

LUNA COUNTY SHERIFF'S OFFICE



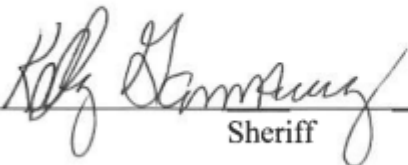
STANDARD OPERATING PROCEDURES MANUAL

PREFACE

To make an order manual effective, it must become a living document consistently applied to supervision, training, and discipline. A manual must not exist for the sole reason of "having it in writing," a document which gathers dust in the Sheriff's Office. It should be read, consulted, debated, refined, and updated; it must mirror the attitudes, thinking, and behavior of the agency.

Widespread adoption of policies as they appear herein will undoubtedly promote uniformity among local agencies' manuals. Some executives might object that any uniformity in policies would decrease local autonomy or may lead to consolidation of small agencies. On the contrary, experience elsewhere has shown that some uniformity in policies will strengthen the position of law enforcement executives and their agencies because, while speaking as one voice through shared policies and procedures, executives exert stronger leadership, thus deflecting external influences such as court-imposed measures from determining policy.

- Develop proactive management systems.
- Obtain impartial guidelines for agency review.
- Establish documented, carefully tested procedures.
- Reduce the likelihood of vicarious liability litigation.
- Secure community, state, and local government support.

_____
Sheriff

12-3-19

Date

FOREWORD

The policy manual is the property of the Luna County Sheriff's Office and shall be returned when members terminate their employment. A copy of this manual will be posted on the Office's website.

This manual cannot cover every aspect of law enforcement work or provide guidance in handling every possible situation.

Rather, members will have to use experience, training, and good judgment to decide the best and safest way of handling any problem.

I shall vigorously enforce the rules of this manual; I expect members of the department to observe them. I will review each violation, if necessary and determine any disciplinary action. Although much law enforcement work is left to members' discretion, if any employee departs from the provisions herein, he or she must demonstrate that his or her action was necessary.

I shall issue each member of the department with a copy of this manual, hereinafter called the Luna County Sheriff's Office Policy Manual. Members shall keep it in good condition and make deletions or additions as ordered.


Whenever members doubt the meaning or intent of a rule, policy, or procedure, they shall seek an interpretation or explanation from me.

All previously issued rules, policies, and procedures inconsistent or in conflict with this manual are hereby revoked.

Much research and preparation was performed in constructing this manual. I hope it will help you to understand what I expect of your performance as law enforcement professional.



Sheriff



Date

ACKNOWLEDGEMENT FORM

I have received a copy of the Luna County Sheriff's Office policies and procedures manual on _____ (date). I agree to keep the manual in good condition, and to update or revise it as ordered. I further understand that the manual is the property of the Luna County Sheriff's Office and that I must return it when ordered by the Sheriff. I understand that the Luna County Sheriff has the right to unilaterally alter, amend or rescind any specific provision in the manual or the entire manual at any time.

Name (print) _____

Signature _____

Date _____

I certify that _____ has been

trained in the contents of this manual.

Date completed: _____

Sheriff

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Mission Statement

It is the mission of the Luna County Sheriff's Office to provide the highest quality law enforcement protection to all citizens of Luna County and their property and the promotion through coordination with all other like-minded citizen groups and governmental agencies.

Objective

- To eliminate, as much as resources allow, violent crime against persons, property crime, the unlawful influence of alcohol or drugs through the application of effective proactive law enforcement methods.
- To use available resources to reduce traffic accidents, industrial accidents and accidents in the home, through traffic enforcement, support for code enforcement and community safety education.
- To provide anti-drug, anti-gang, anti-alcohol abuse, and anti-substance use/abuse training and education for Luna County public school students.
- To protect our senior citizens with home safety, abuse, and exploitation awareness education.

THIS STANDARD OPERATING PROCEDURES MANUAL IS INTENDED ONLY AS A GENERAL GUIDELINE OF EXPECTATIONS AND PROCEDURES. **THIS MANUAL AND THESE POLICIES DO NOT CONSTITUTE AN EXPRESSED OR IMPLIED EMPLOYMENT CONTRACT.** THEY MAY BE CHANGED OR WITHDRAWN FROM TIME TO TIME AT THE SOLE DISCRETION OF THE LUNA COUNTY SHERIFF. ALTHOUGH THE LUNA COUNTY SHERIFF'S OFFICE ENDEAVORS TO APPLY THESE POLICIES UNIFORMLY, A PARTICULAR INSTANCE MAY REQUIRE A DEVIATION. FURTHER, FROM TIME TO TIME, OTHER RULES OF CONDUCT NOT INCLUDED IN THIS MANUAL INCLUDING ANY COLLECTIVE BARGAINING AGREEMENT IN EFFECT, MAY APPLY AT DIFFERENT LOCATIONS AND DIFFERENT TIMES.

The Luna County Sheriff's Office is committed to providing a non-discriminatory employment environment for its employees.

The policy of the Luna County Sheriff's Office is to fully comply with applicable federal, state and local laws, rules and regulations in the area of non-discrimination in employment.

Discrimination against employees and applicants due to race, color, religion, sex

(including sexual harassment), gender identification, genetic information, national origin, disability, age (40 years or older), military and veteran status is prohibited. Violations of this policy will be subject to discipline, up to and including termination.

Equal employment opportunity and non-discriminatory commitments include, but are not limited to, the areas of hiring, promotion, demotion or transfer, recruitment, discipline, layoff or termination, rate of compensation and company sponsored training.

All employees are expected to comply with this Equal Employment Opportunity Policy.

Managers and supervisors who are responsible for meeting business objectives are expected to cooperate fully in meeting the Luna County Sheriff's Office's equal employment opportunity objectives.

Any employee who believes he or she has been discriminated against must immediately report any incident to the Luna County HR Department.

The Luna County Sheriff's Office will not tolerate retaliation against any employee who reports acts of discrimination or provides information in connection with any such complaint.

If you have any questions regarding this policy, please contact the Luna County HR Department, at (575) 546-0494.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Organization of Manual; Definitions	NUMBER: 1-1
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

General order
Memorandum
Organization of manual
Policy
Procedure
Rule
Rule and Regulation

I. POLICY

Law enforcement agencies provide essential services to citizens to foster safer communities through crime reduction and deterrence. Law enforcement administrators should train, supervise, and guide their personnel in performing a variety of tasks which help create safer communities. Solid training and policy bolsters employee confidence and competence in performing tasks while reducing vulnerability to liability. To meet these obligations, agencies must manage themselves according to written orders. This manual of policies, rules, and procedures guides the day-to-day legal and ethical functioning of this enforcement agency.

II. PURPOSE

This Regulation outlines the organization of the Manual and defines three kinds of statements that appear in General Orders and Rules and Regulations: Policy, Rule, and Procedure.

III. DEFINITIONS

- A. A Policy is a statement of the department's philosophy on a given issue. Policy consists of principles and values which guide the performance of departmental employees.

Policy is based upon ethics, experience, the law, and the needs of the community.

1. Each Rule or Regulation or General Order will begin with an agency policy statement.
2. Only the Sheriff is authorized to determine department operational policy.

The county personnel ordinance, in conjunction with any collective bargaining agreement in effect, approved by the commission shall govern personnel policies.

- B. A Rule is a specific prohibition or requirement governing the behavior of employees.
1. Rules permit little if any deviation. Violations of Rules normally result in discipline.
 2. Rules appear in both General Orders and Rules and Regulations.
- C. A Procedure defines a method of performing an operation or a manner of proceeding on a course of action. It differs from Policy in that it directs action in a particular situation to perform a specific task within the guidelines of Policy.
1. Unlike Rules, failure to follow a Procedure may or may not result in discipline. Procedures constitute the agency-approved guide to performing tasks. Departmental employees may depart from Procedures only when, in their professional judgment, the situation warrants. Departmental employees must be prepared to justify their actions in such instances.
 2. Procedures appear mostly in General Orders and to a lesser extent within Rules and Regulations.
- D. A Memorandum may be issued by the Sheriff or designee and either (1) provides useful, specific information to members or (2) constitutes a directive affecting specific behavior for a specific event or time period and is usually self-canceling.
- E. The Manual is this Standard Operating Procedures Manual and is a collection of Rules and Regulations and General Orders of the Luna County Sheriff's Office.

IV. ORGANIZATION OF THE MANUAL

- A. The Manual is divided into two components: Rules and Regulations, and General Orders.

1. A Rule and Regulation, which contains Rules primarily, is an administrative order governing organizational matters, e.g., leave policy, off-duty employment, and promotions.
 - a. Because they contain many rule statements, Rules and Regulations permit little, if any, deviation. Violations of Rules and Regulations normally result in administrative discipline.
 - b. The Sheriff issues Rules and Regulations (abbreviated RR).
 2. A General Order, which primarily contains Procedures, is an administrative order governing operational matters, e.g., use of force, transportation of prisoners, or searches and seizures.
 - a. Because they contain many procedural statements, General Orders permit a window of discretion. While violations of General Orders may result in administrative discipline, the agency recognizes that a departmental employee may depart from Procedures if, in the departmental employee's professional opinion, the circumstances warrant. Departmental employees must justify their actions accordingly in such instances.
 - b. The Sheriff issues general orders (abbreviated GO).
- B. Rules and Regulations are numbered consecutively, preceded by "1-()." General Orders are numbered consecutively "2-()." Individual pages are numbered consecutively within a given regulation or general order.
1. Example
 - 1-5.3 (The 1 signifies rule or regulation; 5 signifies regulation number 5, and 3 means page 3.)
- C. No Rule and Regulation or General Order is valid unless signed by the Sheriff. This does not invalidate previous Rules, Regulations or General Orders the Sheriff deems necessary.
- D. Within the context of any directive, the use of the word "shall" denotes an action or behavior that is mandatory and unequivocal. The words "may" or "can" denote an action or behavior that is optional.

LUNA COUNTY SHERIFF		RULES AND REGULATIONS	
SUBJECT: General rules of Conduct		NUMBER: 1-2	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

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I. POLICY

The Luna County Sheriff's Office expects its personnel to maintain high standards of appearance and conduct. The public similarly expects such high standards. Deputies wield considerable power over the citizenry, power that is carefully circumscribed by state and federal law, and, ultimately, by the Constitution and Bill of Rights. Our powers to arrest, seize property, and interfere, at times; with the lives of citizens constitute a public trust. We can help insure that we live up to this trust through exemplary performance in our jobs. Performance is not enough: we must always conduct ourselves in an exemplary fashion.

II. PURPOSE

To define departmental expectations for personal behavior both on-duty and off-duty.

III. DEFINITIONS

All deputies will display the degree of integrity required by the 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 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 law 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 duty.

