## **G. PUBLIC ACTIVITIES**

- I. Commercial Testimonials. Members shall not permit their names or photographs to be used to endorse any product or service that is in any way connected with law enforcement without permission of the Chief of Police. They shall not, without the permission of the Chief of Police, allow their names or photographs to be used in any commercial testimonial, which alludes to their position or employment with the department.
- II. Public Appearance Requests. Employees are encouraged to honor all requests for public appearances relating to their police functions; however, clearances shall be obtained from the employee's division commander.
- III. Secondary Employment: It is the policy of this Department to allow employees the opportunity to perform extra duty details within the scope

of their job classifications and to allow them to engage in outside employment, which does not conflict with their official duties.

1. **Extra Duty Details:** Performance of law enforcement duties not within regularly scheduled hours provided to any business, person, or enterprise, which has made application to the Department/Office and has been approved for a permit to secure the services of an employee of the Department/Office. These services will be compensated according to a contractual arrangement established by the Department.
2. **Outside Employment:** Employment of a non-police nature in which vested police powers is not a condition for employment. The work provides no real or implied law enforcement service to the employer and is not performed during assigned hours of duty.

#### IV. Procedures:

- a. **Extra Duty Details:** Performance of law enforcement duties not within regularly scheduled hours provided to any business, person, or enterprise, which has made application, and been approved for a permit to secure the services of an employee of the Department. These services will be compensated according to a contractual arrangement established by the Department.
  - 1) **Permit Process:** The Department will establish a permit application process that will ensure compliance with all elements of this policy concerning Extra Duty Details. The permit application must be approved prior to the member of this agency accepting a detail and the application process will include the following:
    - i. A fee schedule that will specify the hourly rate charged to the permit holder, administrative fee, and use of equipment, additional insurance, and the employee's pay rate.
    - ii. The number of employees required to safely handle the detail.
    - iii. All fees paid in connection with Extra-Duty Details will be paid directly to this agency or the city and the agency will compensate the

employees in accordance with the agreed upon hourly rate.

- b. **Compliance** with agency policies and procedures: Employees shall comply with all agency policies and procedures while employed in an Extra Duty Detail. Agency provisions will supersede any of the entity hiring the employee. Employees shall comply with all departmental regulations concerning uniform standards and personal appearance during any Extra Duty Detail and will carry all necessary equipment subject to the nature of the assignment.
- c. **Schedule:** The Department will assign a supervisor to coordinate the Extra Duty Detail program. The supervisor will ensure that all employees interested in working are provided an equal opportunity for assignment via a rotating list or other mechanism to ensure fairness in the assignments.
- d. **Limitations:** The following are examples of limitations upon Extra Duty Details that would not be approved:
  - i. Employees are not permitted to work more than 24 additional hours per week unless approved in writing by their Chief of Police or their designee.
  - ii. Employees shall not be eligible while on sick leave or within (8) eight hours of a sick leave.
  - iii. Employees who have received an unsatisfactory evaluation in the previous rating period are not eligible for assignment.
  - iv. Employees who are under suspension, relieved of duty, or placed on administrative leave are not eligible for assignment.
  - v. Employees who have not completed the FTO program are not eligible for assignment.
- 9). **Prohibitions:** Permits will not be issued for the following types of details:
  - i. Establishments where alcohol is served.
  - ii. Private Clubs requiring bouncers or related duties.
  - iii. Private security agencies or private investigation agencies.



employment should be reported to the Chief as soon practical.

- g. Annual Approval: An employee who has obtained written approval for outside employment must re-submit application for any re-approval on an annual basis.
4. Prohibited Association, Frequenting. Except as required in the performance of their duties, members of the Department are prohibited from frequenting places that may compromise the member and the Department's mission and values. Additionally, members shall not associate with persons or organizations that would be detrimental to the Department's values. This includes persons who are under criminal investigation or indictment, or who have an open and notorious reputation in the community for felonious activity.
5. Subversive Organizations. No member shall knowingly become a member of or connected with any subversive organization as defined by the U.S. Department of Justice, except when necessary in the performance of duty and then only under the direction of the Chief of Police.
6. Political Activity. Employees are not prohibited from actively participating in political activity on a governmental level while off-duty. Employees are encouraged to exercise their constitutional rights pertaining to voting in all elections.
7. Political Involvement. No employee of the Department shall seek election to any City office while an employee of the Aberdeen Police Department. An employee may, on approval of the Chief of Police, hold an appointed office outside the jurisdiction of the City. Employees seeking election to an office outside of city government shall abide by guidelines set for by the current Federal Hatch Act.
8. Personal Preferment. No member may seek the influence or intervention of any person outside the department for purposes of personal preferment, advantage, transfer, or advancement.
9. Conduct Toward the General Public. Members shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, avoiding harsh, violent language. Profane or insolent language will not be tolerated. Employees shall always remain calm regardless of provocation to do otherwise. They shall attend to requests from the public quickly and accurately, avoiding unnecessary referral to other sections of the department.