I will never act officiously or permit personal feelings, prejudice, 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 law enforcement service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession-law enforcement."

IV. GENERAL DUTIES

A. All deputies of the department will, at all times, within jurisdictional limits, prevent crime, preserve the peace, protect life and property, detect and arrest violators of the law, and enforce the laws of the United States, State of New Mexico, and all local ordinances, in accordance with the rules, regulations, policies, procedures, and orders of the jurisdiction and the department. Deputies will be conscious that when they act under "color of law," that the phrase includes not only laws but also policies, procedures, ordinances, common usage, and custom.

B. Obedience to laws, ordinances, rules, regulations

1. DEFINITION – Members of the department will obey all federal and state laws. They will also obey all laws and ordinances of Luna County or other municipality in which the members may be present. Members will obey all rules, regulations, directives, and orders as may be issued by the department. The term "members" includes both sworn and non-sworn personnel.
2. AUTHORITY - Members of the department will obey all lawful orders issued to them by competent authority.
3. VIOLATION OF LAW - Supervisory members of the department will not knowingly or willfully issue any order in violation of any law or ordinance or of any rule, regulation, general or special order of the department.
4. CONFLICT OF ORDERS - To permit effective supervision, direction, and control, members should promptly obey any lawful order of a superior, including any order relayed from a superior by a member of the same or lesser rank.

In the event a member is given two apparently lawful but different orders that may be in conflict, the last order given should be complied with unless the order is retracted or modified. In the event a member receives conflicting orders; the member should inform the person giving the last order of the conflict of orders. That person giving the conflicting order should then resolve the conflict by retracting, modifying or requesting the member to comply with the latest order. In the event the conflicting order is not altered or retracted, the member will not be held responsible for disobedience of the order or directive previously issued.

5. OBEDIENCE TO ORDERS - No member of the department is required to

obey any order which is contrary to the laws of the United States, State of New Mexico, or Luna County ordinances; however, such refusal to obey is the responsibility of the member and he/she will be required to justify his/her action.

6. CIVIL RIGHTS - All members shall take care to observe and respect the civil rights of citizens, as the term "civil rights" is commonly understood.
7. ARRESTS OF LAW ENFORCEMENT— A deputy who arrests a member of another law enforcement agency shall immediately notify his own supervisor of the fact. Deputies must take whatever action is appropriate to the circumstances, including issuance of citations or making an in-custody arrest.
8. EVIDENCE - Evidence or contraband will be stored in the department evidence storage.
 - a. Deputies shall report evidence not contraband obtained during their investigations to the District Court and dispose of it according to Court's recommendation.
 - b. Deputies shall not give away evidence to anyone. Further, deputies shall not appropriate any evidence or other property to their own use under any circumstances.
 - c. If any citizen refuses to accept returned property that was used as evidence or otherwise acquired by the department, the property shall be destroyed (if perishable) or auctioned, if appropriate, under supervision of the Sheriff.
9. LOST PROPERTY - Deputies who encounter lost property shall treat such property as evidence, storing it in the department locker, if possible, or otherwise securing the property under guidance of the Sheriff. Deputies shall document the circumstances and describe the property. Deputies shall make a reasonable effort to ascertain the owner of the property and return it. Upon releasing property, or obtaining property from a citizen who finds it, deputies shall write a receipt.
10. FALSE STATEMENTS - On any official matter whatsoever, members shall not knowingly make any false statements or misrepresentations of the facts.
11. ENFORCEMENT WHILE OFF-DUTY - If a deputy, while off-duty, witnesses a violation of the law committed in his presence which, in his

professional judgment, demands immediate attention, he may make an arrest, providing:

- a. The law violation was committed in Luna County, and
- b. The deputy does not use his own personal vehicle to chase or pursue the violator, and shall observe all traffic laws applicable to citizens, and
- c. The deputy displays department identification to the violator and announces his purpose, and
- d. The deputy has no personal interest in the matter, and
- e. The deputy has not consumed an intoxicating liquor and/or drug, and
- f. The deputy can make the arrest without jeopardizing his own safety, the safety of the violator, or of the public.

12. BRIBES - Members of the department found to have accepted bribes shall be dismissed.

13. USE OF FORCE - GENERAL - Deputies shall use only the force reasonably necessary to accomplish a legitimate law enforcement purpose. Further, deputies shall exhaust all reasonable means of apprehension and control within their abilities before resorting to the use of deadly force. Further guidelines concerning the use of force are outlined in General Order 2-6.

- a. Violation of the use of force and deadly force orders herein may subject the deputy to administrative discipline, civil suits, and criminal prosecution.

14. DEADLY FORCE - Deputies may use deadly force:

- a. To defend themselves or other persons from what the deputy perceives as an immediate threat of death or serious injury.
- b. To effect an arrest or prevent an escape when the deputy reasonably believes the suspect or escapee has killed or seriously injured another person or poses an immediate threat to kill or otherwise seriously injure another person, and alternate means of

arrest has either been tried or would involve a risk of death or serious injury to the deputy or others. See General Order 2-6.

15. WARNING SHOTS - Warning shots are strictly prohibited.
16. REPORTING USE OF FORCE - Deputies shall report any use of force to their superior as soon as practicable.
17. MEDICAL ASSISTANCE - Deputies shall render, or cause to be rendered, medical assistance to any injured person or persons requesting medical assistance.

C. Disciplinary actions

1. Disciplinary actions may include a written reprimand, suspension without pay or termination.
2. As appropriate, disciplinary actions may be taken for any of the following reasons:
 - a. Incompetent or inefficient performance of duty orientation to or dereliction of duty.
 - b. Insubordination, discourteous treatment of the public or a fellow member, or any act of omission or commission of similar nature discrediting or injuring the public service or any act jeopardizing the effective functioning of their service whether committed on or off duty.
 - c. Mental or physical unfitness for the position which the member holds.
 - d. Conviction of a felony or misdemeanor involving conduct which shocks the conscience of a reasonable person, or a pattern of misconduct as displayed by series of convictions of misdemeanors.
 - e. Failure to report to an appropriate superior authority the incompetence, misconduct, inefficiency, neglect of duty, or any other form of misconduct or negligence of which the member has knowledge.
 - f. Failure of a supervisory member to take corrective action regarding members under their supervision who may be guilty of

any form of neglect of duty or misconduct where the supervisor knows or should have known of such dereliction.

- g. Results of an internal affairs investigation regardless of the outcome on criminal prosecution.
 - h. Loss of the right to carry a firearm.
 - i. Off-duty conduct that reflects poorly on the department.
3. Examples of behavior specifically prohibited include:
- a. Use of alcoholic beverages on duty, or drunkenness on duty.
 - b. Use of illegal drugs or narcotics.
 - c. Buying alcoholic beverages while on-duty.
 - d. Providing bail for anyone other than a family member.
 - e. Releasing any information to a suspect or convicted person that would enable an escape from custody or hamper an investigation.
 - f. Selling, trading, or buying chances or bets, or any other gambling while on duty.
 - g. Recommending legal counsel or bondsmen to any person.
 - h. Use of harsh, profane, or obscene language to any member of the department or to the public.
 - i. Sleeping on duty.
 - j. Sexual activities on duty.
 - k. Any conduct inconsistent with any provision of these SOPs.
4. **Nothing in these rules and regulations limits the charges against members because the alleged act or omission does not specifically appear in this manual, orders of the department, or in the laws or ordinances of which the department is responsible to enforce. (These are just examples.)**

D. GENERAL CONDUCT

1. Members of the department will display respect for their superiors, subordinates, and associates. When on-duty and in the presence of the public, superiors shall be addressed or referred to by rank.
2. Members of the department will address their subordinates, associates, supervisors or members of the general public courteously, and will not use abusive, violent, insulting or provoking language which could be deemed insulting to any person or group by reason of their racial or ethnic background.
3. Members of the department will at all times be civil and courteous. They will maintain an even disposition and remain calm, regardless of provocation, in executing their duties.
4. Members of the department will not gossip or speak rumors detrimental to the department, another employee, a public official, or the public.
5. Members of the department will always display absolute honesty.
6. Members of the department will cooperate and coordinate their efforts with other members to insure maximum effectiveness. This high degree of cooperation and coordination will extend to other law enforcement organizations and government agencies.
7. Members will restrict personal conversations or personal associations to an appropriate minimum while on duty.
8. A deputy will not display cowardice in the line of duty or in any situation where the public or another law enforcement officer might be subjected to physical danger. Unless actually incapacitated themselves, deputies will aid, assist, and protect fellow deputies in time of danger or under conditions where danger might reasonably be impending.
9. Members of the department will not at any time use or attempt to use their official position, badge or credentials for personal or financial gain or advantage.
10. Members shall adhere to the county personnel policies.

E GIFTS, GRATUITIES, REWARDS

1. Members will not solicit any gifts, gratuities, loans or fees where there is any direct or indirect connection between the solicitation and their departmental employment.

2. Members will not accept either directly or indirectly any gifts, gratuity, loan or fee or any other thing of value arising from or offered because of law enforcement employment or any activity connected with law enforcement employment.
3. Members will not accept any gift, gratuity or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of the member or any other member in any manner of official business: or which might be used to cast any adverse reflection on the department or any member thereof.
4. No member of the department will receive any gift or gratuity from other members junior in rank without the express permission of the Sheriff.
5. Members will not accept any gift, gratuity or reward in money or other considerations for services in line of duty to the community, or to any person, business or agency except lawful salary and that authorized by the Sheriff.

F. DUTY

1. Members of the department will report for duty at the time and place specified by their assignment or orders and complete the number of hours on duty, required by their assignment.
2. Members of the department, while on duty, will remain alert and awake, unencumbered by alcoholic beverages, prescription drugs, illegal narcotics, or conflicts arising from off-duty employment.
3. Members of the department, while on duty, will not engage in any activity or personal business that would cause them to neglect their duty.
4. Members serve in order to protect lives, preserve the peace, enforce the laws of the county and state, and assist the public in any reasonable request.
5. Members shall identify themselves to any person requesting a member's name, rank, and badge number.
6. All sworn members shall maintain a telephone. Members shall notify the Sheriff of their telephone number, address, and any changes thereto.
7. All members shall complete and submit all forms and reports required by the department and the laws of the State of New Mexico by the end of shift.

8. Members shall not provide information from computer-based vehicle license checks to citizens.
9. If injured, members shall promptly notify their supervisor of the injury and the circumstances.
10. Members, while on duty, shall constantly keep the dispatcher informed of their whereabouts. To this end, members will keep their portable radios charged, turned on, and in their immediate possession at all times.
11. Members shall maintain a professional attitude and manner when communicating by radio. Members shall communicate by abiding by FCC requirements and the requirements of the department.
12. Members shall not loiter at the Sheriff's office or facilities, but shall use the facilities for professional purposes only. Each member is responsible for the cleanliness and upkeep of the Department facilities and equipment.
13. Members shall not use county vehicles for personal business or transportation of unauthorized persons, except in emergencies. Requests to use county vehicles for personal business shall be made to the Sheriff. Authorized persons include arrestee, detained juveniles, victims, witnesses, citizen ride-along, and others deemed necessary for county business.
14. Members shall clean the interiors of their county vehicles regularly. Members shall have their county vehicles washed as appropriate.
15. Members shall keep their financial affairs in good order and under control. Excessive debt may be a cause for disciplinary action.
16. No member shall use his or her position with the department for personal or monetary gain.
17. Members are permitted to make long distance telephone calls when necessary for official purposes. If the call is personal, the member will so advise the Sheriff, and the member may later be required to pay the cost of the call.
18. Members must carry law enforcement identification and a valid driver's license with them while on duty or while in a county vehicle.

G. LEAVE

1. Members of the department will not be absent from duty without first obtaining permission from their supervisors.
2. Members of the department will, in situations requiring emergency leave or sick leave, notify their supervisors of the circumstances as soon as possible.
3. Members must request, in writing, vacations longer than two days, at least two (2) weeks before they wish to take them.

H. INFORMATION

1. Members of the department will not communicate to any person not a member of this department any information concerning operations, activities or matters of law enforcement business, the release of which is prohibited by law or which may have an adverse impact on the department image, operations, or administration.
2. Members of the department will communicate promptly to the appropriate supervisor, through the chain of command, information regarding tips on crimes or criminal activity or other relevant law enforcement information which may come into their possession.

I. PUBLIC APPEARANCES

If a member receives a request to make a public presentation or appearance, or publish an article concerning his duties, he shall request permission from the Sheriff. The department wishes no interference with the First Amendment rights of members. The department can and will, however, authorize appearances or writings that represent the agency.

J. USE OF ALCOHOL

1. Members of the department will not drink any alcoholic beverage while on duty. Sworn members working undercover in plainclothes, with the consent of their commanding officer, may drink limited quantities while on duty when necessary to accomplish a law enforcement mission.
2. Members of the department will not appear for regular duty, or be on regular duty, while under the influence of intoxicants to any degree whatsoever or with an odor of intoxicants on their breath.
3. In the event of an emergency recall, each member must determine fitness for duty if alcohol has been consumed. A supervisor will be consulted and

asked to confirm or deny, as appropriate, the member's judgment in the matter. No adverse actions will be taken if, in an emergency recall, the member believes self to be incapacitated for duty, says so, or is told so by a supervisor, before actually going on duty.

4. Members shall not carry weapons when off duty in a situation the member deems socially inappropriate or where the member may consume an alcoholic beverage.

K. USE OF DRUGS

Members of the department will not use any narcotic, stimulating or dangerous drug while on-duty or off-duty unless prescribed by a physician. Members using any prescribed drug or narcotic that could possibly induce impairment of their performance will notify their supervisor.

L. USE OF TOBACCO

Members of the department will not use tobacco (smokeless or otherwise) while engaged in traffic control, on an investigation, or while otherwise in contact with the public.

M. PROPERTY, EQUIPMENT AND UNIFORM

1. Members of the department will be responsible for the proper care and the use of department property and equipment assigned to or used by them and will promptly report to their supervisors any loss, damage, destruction or defect therein.
2. Members of the department will operate department vehicles and other equipment in such a manner as to avoid injury to persons or damage to property. Whenever a county vehicle is involved in an accident, the operator will notify a supervisor immediately. Under no circumstances will a deputy investigate his or her own accident. Preferably, an officer from another agency will conduct the investigation.
3. At the beginning of a tour of duty, members will examine any vehicle assigned to them and report any operational deficiencies, damage or defects to their supervisors. Failure to report damage or defects will create the presumption that the member inspected the vehicle and found no damage or defects. The member, in this case, will be held responsible for the damage.

4. Members shall keep their uniforms clean and pressed, their shoes and other leather equipment polished and shined, and badges and name plates clean and bright.
5. Members wearing civilian clothing on duty will present a neat and clean appearance. Members will wear clothing which is appropriate to the type of duties and citizen contact expected. Civilian dress should not be a source of negative comment from the community. T-shirts will not be authorized for civilian attire, without prior approval from the Sheriff. Shirts shall be tucked in and shall not be emblazoned with brand identification.
6. Members of the department will not temporarily or permanently convert any department property to their own personal use or the use of any other person.
7. When a member of the department terminates employment, all issued equipment will be returned on the day the termination is effective. Failure to return all items of county property may result in withholding final pay or legal action.
8. Members of the department will have as a part of their issued equipment a copy of the rules and regulations and general orders manual, and will maintain and make appropriate changes or inserts as directed.
9. The Luna County Sheriff's Office furnishes uniforms and issues equipment authorized for on-duty use. All assigned equipment will be recorded by an LCSO supervisor and an inventory list of assigned equipment will also be maintained by supervisor.
10. All uniforms shall be tan with black leather gear. Uniform shirts and coats must display the department patch on each shoulder.
11. Uniforms or appropriate courtroom attire will be worn for all court appearances (see IV, S, 3).
12. When uniform items are damaged or worn out and needing replacement, members shall request replacement or repair in writing to the Sheriff, giving reasons why items were damaged.
13. The Luna County Sheriff's Office authorizes three styles of uniform to be worn while on duty; The Class A, Class B and the Class C.

- a. The class A uniform consists of the long sleeve tan shirt, trousers without cargo pocket and Sheriff black tie. Black leather boots/shoes with campaign hat (hat is optional). (This uniform is authorized year round.)
 - b. The class B uniform consists of the short or long sleeve tan shirt, trousers without cargo pocket trousers, tie optional with long sleeve shirt, optional hat. Black leather boots/shoes. No tie with short sleeves.
 - c. The class C uniform consists of a black tactical or polo style shirt, long or short sleeve with either embroidered or patch badge with tan cargo style trousers, and black boots with optional ball cap.
- 14. While on duty in any of the three uniforms the body armor vest (duty vest) will be worn, either in the internal carrier or in the approved external carrier at the discretion of the Sheriff. While wearing the class A uniform, only the internal vest carrier will be authorized.
 - 15. The class C uniform will only be worn during specialized overtime, prisoner transports, trainings and during special functions as authorized by the Sheriff.

NO EXCEPTIONS TO THIS PROCEDURE WILL BE MADE.

N. PART-TIME OR OFF-DUTY EMPLOYMENT

Before engaging in any outside employment or business activity, a member shall submit a request for authorization for off-duty employment to the Sheriff for approval.

Off-duty employment activities of members are subject to the following regulations:

- 1. The employment shall not render the member unavailable during an emergency, or physically or mentally exhaust the member to the point that his performance on duty will be affected.
- 2. Employment shall not in any way conflict with objectives of the department; impair its reputation, compromise law enforcement.
- 3. The department uniform or equipment shall not be worn or used unless authorized by the Sheriff.

4. Each member while engaged in off-duty employment shall conduct himself in accordance with department standards.
5. A member, at the discretion of his commanding officer may be called on-duty at any time irrespective of his off-duty employment.

The Sheriff's decision to authorize or deny outside employment is final and appeal to higher levels will not be considered. Further guidance is found in Rules & Regulations 1-14.

O. REPORTING, ARRESTS, COURT ACTION, CIVIL CASES

1. Any member who is involved in any court action (including divorce proceedings) shall immediately report the information to their supervisor.
2. Any member of the department who becomes involved in any accident, incident, or altercation, or any problem which may come to the public attention will give oral notification as soon as possible, and within twenty-four hours in writing, to his supervisor. Supervisors will forward relevant information through the chain of command as rapidly as possible.
3. Members shall keep all complaints, arrests information, or other official business confidential. Members shall not indulge in gossip about departmental business.
4. Members shall avoid involvement in any civil disputes involving neighbors or acquaintances.

P. MEMBERSHIPS

No member of the department shall be a member of any organization which advocates the violent overthrow of the government of the United States, the State of New Mexico, or any unit of local government, or participate in any organization which has a purpose, aim, objective or any practices which are contrary to the obligations of a law enforcement officer under these rules and regulations.

Q. MONEY EXPENDITURES

1. There will be no expenditures of money or financial obligations incurred in the name of the department by any member without permission from the Sheriff.
2. All members shall follow the New Mexico Procurement Code and County

Policy when making a purchase of goods or services on behalf of the Sheriff's Office or County.

R. RESIGNATIONS

Members are asked to provide at least two weeks written notice of their intent to resign.

S. COURTROOM

All members will treat courtroom appearances with the utmost importance. Further, as a rule members must arrive at the court early enough to check the docket, if necessary, and confer with the prosecutor. Members shall observe the following rules:

1. If a member receives subpoenas requiring appearance in different courts at the same time, he or she should honor the first subpoena received. If, however, one of the subpoenas was issued by a district, it shall receive precedence over one issued by a magistrate or municipal court. Notification of the conflict to the Sheriff and court as soon as possible is required. Failure to appear in court in response to a subpoena or summons without a valid, legal excuse may result in disciplinary action.
2. A subpoena receives precedence over an order issued by a supervisor. But, the member must notify his or her supervisor of the court conflict prior to disobeying an order.
3. If on duty, sworn members will appear in court in uniform. If off duty, members shall wear either uniform or appear suitably attired in civilian clothes. Civilian attire means a tie for men, with a sport jacket or suit and equivalent clothing for women. In Magistrate Court, ties and jackets are not required, but are preferred. T-shirts and untucked shirts will not be worn in any court appearance.
4. When testifying, members will remain attentive, face the jury when giving testimony, and speak in a clear, audible tone. Members will respond to questions asked by the judge or attorneys and will not argue, interject, or offer an emotionally-charged response to any remark or question.
5. Each member shall be familiar with the laws of evidence and will testify truthfully on any matter.

V. Appendix to 1-2 General Rules of Conduct

The following list of instructions is given to you to assist you in doing your duty efficiently and fairly. It is your duty to know them. A willful disregard of these instructions may subject you to penalties, according to the magnitude of the offense, as set out in this manual.