10. Impartial Attitude. All members, even though charged with vigorous and unrelenting enforcement of the law, must remain completely impartial toward all persons coming to the attention of the Department. Violations of the law are against the people of the state and not against the individual officer. All citizens are guaranteed equal protection under law. Exhibiting partiality for or against a person because of race, creed or influence is illegal. Similarly, unwarranted interference in the private business of others when not in the interests of justice is prohibited.
11. Request for Assistance. Members shall always be alert to assist lost, helpless, injured, or ill persons. When any citizen requests assistance, or reports an incident, all pertinent information will be obtained in an official and courteous manner.
12. Public Statements. Employees shall refrain from public criticism or ridicule of the Department, its policies, or other employees when such statements are made in reckless disregard for the truth or falsity.

#### **H. JUDICIAL AND INVESTIGATIVE ACTIONS, APPEARANCES AND TESTIFYING**

1. Court Appearances. Attendance at a court or quasi-judicial hearing as required by subpoena is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent court official. When appearing in court, the official uniform, either a suit, or dress slacks and a coat and tie shall be worn by male personnel. The Class A uniform may be worn at the discretion of the officer. Female personnel will wear appropriate business attire or the uniform. Weapons will not be displayed unless wearing the uniform, and only upon approval of the court. Members shall present a neat and clean appearance avoiding any mannerism, which might imply disrespect to the court, such as gum chewing, or smoking. Employees shall not engage in loud conversations in and around the courtroom, even if court is not in session. Officers shall act in a professional manner while in court.
2. Testifying for the Defendant. Any member subpoenaed to testify for the defense in any trial or hearing, or against the City or Department in any hearing or trial, shall notify his/her commander upon receipt of the subpoena. He/she shall also notify the governmental attorney assigned to the case. An employee shall not volunteer to testify in civil actions and shall not testify unless legally subpoenaed, unless authorized by the Chief of Police.

3. Departmental Investigations – Testifying. Members are required to answer questions or render evidence to a competent authority in departmental personnel investigations when so directed.
4. Compensation for Court Appearance. All monetary compensation received by an employee as a witness fee for a court appearance on duty time shall be submitted to the City. Any compensation received shall be relinquished to the City. Any questions related to compensation should be forwarded to the Chief of Police.

This section does not apply to Reserve Officers appearing in court on personal time as a result of actions taken while performing as a Reserve Officer.

5. Special Interest. Employees shall avoid any action that would indicate a special interest in securing a conviction or give an outward appearance of dissatisfaction with decisions. The position of an impartial public servant seeking justice is the only position justified.
6. Preparation. Before appearing in court, officers shall organize and read notes concerning the case and consider the manner in which they intend to testify. Notes should be taken to court. It is acceptable to follow the directions and requests of the prosecuting attorney on what to bring to court.
7. Consulting with Attorneys. Officers who are in doubt as to the preparation of evidence or testimony relevant to a case should discuss the matter with the City or States Attorney before trial.
8. Acceptance of Subpoenas. Employees shall accept all subpoenas legally served. Employees shall respond to the first subpoena served when they are ordered to two separate courts with equal jurisdiction. Employees shall respond to a higher court subpoena over a lower court when a time conflict arises. However, in all cases, employees shall promptly notify the lower court, and the assigned prosecutor, of the subpoena served from the higher standing court. If an employee has a question about how a subpoena is being served or a conflict with the time of the requested appearance, the employee should contact the city attorney for guidance.

#### **IV. SEXUAL HARASSMENT/SEXUAL DISCRIMINATION**

We are committed to taking all steps necessary to maintain a workplace free of harassment and intimidation of any type, including sexual harassment. To maintain a quality working environment for all members or potential members of this Department so that they may work free from intimidation, humiliation, insult or be subjected to offensive physical or verbal abuse or actions of sexual, ethnic, racial, gender-based or religious nature, the Aberdeen Police Department enforces the Employment Policies, Practices and Sexual Harassment policies adopted by the City of Aberdeen and will not tolerate any sexual, ethnic, racial or religious harassment by its members. I encourage you to review it at your earliest convenience.