- A. The discipline of the Sheriff's Office is measured by the way the deputies obey and execute the orders of their superiors. Obedience is the foundation upon which efficiency is based. Without this obedience and the support to your superior officers, the Department cannot function effectively. You must forget any personal feelings and respect the office and position held by those with whom you work.
- B. When you are given orders, carry them out to the best of your ability. You may differ in regard to the effect of these orders, but do as you are ordered and you will have done your part. The commanding officer may have more information than you need in regard to the matter at hand.
- C. Be loyal to your fellow deputies and your superior officers. The best deputy is the one who receives his orders and executes them without complaint or criticism. If you have a grievance, do not talk indiscreetly about your troubles with others. Go to the supervisor of your section and discuss the matter with them. You will get consideration. The longer you think of your trouble, the larger it may appear, and it may contribute to a feeling of unrest in the Department. This can result in a demoralizing effect among the deputies you come in contact with.
- D. Your conduct has much to do with general impressions the citizens have of the Sheriff's Office. Citizens very frequently gauge the whole Department by the single action of one deputy. When in uniform, whether on or off duty, you are an object of scrutiny by the public. Control your temper. If you have a duty to perform, do it with as little display as possible. Your salary comes from the taxes which citizens pay, and you are working for them. Your supervisors are placed in the positions they occupy for the purpose of directing your activities and seeing that the rules of your department and the laws are enforced.
- E. When receiving an order or executing it, receive it or execute it professionally. Do not give the impression that you would prefer to do something else or that you would get just as good results by your own methods.
- F. Orders are prepared by supervisors who, as a general rule, have risen from the ranks and who have performed duties that you now perform. They know the difficulties that deputies are apt to encounter and will therefore, in most instances, excuse honest mistakes. As a rule, they can generally tell whether or not you are or have been trying to render good and efficient service. In preparing orders, they

try to give you the procedure best suited to handle each particular condition, based upon the practical experience developed from handling the same or similar case.

- G. In the executing or transmitting of an order, do not give the impression that you are not in sympathy with the order, and that if it was left up to you, you would not enforce it. This is shirking your personal responsibility, and will impress the person, or persons, that you are unsure. The public cannot expect much protection from a deputy who apologizes for doing their duty.
- H. Every deputy shall hold themselves in readiness to answer calls and obey the orders of superiors with respect. Your demeanor to your associates shall be courteous and considerate. You shall refrain from any communication which may discredit the Department. You shall conform to the rules and regulations of the County and ordinances at all times, and render your service to the County with zeal, discretion and fidelity.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Inspections	NUMBER: 1-3
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Inspections

I. POLICY

The Sheriff is responsible for establishing and maintaining a system of inspections to obtain the information needed to direct the operation of the department. Although the ultimate responsibility of inspection and control rests with the Sheriff, it must be carried out continuously at all levels of command and supervision.

The goal of inspection is to improve operational efficiency and effectiveness. Although infractions discovered during the process of inspection should be handled according to policy and the particular circumstance, inspection should not be viewed as a disciplinary process; it should be a fair, impartial, and honest appraisal of efforts. The inspector should have a positive, constructive attitude and make every effort to instill respect for and understanding of the inspection process.

II. PURPOSE

To establish Policy and Procedures for continuous inspection of the department's personnel, resources, and operational effectiveness.

III. PROCEDURES

- A. Inspection objectives: The objectives of the inspections include:
1. To learn whether a task is being performed as outlined in Policy and if Procedures are followed.
 2. To learn whether the anticipated results of orders and standards are achieved.

3. To discover whether department resources are used to the best advantage.
4. To reveal the existence of needs.

B. Inspection responsibilities:

1. Inspection shall be an ongoing process conducted by those in direct command, i.e., those who have the authority to act or require immediate action of subordinates.
2. Inspection responsibilities shall include personal inspection of departmental employees, the equipment they use, how it is used and cared for, how departmental employees perform their duties, and the result of their efforts. Departmental employees shall respond immediately to correct deficiencies identified during inspections. Additionally, inspectors shall recognize exemplary performance.
3. Formal written inspections shall be made at intervals not to exceed six months.
4. The Sheriff shall record the dates and results of each inspection. When appropriate, the sergeant or the Sheriff shall prepare any record of counseling or commendation, due to the results.
5. Supervisors shall conduct daily cursory inspections of subordinates and equipment.

LUNA COUNTY SHERIFF		RULES AND REGULATIONS	
SUBJECT: Hiring Sworn Personnel		NUMBER: 1-4	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

Adverse impact
Hiring
Lateral entry
Personnel records
Probation
Re-application (hiring)
Records

I. POLICY

- A. It is the Policy of The County of Luna to hire qualified persons to fill the vacancies in the Luna County Sheriff's Office. This will be done in accordance with all applicable Federal Standards, State of New Mexico Statutes and standard practices and the collective bargaining agreement then in effect.

II. PURPOSE

- A. It is the purpose of this Policy to hire personnel who will provide a professional, effective and proficient service to the community as a police officer. It also serves as a guideline during this process in order to hire persons who are capable of obtaining certification through the State of New Mexico Law Enforcement Academy. The persons who are hired will, through the selection process prove that they meet the standards dictated by the NM State Academy Board.

III. SELECTION AND HIRING

Subject to any restrictions or requirements contained in any collective bargaining agreement then in effect:

- A. Each applicant must have a completed application on file prior to being hired.

- B. Each applicant must meet the minimum requirements for the position applied for.
- C. Each applicant must pass a background check that includes a minimum requirement found in Section 29-7-6, NMSA 1978 if applicable.
- D. Each applicant must pass a written exam and oral exam, as required at the discretion of the Sheriff.
- E. Non-certified applicants will be subject to a physical agility test for the position of Deputy prior to any written and oral examinations.
- F. Each applicant will receive notice as to testing dates. Upon successful completion of the written test, an oral interview will then be conducted. The date, time and location for the interview will be provided to the applicant in advance.
- G. Any successful non-certified applicant must also pass a psychological test, physical and/or other tests required by the New Mexico Law Enforcement Academy and the Luna County/Luna County Sheriff's Office. All non-certified applicants will be subject to a contractual agreement to be entered between the Luna County/Luna County Sheriff's Office and the new officer outlining the conditions of employment for the non-certified officer.
- H. Upon being contingently hired the applicant must pass a drug screen test and pre-employment physical.
- I. Any successful certified/lateral applicant may not be required to take any additional test other than drug screen and pre-employment physical. The certified/lateral applicant will not enjoy seniority over any individual currently employed by the department based on his/her prior service with another agency, or this agency.
- J. Human Resources will maintain all applications that were not selected for the position for a period of five (5) years.
- K. Records of the testing results of each applicant shall be kept for a minimum of five (5) years. The records will be kept by the Luna County Human Resource Director.
- L. Unsuccessful applicants may re-apply after 90 days from the date of last application if a vacancy exists.

IV. PHYSICAL TESTING

- A. A physical agility test will be given for all non-certified applicants who completely and properly filled out an application for Deputy Sheriff and were selected to advance in the hiring process.

- B. This test will utilize the standards set by the New Mexico Law Enforcement Academy.
- C. This test will be conducted by personnel designated by the Sheriff and who are part of the hiring process.
- D. Applicants who do not meet the entrance standards of the Academy will not proceed to the next stage of the hiring process.

V. WRITTEN TEST

- A. A written test may be given to all applicants. The Luna County Sheriff's Office does at times accept lateral hires and a written test may or may not be administered to help determine if the applicant may be a qualified candidate to serve as a police officer.
- B. This test will be conducted by the New Mexico Labor Department and is scored by them. The Department establishes that any applicant with a score, in any one of the sections, of three or less will not proceed to the next stage of the selection process.

VI. BACKGROUND INVESTIGATION

- A. All applicants will sign a Release of Information as a part of the application.
- B. A current member of the Luna County Sheriff's Office certified to conduct the background investigation, will conduct the background investigation and document their findings.
- C. Any backup documentation will also be attached.

VII. ORAL INTERVIEW

- A. The employees assigned to the hiring process will use current questions related to the specific opening. All applicants, regardless of experience, will be asked questions on the same topics during that given hiring process. If questions are to be updated, amended or otherwise changed it will be done prior to any oral interview process being conducted within that hiring process.
- B. There should be a minimum of ten (10) questions which the applicant will be assessed on and scored on the form prepared by the Human Resources Department.

VIII. CONCLUSION

- A. Upon completion of the entire hiring process all applicants will be notified in writing of the applicant's disposition.

- B. Any specialized testing deemed necessary by the Sheriff will be conducted by a member of the department who can objectively interpret the testing process.
- C. Any examination required of employees in permanent, full-time jobs must be provided at no cost to the employees.
- D. Upon the Sheriff's review and approval of the hiring packet presented, the applicant may be offered a conditional offer of employment.
- E. The Sheriff, or his designee, will contact the successful applicant(s) in order to conditionally offer the position and arrange and schedule for pre-employment drug screen testing, pre-employment physical testing and a psychological evaluation. Upon successfully completing those tests the candidate will be offered the position.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Employee Discipline	NUMBER: 1-5
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA: 29-14-4

INDEX WORDS

Arrests; reporting

Counseling

Demotion

Discipline

Discipline checklist

Dismissal

Harassment

Penalties

Probationary members

Punishments

Reprimands (oral and written)

Relief from duty

Sexual harassment

Supervision

Training

I. POLICY

It is the Department's Policy to impose disciplinary action fairly and impartially and to offer adequate due process to ensure that the rights of employees are protected in compliance with Section 29-14-1, et seq., NMSA 1978. Discipline is a process of imposing formal sanctions which will help train or develop a member, preferably through constructive rather than punitive measures. Discipline in the department involves reward of members, training, counseling, and (as a last resort), punishment.

II. PURPOSE

The purpose of this order is to supplement the County's personnel policies and any collective bargaining agreement in effect. If there is a conflict between the Department's and County's policies, the county personnel policy shall prevail, and any collective bargaining agreement has supremacy over any conflicting personnel policy provisions.

III. DEFINITIONS

- A. Days: The term "days," as used herein, shall mean calendar days provided, however, that if the last day of any time period mentioned herein is a Saturday, Sunday, or holiday, the time period shall be extended to the next business day.
- B. Relief from duty: An administrative action by a superior whereby a subordinate Deputy is temporarily relieved from performing his or her duties.
- C. Discipline: A method of training or developing an employee by proper supervision and instruction. Discipline may be positive or negative reinforcement or punishment.

IV. PROCEDURES

A. Positive reinforcement

Positive reinforcement is oriented towards seeking voluntary compliance with established Policies, Procedures and orders. Methods of positive reinforcement include:

1. Recognition of excellent job performance through rewards or awards.
 - a. When positive feedback concerning a departmental employee's performance is received from people outside the department, the person who receives the information shall make a record of the comments which will be passed to the member and the member's supervisor. Normally, when the Sheriff receives positive comments about a departmental employee, he will write an acknowledgement thanking the citizen. Copies of the citizen's statement and the Sheriff's response are sent to the deputy involved, the supervisor and, if a significant action, a copy of all correspondence is placed in the departmental employee's personnel file.
 - b. Truly exceptional acts should be clearly and promptly identified to the Sheriff. Such acts may be the basis for special awards or for special recognition by citizen-community groups or media coverage.
2. Discussion and Counseling
3. Training

B. Consistency in discipline

The department abides by the philosophy that discipline must be applied consistently and uniformly. Rules & Regulations 1-12 describes complaint

procedures against departmental employees. This Order provides discussion of departmental employee recognition and penalties for various infractions.

C. Relief from duty shall be imposed whenever a supervisor, whether the Sheriff, sergeant, or senior member, questions a departmental employee's physical or psychological fitness for duty. An internal affairs investigation may follow.

1. The supervisor has authority to relieve a departmental employee r from duty, but must promptly report such action to the Sheriff, accompanied by a written report setting forth details and circumstances.
2. If there is no immediate need to relieve a departmental employee from duty, the behavior or actions of the departmental employee shall be deemed a matter of internal affairs. In the event of an internal affairs investigation, only the Sheriff may relieve the departmental employee from duty.
3. A departmental employee who refuses to obey a direct order in conformance with the department's rules, regulations, and orders may be relieved from duty by the shift supervisor, who may recommend suspension to the Sheriff.

D. Penalties - The following penalties are:

1. Written reprimand
2. Suspension without pay
3. Dismissal from department.

E. Written reprimand:

A written reprimand, issued by administration or a supervisor, cautions a departmental employee about poor behavior, sets forth the corrected or modified behavior mandated by the department, and specifies the penalty in case of recurrent poor behavior. A written reprimand becomes a permanent part of the departmental employee's personnel record. (Shall be reviewed by administration prior to taking action).

F. Suspension without pay:

If the situation warrants, departmental employees can be suspended without pay pursuant to county policy and any collective bargaining agreement in effect.

1. In no case shall a departmental employee convicted of a felony continue to work for the department.

1-5.3

2. The department may discipline a departmental employee for alleged criminal conduct regardless of the status or outcome of the criminal proceedings if the internal investigation sustains the allegations.

G. Dismissal/Termination:

Dismissals/terminations are made in cases of misfeasance, malfeasance, or nonfeasance of duty. A complete record of the circumstances of the misbehavior shall be made by all persons having knowledge of the misbehavior.

1. Departmental employees may protest or appeal a dismissal pursuant to county policy and any collective bargaining agreement in effect.
2. Whenever dismissal or suspension is contemplated, the department shall provide notice to the departmental employee.

H. Reporting arrests:

Any departmental employee arrested for, charged with, or convicted of any crime, or required to appear as a defendant in any criminal or civil proceedings, must so inform the Sheriff in writing as soon as possible. Departmental employees do not have to report parking tickets or minor traffic offenses. Departmental employees must report citations or arrests for reckless driving, DWI, second or more violations for speeding. Failure to notify the department of the foregoing is cause for discipline.

V. INFRACTIONS AND PUNISHMENTS

- A. Except for gross breaches of conduct, supervisors shall attempt to impose departmental employee discipline at the least punitive measures sufficient to correct the issue. If these do not work, then increasingly more severe measures may be required. While this process may take some time, it is important that each departmental employee be dealt with justly and in a manner, which clearly

indicates that positive, constructive measures to change behavior or performance preceded the imposition of more negative sanctions.

- B. Department employees are reminded that all investigations will be performed in compliance with the Peace Officers' Employer-Employee Relations Action, Section 29-14-1, et seq, NMSA 1978, county personnel rules and any collective bargaining agreement then in effect
- C. Unacceptable conduct is divided into three categories according to severity of misbehavior.

- 1. Category I

Examples:

- a. Excessive absences, tardiness.
- b. Abuse of duty time (too much time away from established duties; too much time for personal business).
- c. Abusive or obscene language.
- d. Inadequate or unsatisfactory job performance.
- e. Disruptive behavior.

Category I offenses are of minor severity yet require correction in the interest of maintaining a productive and well managed department.

Category I offenses normally result, in the first offense, in informal measures such as counseling, or perhaps by oral reprimand/formal counseling. Three Category I offenses in one year results in a written reprimand or suspension of up to five days.

A fourth instance in one year shall provide grounds for longer suspension or dismissal/termination.

- 2. Category II

Examples:

- a. Failure to follow supervisor's instructions, perform assigned work, or otherwise comply with policy.

- b. Violating safety rules without a threat to life.
- c. Unauthorized time away from work assignments without permission during duty hours.
- d. Failure to report to work without proper notice to a supervisor.
- e. Unauthorized use or misuse of department property.
- f. Refusal to work overtime.

Category II offenses include more severe acts and

misbehavior. Category II offenses normally result, in the first instance, in issuance of a written reprimand. A subsequent infraction within two years may result in suspension of up to ten days or demotion or dismissal.

3. Category III

Examples:

- a. Absence in excess of three days without notice to a superior.
- b. Use of alcohol or unlawful possession or use of a controlled substance while on duty.
- c. Reporting to work under the influence or when ability is impaired by alcohol or the unlawful use of controlled substances.
- d. Insubordination or serious breach of duty.
- e. Falsification of any reports such as, but not limited to, vouchers, official reports, time records, leave records, or knowingly making any false official statement.
- f. Willful or negligent damage or destruction of county property.
- g. Theft or unauthorized removal of departmental records or county or member property.
- h. Gambling on county property.

- i. Acts of physical violence or fighting (except official law enforcement actions).
- j. Violation of safety rules where there is a threat to life.
- k. Sleeping on duty.
- l. Participating in any kind of work slowdown, sit-down or any other concerted interference with county operations.
- m. Unauthorized possession or use of firearms, dangerous weapons, or explosives.
- n. Threatening or coercing departmental employees or supervisors.
- o. Violation of department or county policy, and engaging in workplace harassment or unlawful discrimination.
- p. Failure to take physical or mental examinations as required. The Sheriff may require mental or physical examinations of a departmental employee by a designated psychiatrist, psychologist, or physician when, in the Sheriff's sole discretion, it is in the best interest of the member, or the department.]
- q. Using public office for private gain.
- r. Engaging in criminal conduct on or off the job without regard to the outcome of criminal prosecution.
- s. Engaging in dishonest or immoral conduct that undermines the effectiveness of the agency's activities or departmental employee performance, whether on or off the job.
- t. Willful disobedience of a lawful command of a supervisor.
- u. Disclosure of confidential information to any person except those who may be entitled to such information,
- v. Taking any action which will impair the efficiency or reputation of the department or its members.
- w. Acceptance of any bribe, gift, token, money, or other things of value intended as an inducement to perform or refrain from performing any official act, or any action of extortion or other

means of obtaining money or anything of value through his position.

- x. Manifesting cowardice, feigning illness, or otherwise attempting to shirk official duty.
 - y. Involvement in any compromise between persons accused of crime and the person or persons who may have suffered from criminal acts with the purpose of allowing the accused to escape punishment.
 - z. Failure to answer questions specifically directed and related to official duties or job fitness.
- (1) The use of unnecessary force during an arrest/custody procedure.
 - (2) Deviation from established procedures in the disposition of summons or arrest cases.

Category III offenses include acts of such severity as to merit suspension or dismissal on the first occurrence. Category III offenses may be punished by suspension for 15 days (or longer, with approval of the county manager) or dismissal/termination. Category III offenses include the above pre described situations but are not limited to them.

D. Probationary Members

Probationary members may be dismissed, suspended, or otherwise disciplined according to the foregoing, however cause is not required for discipline of a probationary departmental employee and a probationary departmental employee member has no right of appeal under the county personnel policy or any collective bargaining agreement in effect.

- 1. In the case of a dismissed probationary member, the official record will merely indicate that the person was dismissed during probationary employment.

E. Workplace Harassment and Other Discrimination

Members found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, handicap, age, genetic information, or sex, gender identity, sexual orientation or sex based (including sexual

harassment) may be counseled or disciplined with a Category I, II, or III Offense, depending upon the specific facts and circumstances surrounding the incident.

F. Discipline Checklist

The following checklist, from the Management Kit of the American Management Association, should be used, by supervisors to help analyze the departmental employee's misbehavior and offer correction.

1. Have I secured the necessary facts?
 - a. Did the departmental employee have an opportunity to fully tell their side of the story?
 - b. Did I check with the departmental employee's immediate supervisor?
 - c. Did I investigate all other sources of information?
 - d. Did I hold my interview privately in order to avoid embarrassing the interested departmental employee or departmental employees ?
 - e. Did I exert every possible effort to verify the information?
 - f. Did I check the departmental employee's personnel folder to look at his past record?
2. Have I considered all the facts in deciding upon the disciplinary measure?
 - a. Have I found out what has been done in similar cases in my department?
 - b. Have I found out what has been done in similar cases in other departments?
 - c. Have I shown any discrimination toward an individual or group?
 - d. Have I let personalities affect my decision?
 - e. Does the measure fit the violation?
 - f. Will the measure prevent a recurrence?
 - g. Will the measure maintain morale?

- h. Will the measure encourage the member's initiative?
 - i. Will the measure create a desire on the part of the member to do what is right?
 - j. Have I checked this decision with my immediate supervisor and the Human Resources Department?
3. Have I administered the corrective measure in the proper manner?
- a. Did I consider whether it should be done individually or collectively?
 - b. Am I prepared to explain to the member why the action is necessary?
 - (1) The effect of the violation on the department, fellow departmental employees, and himself.
 - (2) To help them improve their efficiency and also that of the department.
 - c. Am I prepared to tell them how they can prevent a similar offense in the future?
 - d. Am I prepared to deal with any resentment they might show?
 - e. Have I filled out the appropriate disciplinary form and obtained the necessary reviews prior to be signed by the departmental member?
4. Have I made the necessary follow-up?
- a. Has the measure had the desired effect on the departmental employee?
 - b. Have I done everything possible to overcome any resentment?
 - c. Is the departmental employee convinced that the action was for their best interest?
 - d. Have I endeavored to compliment them on their good work?

- e. Has the action had the desired effects on other departmental employees in the department?

NOTE CONCERNING RULES AND REGULATIONS 1-12, COMPLAINTS AGAINST DEPARTMENT PERSONNEL

Rules & Regulations 1-12 contains a section on the use of a polygraph for internal investigative purposes. Readers of this manual will note that the polygraph is used for internal investigations only, not as part of screening applicants. Readers may wish to obtain legal advice on the use of polygraphs: as this manual goes to press, several organizations are lobbying Congress to forbid polygraph use by private businesses. Many law enforcement experts, however, continue to laud polygraphs. Section 29-14-5, NMSA 1978 does provide direction for the use of polygraph examinations. In order to make informed decisions about the use of polygraphs, law enforcement executives should understand some facts:

-In 1983, the Office of Technology Assessment (a federal institution) concluded in a study of polygraphs, "available research evidence does not establish the scientific validity of the polygraph test for personnel security screening."