When a person's sexual attentions to another are unwelcome, and that fact has been conveyed, continued attention becomes harassment.

"Unwelcome" means an employee did not solicit invite or otherwise encourage it and regarded the conduct as undesirable or offensive.

We want all our employees to know how to clearly establish that behavior is unwelcome. State what you don't want. Be brief and direct. Do not use humor or offer excuses. Regarding request, say: "I'm offended by that and I want it stopped now." If the behavior continues, report it to your direct supervisor, your Division Commander, or the City of Aberdeen's HR Director, so that the matter can be investigated, and appropriate action taken.

The City's policy would be violated if anyone in a position of power and authority engaged in sexual advances through threats or rewards. Examples include a supervisor: Threatening an employee for failing to go along with sexual advances with discipline or discharge, a blocked promotion or negative performance review. Offering rewards for accommodating sexual advances such as promotion, raise or choice assignment.

## **V. CIVIL PROCESS PROCEDURES WITH DEPARTMENT/MEMBERS**

### **A. INTRODUCTION**

With increasing frequency, persons at all levels of government are being sued and held individually liable. Whether this arises as a direct result of an "official action" or an incident outside the scope of employment, it impacts the members and the Department. The following procedure addresses the processing of civil papers served on the Department and/or its members.

### **B. PROCEDURE**

#### **1. Acceptance of Civil Process**

All civil process (subpoena, notice of lawsuit, complaint, or summons) shall be served on and accepted only by the member named on the process. If only the jurisdiction is named, the process server shall be informed that service may be made only on the Mayor of the City of Aberdeen.

#### **2. Any member who receives a civil process to appear as a defendant or witness in any civil action related to any circumstances arising from the performance of their duties shall immediately make one copy of the entire civil process and hand deliver the copy to the Division Commander. The civil process shall be handled as any other incoming subpoena.**

##### **a. Duties of the Division Commander Upon Receiving Copies of Civil Process:**

##### **1) Notify the Chief of Police of the civil process;**

- 2) If the civil process is the result of a work related activity and lists the member as a defendant, the Division Commander shall immediately notify the City Attorney's Office. The copy of the entire civil process shall be hand carried to the City Attorney's Office.
  - b. Obtain copies of all Department reports and documents about the action; and ensure the file is complete, review it with the Chief of Police.
3. Procedure when Civil Suit is Likely

When a member has reason to believe that they may be sued due to circumstances arising from the performance of their duty as a City employee, but has not been served civil process, they shall immediately notify their supervisor by memorandum. The memorandum shall outline their actions in the incident and their reasons for believing a civil suit will result. The supervisor shall then forward the memorandum and related reports to the Division Commander who shall notify the Chief of Police.
4. Suits Against Employees

Any employee who is being sued for his/her action arising from their employment with the Department shall notify the Chief of Police immediately in writing.
5. Civil Process Arising from Non-Official Actions

When a member has reason to believe that the member may be sued due to circumstances not arising from the performance of their duties as a City employee, but the legal action may have an effect on their employment or have an adverse effect on the Department, the member shall immediately notify their supervisor.
6. Civil Depositions and Affidavits

Members shall confer with their Division Commander before giving a deposition or affidavit on a civil case. If the Division Commander determines that the case is of importance to the City, he/she shall inform the Chief of Police before the deposition or affidavit is given.
7. Civil Complaints by Members

Members who initiate civil litigation against a person for damages incurred during the conduct of duty will notify the Chief of Police in writing of his/her intent to seek damages. Members who have received salary from the City during sick leave for injury or illness sustained off duty shall notify the Chief of Police in writing of any intent to sue, solicit, or accept compensation as damages for such illness or injury. This notice shall be filed with the Chief of Police before any action is taken and shall include the facts of the claim and the name of the respondent.

8. Procedure When a Member Starts a Civil Suit Related to Employment with the City

When a member plans to start any civil action resulting from their employment with the City, the employee shall notify the Chief of Police in writing

9. Civil Cases

Members shall not assist in civil cases unless the specific consent of the Chief of Police is obtained. They shall avoid entering into civil disputes particularly while performing their police duties, but shall prevent or abate a breach of the peace or crime in such cases.