-Both the American Psychological Association and the American Medical Association have stated on record that polygraph testing still produces unreliable results and should therefore receive legislative restrictions.

Based on evidence of unreliability, the Senate Judiciary Subcommittee in the 1970's concluded, "compulsory submission to a polygraph test is an affront to the integrity of the human personality that is unconscionable in a society which values the retention of individual's privacy." While the Subcommittee examined polygraph use in private business, an American Civil Liberties Union statement to the U.S. Senate (1987) noted, "The so-called 'lie detector' is really a 'stress detector' and a polygraph examiner has no scientific basis for distinguishing the stress that may indicate deception from any other stress, including fear, anger, humiliation, or frustration regarding the polygraph test itself."

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Career Development/Promotions	NUMBER: 1-6
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Promotions

I. PURPOSE

It is the intent of the Luna County Sheriff's Office to promote the highest qualified person willing to accept the responsibility of leadership and management to vacant positions within the Luna County Sheriff's Office. This policy will serve as a guideline to accomplish this in a manner which is fair and impartial to all applicants and is subordinate to the Luna County Personnel Policy and any collective bargaining agreement in effect.

II. POLICY

A. When a position of promotion is open within the department it is encouraged that all qualified personnel apply for the position.

1. The vacancy shall be posted for ten (10) days.
2. Qualifications for the position will be set by the Sheriff.
3. The employee must submit a letter of interest detailing his/her qualifications for the position to the Sheriff or his designee.
4. Employees must qualify for the position to be considered or must request a waiver to be considered from the Sheriff.
5. The candidate being selected for the promotion will be on probation for a period of one year.

B. The promotional process is calculated in the following manner:

1. 10% Overall evaluation by Sheriff. This includes but is not limited to the employees last two years of annual evaluations being averaged.
 2. 10% Meeting Job Qualifications as posted (points will be deducted if Minimal Qualifications are not met).
 3. 40% Written examination.
 4. 40% Oral Examination.
- C. After all testing processes are completed the candidates can review the results of their tests.
- D. The Sheriff will set minimal requirements.
- E. The Sheriff will ensure all elements used in the promotion process are job related.

III. ORAL INTERVIEW

The Sheriff will appoint a board of four people to be involved in the interview process for the Luna County Sheriff's Office. The board may consist of Human Resources and outside agency personnel.

- A. The questions will be standardized, concerning the current job tasks. Each assessor will give a score as to how the question was answered. A total of all points will be tallied and provided to the Sheriff for his review.
- B. Each applicant will receive notice as to testing dates and upon successful completion of the test, interview times will be advised.

IV. WRITTEN TESTING

The Sheriff can request that a written test be given when the process is competitive between one or more personnel. The Sheriff will have written tests designed by testing companies. These tests will remain sealed until testing time. Once applicants have taken the written test and turned them in for grading, the scoring will be done in accordance with the companies' recommendations. The results of the test will be forwarded to the Sheriff for his review.

Any specialized testing deemed necessary by the Sheriff will be conducted by a member of the department who can objectively interpret the testing process.

Upon completion of the testing process all applicants will be notified, in writing, by the Sheriff or his designee of the candidates' disposition.

The Sheriff will review the results of the entire promotional process and will notify the candidate about the promotion.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Career Development/Training	NUMBER: 1-7
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Career development
Counseling
In-service training
Instructors
Lesson plans
Promotion
Training

I. POLICY

The department encourages departmental employees to seek opportunities to develop their knowledge, skills, and abilities. Although all deputies must attend a basic academy and periodic in-service training, the department nevertheless tries to arrange participation in specialized or advanced training. Further, although in a small department promotion opportunities are rare, the department promotion process is fair and equitable.

Training has often been cited as one of the most important responsibilities in any law enforcement agency. Training serves three broad purposes. First, well-trained deputies are generally better prepared to act decisively and correctly in a broad spectrum of situations. Second, training results in greater productivity and effectiveness. Third, it fosters cooperation and unity of purpose. Furthermore, agencies are now being held legally accountable for the actions of their personnel and for failing to provide initial or remedial training. The department recognizes the importance of training and is committed to providing the best training available to all personnel.

II. PURPOSE

To establish guidelines for member career development to include training and promotions.

III. PROCEDURES

A. Responsibilities of the Sheriff

1. Annually, the Sheriff will meet with each departmental employee for career counseling. This counseling shall occur at the same time as the member's annual performance evaluation. The counseling shall include an examination of:
 - a. departmental employee's performance record
 - b. a review of training programs applicable to the departmental employee's duties.
2. The Sheriff shall ensure that at least one departmental employee receives and maintains certification as a firearms instructor. The Sheriff shall also ensure that at least one departmental employee receives advanced instruction in evidence collection techniques. The Sheriff shall also ensure that all deputies maintain current Red Cross First Aid/cardiopulmonary resuscitation certifications.
 - a. The Sheriff shall ensure availability of a trained armorer, either through training a departmental employee or contracting with an armorer in another jurisdiction. The armorer will inspect all firearms and ammunition at least every six months for safety, reliability and ability. The armorer will also repair broken or malfunctioning weapons.
3. The Sheriff shall ensure that any departmental employee, upon receiving a promotion or a new assignment, attends relevant training as soon as practicable.

C. Training

1. Attendance

Departmental employees are expected to attend any assigned training programs. Attendance will be documented either by the instructor or in cases where the training is at a location other than the department, documentation will be furnished by those responsible for the training. There are cases where attendance at a training program may be excused, i.e., for court appearance or sickness. Any absence must be properly excused by the administrators of the program attended and must comply with directives under which the training program is operated. The time lost must be made up before any certificate of completion is issued. Certificates will be issued to those who complete any training program.

Departmental employees shall provide a copy of the certification to the Sheriff for inclusion in the departmental employee's training file.

2. Expenses

With the exception of paper and pencils or pens, all expenses incurred by department personnel as a result of required or mandatory training will be reimbursed based on actual expense (receipts must be provided) or in the case of mileage where personnel are required to use their personal vehicles, the rate will be the current county mileage rate.

3. Performance-based training

The New Mexico Law Enforcement Academy requires performance-based basic training. This method of training, used for all training, requires the development of performance objectives. The use of performance objectives acquaints the training participants with the information they are required to know, the skill that must be demonstrated, and the circumstances under which the skills will be used. This approach also enables the instructors to relate training directly to the job performance that will be expected by supervisors. A departmental employee who develops an outline for instruction of a topic must develop objectives which:

- a. focus on the elements of the job-task analysis for which training is needed;
- b. provide clear statements of what is to be learned;
- c. provide the basis for evaluating the participants;
- d. provide the basis for evaluating the effectiveness of the training program;

4. Lesson plans

- a. Lesson plans are required for all training courses conducted or sponsored by the department. It is the responsibility of the individual instructor, whether a member of the department or not, to provide the Sheriff with a copy of the lesson plan for approval before each class.
- b. The lesson plan should include a statement of performance objectives, the content of the training, specification of the

appropriate instructional techniques, references, relationships to the job tasks, responsibilities of the participants for the material taught, and plans for evaluation of the participants. The instructional techniques that might be used include:

- (1) conferences (debate, discussion groups, panels and seminars).
- (2) field experiences (field trips, interviews, operational experiences and operational observations).
- (3) presentations (lectures, lecture-discussion, lecture-demonstration).
- (4) problem investigations (committee inquiry, critical incidents).
- (5) simulations (case study, simulation, games and role-play).

5. Remedial training

Remedial training is directed at solving or curing a particular problem or improving performance in a particular area, within a designated time and with clearly defined, expected results.

- a. Remedial training may be assigned as a result of discipline or counseling. See Employee Discipline 1-5.

6. Training records

- a. The Department shall maintain, in each training file, a training record which includes:
 - (1) date of training.
 - (2) type of training received.
 - (3) any certificate received.
 - (4) attendance.
 - (5) score.
- b. The Department shall maintain files on all in-house training courses or presentations, including:

- (1) course content (lesson plans).
- (2) personnel attending.
- (3) performance attained as measured by tests, if administered, or competence.

7. Instructors

a. Instructors for all department training programs shall:

- (1) have a minimum of 2 years law enforcement experience.
- (2) have completed an instructor's course and be certified as an instructor.
- (3) possess a demonstrated skill in area of instruction.
- (4) be knowledgeable of teaching theories, methods, and practices and have some knowledge of law enforcement practices.
- (5) instructors enlisted from outside the department will be selected by the Sheriff. The instructor must have demonstrated skill in his/her area of instruction and comply with requirements for lesson plans as previously stated. Any compensation will be determined by the Sheriff.

b. Before being allowed to instruct any state-mandated courses at the department, instructors will receive, at a minimum, training in the following subjects:

- (1) lesson plan development.
- (2) development of performance objectives.
- (3) instructional techniques.
- (4) learning theory.
- (5) testing and evaluation techniques.
- (6) resources.

- c. Normally, deputies selected and trained as instructors in a particular subject will be expected to teach it when needed for a minimum of two years.

8. Psychological Counseling

- a. When the Sheriff reasonably believes that any departmental employee is in need of behavioral or psychological counseling, he shall refer them to mental health or other counseling sources.
 - (1) If, in the judgment of the Sheriff, based on a qualified medical or mental health professional, that psychiatric or other intensive or in-patient treatment is required in the interests of the departmental employee and the department, the Sheriff may require it at departmental expense. Treatment or counseling will be handled with the utmost confidentiality.

9. In-Service Training

All sworn personnel of the department shall, biennially, as required by law, attend forty (40) hours of in-service training. In-service instruction may include:

- a. reviews of changes or revisions in the State Statutes or applicable case law by the Legislature, taught by District Attorney or another qualified professional;
- b. classes required at the direction of the Sheriff or training academy, such as:
 - (1) supervisory and management training.
 - (2) policy and procedure training.
 - (3) any other training as deemed necessary.
- c. firearms training and qualifications every 6 months.
- d. voluntary and required training.

10. Civilian personnel

All newly-appointed civilian personnel will receive the following training from the Human Resources Department:

- a. orientation to the department's role, purpose, goals, policies, and procedures.
- b. working conditions, rules, and regulations; and
- c. responsibilities and rights of members.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Media Relations	NUMBER: 1-8
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 66-7-213, 32A-2-29, 32A-2-32

INDEX WORDS

Information (releasable, non-releasable)

Juvenile information

Media relations

I. POLICY

One of the first and most fundamental considerations of the nation's founders in drafting the Bill of Rights was to provide for a free press as an essential element of the First Amendment to the Constitution. They recognized that a well-informed citizenry is vital to the effective functioning of a democracy. Sheriff's Office operations profoundly affect the public and, therefore, arouse substantial public interest. The department shall make every reasonable effort to serve the needs of the media in informing the public about crime and other law enforcement problems. This shall be done with an attitude of openness and frankness whenever possible. The media shall have access to personnel who are best informed about the subject of a press inquiry. Further, journalists or reporters shall be told whatever will not infringe on a person's right to a fair trial, impede a criminal investigation, imperil a human life, or seriously endanger the security of the people.

In all other matters dealing with the media on current news, every member of the department shall make every reasonable effort consistent with accomplishing the law enforcement task in providing the media representatives with full and accurate material.

II. PURPOSE

The purpose of this Order is to provide guidelines about information which may be released to media representatives, to specify some types of information which may not be released, to identify who may release information, and to establish procedures for media relationships with the department.

III. PROCEDURES

A. General

1. The department is committed to informing the community and the news media of events within the public domain that are handled by or involve the department.
2. The public information function includes:
 - a. Assisting news personnel in covering department related news stories.
 - b. Responding to news media inquiries, in person or telephonically.
 - c. Preparing and distributing news releases.
 - d. Arranging for news conferences, as needed or requested.
 - e. Releasing information about victims, witnesses, and suspects as allowed by law.
 - f. Coordinating and authorizing release of information concerning confidential departmental investigations and operations.
3. All departmental employees have individual responsibilities concerning the release of information.
4. The Sheriff will function as the primary contact for information dissemination to the community and media. The Sheriff may assign a Public Information Officer to fulfill these responsibilities.
5. Inquiries concerning departmental policies, procedures, practices, or relationships with other criminal justice agencies will be referred to the Sheriff. Similarly, the Sheriff will coordinate all responses to inquiries or release of information pertaining to the Luna County Sheriff's Department's involvement with other public service agencies (e.g., fire department, medical examiner, District Attorney, etc.).
6. The Sheriff shall coordinate responses to inquiries and release of information concerning confidential departmental investigations and operations.

B. Information not releasable - The following information will not be released due to constitutional, statutory, or other restrictions:

1. The identity of victims of sex related crimes.
2. The identity of individuals accused of but not charged with a crime.
3. The existence of any criminal record or any information concerning the character or reputation of the accused or remarks which tend to establish the defendant as a "professional" criminal.
4. The existence or contents of any confession, admission or statement of the accused.
5. The performance of any examination or test by the accused or the refusal or failure to submit to an examination or test.
6. The identity of actual or prospective witnesses to crimes, other than the victim as mentioned above, or comments on the expected testimony or credibility of any witness.
7. Any opinions as to the innocence or guilt of the accused, the merits of the case, the possibility of any pleas or negotiations, or the value of any evidence.
8. The identity of any juvenile who has not been charged with a delinquent act.
9. The names of deceased before the notification of next of kin.
10. Information relating to motor vehicle accident reports specifically prohibited by NMSA 66-7-213S.
11. Comments which suggest that a defendant has aided in the investigation.
12. Information concerning the planning of raids or other specialized enforcement efforts.

C. Release of information pertaining to juveniles:

1. Criminal Offense- Normally, juvenile name, address, or other distinctly unique information which would serve to identify a juvenile may be released if criminal charges have been filed. Age, sex, place of residence and details of the offense MAY also be released.
2. Traffic infractions that are adjudicated in Municipal or Magistrate Court are subject to reporting requirements. (NMSA 32A-2-29)

3. Accidents- If traffic charges are or may be placed as a result of an accident investigation, juvenile identity information may be reported.
4. All social records obtained by the department relating to juveniles are not public information. (NMSA 32A-2-32)

D. Crime or incident information release: Crime or incident information to be released upon media request includes:

1. The type of event or crime and when and where it occurred, to include a brief synopsis of known facts concerning the incident.
2. The identity of the victim or the name of the person who reported the crime. If the victim or complainant requests that his or her name not be used in the media, this request will be given to the media.
3. Information concerning property loss, physical injuries or death (after notification of next of kin).
4. Information concerning the type of investigation and length of investigation.
5. Information concerning the existence of suspects.
6. If a warrant has been executed then the name, address, description of that person will be released. If a warrant has been issued but not executed, and the deputy anticipates that the public may provide information to assist in locating the person, this information may be released.

E. Release of individual arrest information: After arrest of a person, the following may be released upon media request:

1. Arrestee's name, age, residence, and other factual background information.
2. The nature of the charge upon which the arrest is made.
3. The identity of the investigative agency of the department and any assisting agencies.
4. The circumstances surrounding the arrest, including the place of arrest and the identity of the arresting deputies.
5. Custody status.

6. The dates of various hearings.
7. Photographs of the defendants without the department identification data may be furnished, if readily available in current files.

F. Names of deputies:

Names of deputies providing information to the media may be given to the media and published, unless the deputy(s) involved is/are on an undercover assignment. **Addresses and telephone numbers of department personnel shall never be released.**

G. Media contacts/procedures:

1. Normally media representatives either visit the department in person or call seeking information about newsworthy items. Routinely, they shall be referred to the Sheriff.
2. Normally, media representatives will not read the offense reports since non-releasable information may be on the report (e.g., suspect information). Offense reports and accident reports shall be carefully checked concerning involvement of juveniles under 12 years of age before releasing information.
3. At scenes of major fires, natural disasters, or other catastrophic events, or at crime scenes, deputies may establish perimeters and control access. Any such limitations shall be clearly explained to media representatives preferably in meetings with them before any emergencies, by sending editors and managers copies of this policy.

News media representatives should not interfere with law enforcement operations at the scene of an incident. As soon as possible, however, media representatives shall be assisted in gaining access to the scene when it will not interfere with the

law enforcement mission. Deputies may deny access for legitimate investigative or safety reasons; additionally, they may not authorize the press to trespass on private property. The media representative is responsible for obtaining any permission necessary once the legitimate law enforcement mission allows access to the scene on private property.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Community Ride-Along	NUMBER: 1-9
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Citizen observer

Ride-along

I. POLICY

The observer program allows citizens to voluntarily accompany deputies and to observe law enforcement activities to better understand the problems of policing. The observer may request to ride in any area at any time or with a particular deputy. If convenient to the department and conditions permit, permission may be granted. Safety of non-department personnel shall be the primary concern.

II. PURPOSE

The purpose of this general order is to establish procedures for the department Ride-Along Program.

III. PROCEDURES

A. Ride-Along Request

1. Persons wishing to ride with a deputy shall pick up a Ride-Along form at the Sheriff's office in person between the hours of 8:00 a.m. and 5:00 p.m. daily. Completed request forms and waivers must be returned at least 1 week before the desired Ride-Along date. Exceptions may be made for out of town persons or persons employed in law enforcement in another jurisdiction. The forms referred to herein are found at the end of this order.
2. The Sheriff may grant permission for citizens to ride with deputies contingent on a satisfactory record check of the citizen.

B. Limitations

1. A person shall not ride unless approval has been granted and the Sheriff has the properly-completed waiver. Approval will be for one specific ten-hour period unless special limitations or extensions are granted by the Sheriff.
2. Deputy spouses may participate in the Ride-Along Program. When both husband and wife agree, and the Sheriff approves, the spouse may accompany husband/wife for a limited period of time.
3. Normally, no more than one observer shall accompany a deputy at a time.
4. Juveniles must be 16 years of age or older to ride and must have request and waiver forms signed by parent or guardian.
5. No one shall be allowed to observe law enforcement activities relating to raids or ride with plain clothes units without specific advance coordination and approval of the Sheriff.

C. Beginning tour

1. If no specific deputy is requested by name by the observer, the on-duty supervisor will appoint the host deputy.
2. Before the ride, the on-duty supervisor will provide an observer's comment form to the observer and ask that the form be completed and turned in at the end of the ride. The host deputy will be provided a deputy's Ride-Along report and will complete and turn in the form at the end of the ride.
3. The observer should be appropriately dressed; if not, Ride-Along approval may be cancelled by the on-duty supervisor.
4. The host deputy shall instruct the observer on the following procedures:
 - a. Observer must follow directions of the deputy.
 - b. Observer may be required to appear as witness in court.
 - c. Observer may end the ride whenever he or she wishes.

D. Observer conduct

1. Observers shall at all times remain under the complete control of the assigned deputy and shall comply with all directions and requests.
2. Observers shall not interfere with investigations in any way by conversing with victims, suspects, or witnesses, handling evidence or department equipment, or participating in any law enforcement activity unless directed to do so by the assigned deputy.
3. Observers must agree not to discuss names of persons involved in law enforcement cases or incidents. The observer will be considered a confidant of the Sheriff's Office and it is essential that all matters pertaining to evidence or statements gathered in investigations be held confidential.

E. Arrests, transporting, booking

If the host deputy feels there are no hazards involved, the observer may accompany the deputy while transporting or booking prisoners. If the deputy believes a problem may arise, the observer should be temporarily transferred to another deputy or returned to the point of origin.

F. Ending tour

Upon completion of the ride, the deputy will return the observer to the department and thank them for their interest. The deputy will ask the observer to complete the observer's comment form. Completed observer forms will be forwarded to the Sheriff for review. Comment forms shall be kept on file with the ride-along request and waiver form.

G. Prohibited activities

At no time shall a deputy, while accompanied by an observer, engage in emergency or pursuit driving, respond to a crime-in-progress reportedly involving violence, or perform a felony vehicle stop. If deputies must perform such activities, they must ensure the safety of observers or (it is recommended) deposit observers at a safe location.

SHERIFF RIDE-ALONG PROGRAM REQUEST FORM & WAIVER

Full Name of Applicant:	Phone Number:
Address:	Email Address:
Driver's License/ID Card #	Date of Birth:
Emergency Contact/Relation:	Emergency Number:

What is your interest as an observer?

Interested Citizen

Police Science Student

Member of Media

Other Agency

Other (explain): _____

AGREEMENT ASSUMING RISK OR INJURY OR DAMAGE/WAIVER AND RELEASE OF CLAIMS: I fully understand that my participation in a ride-along event with the Sheriff's Office exposes me to the risk of personal injury, property damage, or death. I hereby acknowledge that I am voluntarily participating in the ride-along and expressly agree to assume any such risks.

In consideration for being permitted to participate in the ride-along, I hereby release and forever discharge the Sheriff of County, the County of, its officers, employees, agents and volunteers for any injury, death, or damage to/loss of personal property arising out of or in connection with my participation, including active or passive negligence of the Sheriff of County, the County of, its officers, employees, agents, volunteers or any other participants in the event.

In further consideration for being allowed to participate in the ride-along, I hereby agree for myself, my heirs, administrators, executors, and assigns, that I shall indemnify and hold harmless the Sheriff of County, the County of, its officers, employees, agents, volunteers from any and all claims, demands, actions, or suits arising out of or in connection with my participation in the event brought by any third party.

I give permission to have my background checked for criminal history. I agree to the rules and instructions listed on the back of this form.

I HAVE CAREFULLY READ THIS WAIVER AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A FULL RELEASE OF ALL LIABILITY AND SIGN IT OF MY OWN FREE WILL.

SIGNATURE: _____

Date: _____

Parent/Guardian (if under 18): _____

Date: _____

Sheriff's Signature: _____ Date: _____
Approved Not Approved

Reason not approved: _____

RIDE-ALONG RULES & REGULATIONS

1. No person shall be allowed to ride without having submitted a signed ride-along request and waiver form. Refusal to complete this form, or false statements of any nature on same, will disqualify that person from participation in the program. The request to ride form must be turned in to the Sheriff's Office for approval two weeks prior to the first request date of participation. At the Sheriff's discretion, exceptions may be made for special situations requiring shorter notice, as long as other procedures are followed. Special situations may include out of state visitors or criminal justice personnel.
2. A civilian will not be allowed to ride-along more than once every six months unless the Sheriff grants approval.
3. Participants must obey the orders and instructions given by the deputy to whom they are assigned.
4. Participants must not leave the patrol vehicle unless instructed to do so by their assigned deputy.
5. When the patrol unit is assigned to a dangerous call, the rider may be dropped off at a safe location and he/she must remain there until the deputy or another unit returns to pick him/her up.
6. The rider will provide his/her own transportation to and from the Sheriff's Office.
7. All requests for ride-along are subject to Sheriff's Office approval. Persons with criminal backgrounds may not be allowed to ride with a deputy. Background checks will be conducted on all applicants.
8. Ride-along tours usually last for (4) hours; however, either the deputy or the rider may terminate the tour at any time. The shift supervisor will be advised of early termination.
9. Applicants submitting written requests for a ride-along will be notified of the department's decision and if approved, given their date and time for the ride-along.
10. The applicant's participation is a privilege and not a right. The basic premise of the ride-along program is to establish rapport with the Sheriff's Office and learn about the functions of law enforcement.
11. Participants shall not converse with any prisoners, suspects, victims, or witnesses nor shall they participate in any law enforcement activity unless directly requested by deputies.
12. All participants must agree not to discuss names of persons involved in law enforcement cases or incidents. The observer will be considered a confidant of the Sheriff's Office and it is essential that all matters pertaining to evidence or statements gathered in investigations be held confidential.
13. Tape recorders and cameras will not be permitted while participating in the program, unless express permission is granted by the Sheriff.
14. By signing the waiver form on the reverse of this page, the ride-along participant agrees to the rules and regulations listed above.

LUNA COUNTY SHERIFF		RULES AND REGULATIONS	
SUBJECT: Liability Protection		NUMBER: 1-10	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

Civil rights violations

Liability

I. POLICY

The department has a liability protection program which will protect members for actions or omissions directly related to their law enforcement function. Within stated policy limits, this program protects members from acts or omissions leading to personal injury or death and/or property destruction which, in turn, could lead to civil action against the member.

II. PURPOSE

To set forth procedures relating to the law enforcement liability protection program.

III. PROCEDURES

A. General

The county maintains a liability program to protect department members for acts or omissions directly related to their law enforcement function. Liability protection is provided in a variety of ways, typically including deputies' liability coverage, vehicle liability coverage, and self-insurance. Since the exact components of the liability protection program are subject to periodic change through contract expiration and renegotiation, any member desiring to know the specific components in effect may contact the Sheriff. Members shall consult a supervisor, if practicable, prior to making a decision, taking a course of action, or choosing not to act.

B. Members covered

All deputies, court security officers, and full-and part-time civilian members of

the department are covered by the liability protection program.

C. Notification of suit or claims

Any member who receives notice in any form of actual or impending legal suit or claim, shall, as rapidly as possible, explain the circumstances through command channels to the Sheriff. The member should also inform the Sheriff when and how they were given notice or served and by whom, if known. The Sheriff, shall, in turn, provide appropriate notification to both the county manager and the county attorney.

D. Financial liability

No member shall imply or accept financial liability for loss or damage on behalf of the county. Any inquiries concerning financial liability will be referred to the county attorney.

E. Acts not covered

1. Acts committed by a member, or an omission of duty, which constitutes gross and willful negligence may not be covered by the department.
2. Members are expected to display discretion and good judgment in their work. Some duties are mandated by law, others by custom or tradition. Liability may arise in either case. The department cannot avoid lawsuits; the department can control its liability by demanding strict adherence to the provisions of this manual.
3. Deputies are reminded that much litigation against them or the department will focus on the degree to which deputies followed a policy or custom (defined as "a persistent, widespread practice") which, in itself, was either unconstitutional, illegal, or the cause of an unjustifiable injury. If such a custom or policy is found by the court, the department may be held liable.
4. Deputies may be held liable for misconduct in any of five ways:
 - a. Violation of New Mexico criminal law;
 - b. Violation of departmental orders
 - c. Tort against a citizen
 - d. Violation of federal criminal civil rights statutes, 18 U.S.C. Sections 241 and 242.

- e. Violation of federal civil rights law, 42 U.S.C. Section 1983.

5. Civil rights

- a. Because of the prevalence of civil rights litigation against law enforcement in federal courts, deputies are here instructed in the content of 42 U.S.C. Section 1983. A deputy is a person acting under color of law. A deputy may be held personally liable for violating citizens, constitutional rights.

- b. 42 U.S.C. Section 1983 reads:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured on an action at law, suit in equity, or other proper proceeding for redress."

F. Immunity

In court, deputies do not automatically receive immunity from lawsuits simply because deputies act in good faith. Deputies may claim qualified immunity when their actions do "not violate clearly established statutory or constitutional rights of which a reasonable person would have known" (Harlow v. Fitzgerald). To afford themselves the defense of qualified immunity, deputies should learn as much as they can about established constitutional principles. In short, deputies must have an objectively reasonable belief in the constitutionality of their actions.

LUNA COUNTY SHERIFF		RULES AND REGULATIONS	
SUBJECT: Firearms (General)		NUMBER: 1-11	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

Armorer
 Firearms inspections
 Firearms Instructor
 Firearms safety
 Firearms training

Off-duty weapons
 Qualification
 Rifle
 Shotgun

I. POLICY

A deputy's firearm is perhaps the most commonly-perceived symbol of his authority and role. In the interest of public safety and law enforcement professionalism, the department sets herein high standards of performance for its personnel who use weapons. The department's policy ensures that members are properly trained not only in the use of appropriate firearms, but also in their maintenance. In addition, the department believes that off-duty use of weapons, plus the selection and wearing of on- and off-duty holsters must follow standards enforced by firearms instructor/armorer, supervisors and the department.

Firearms training is an important phase in the development of law enforcement personnel, particularly with weapons that are the most accessible to the deputy, i.e., handgun, rifle and shotgun. Pursuant to the provisions established by the New Mexico Law Enforcement Academy Board, every full-time police officer must annually qualify (day and night time) with his or her issued handgun, using the score for the record. That score, and any scores used by the department for record must be fired on an approved firing range under the supervision of a certified firearms instructor. The department, however, requires firearms qualification twice a year. Further, firearms qualification is a combination of skill and discretion. When to shoot is perhaps a more important question than how to shoot. Deputies shall carefully review General Order 2-6 frequently.

II. PURPOSE

To establish policy and procedure governing the care and maintenance of issued weapons, the selection and use of holsters, off-duty weapons, firearms training, and qualification.

III. PROCEDURES

A. Issuance of weapons

1. The armorer or firearms instructor, if appropriate, shall issue departmental weapons to authorized personnel.
2. Departmental firearms which become unserviceable or are no longer needed shall be returned to the armory which is located in the department office.
3. Department service pistols must be of a caliber of at least 9mm, and not to exceed .45 caliber. The department also authorizes the use of revolvers, as backup weapons, upon the Sheriff's approval.
4. For specific requirements regarding secondary weapons see the secondary weapons policy.

B. Security of weapons

Deputies are responsible for the care, cleaning, and security of departmental weapons issued to them. Only the department armorer is authorized to make mechanical adjustments to department issued firearms.

Deputies shall report any weapon malfunction to the Sheriff.

C. Departmental armorer

The duties of the armorer are:

1. To provide for the care and maintenance of non-issued departmental weapons and associated equipment.
2. To inspect all weapons being returned to the armory to ensure they are clean and serviceable.
3. To repair all returned malfunctioning weapons.

4. To maintain records of issuance, care, and maintenance of departmental weapons and associated items.
5. To issue departmental ammunition.
6. To inspect and certify as serviceable personally-owned firearms that are authorized for on-duty or off-duty use.
7. To inspect and authorize the use of holsters for off-duty use and for on-duty use if the deputy prefers to use a holster other than one issued by the department.
8. The department armorer shall inspect all weapons used by deputies both on- and off-duty at each qualification shoot.
9. The armorer shall maintain a record of all firearms which have been certified as safe and with which deputies have qualified. This record shall include the following:
 - a. Deputy's name and identification number.
 - b. Make, model and caliber of weapon.
 - c. Serial number of weapon.

D. Modification of weapons

1. Departmental weapons shall not be modified nor altered without written approval of the Sheriff except as outlined.

Allowable modifications for Colt semiautomatic:

- a. Built-up thumb safety.
 - b. Flat mainspring housing.
 - c. High-visibility fixed sights (must be turned in with the weapon, in original condition).
2. Substitution of grips
 - a. Grips shall be of high-quality wood, rubber, or polyurethane.

- b. Grips shall be the color of the natural wood, or plain black or brown.
 - c. Target-style grips, or any grips which interfere with the speed loading of the weapon, are not authorized.
- 3. Modification of privately-owned weapons designated by deputies as duty weapons.
 - a. Substitution of grips as outlined in 2.b above is authorized.
 - b. Trigger shoes are prohibited.

E. Firearms inspections

- 1. Although either the firearms instructor or the armorer shall thoroughly inspect each weapon during qualification on the range, sergeants shall inspect subordinate deputies issued firearms monthly to ensure that they are maintained in a clean and serviceable condition.
 - a. Firearms inspections shall include sidearm, shotguns, and authorized rifles.
 - b. Ammunition shall be inspected to ensure that it is departmental issue, correct quantity, and in serviceable condition.
 - c. Upon completion of inspections, the sergeant shall forward a memorandum to the Sheriff that documents the following information:
 - (1) The date the inspection was held.
 - (2) The name of each deputy inspected.
 - (3) The findings of the inspection.

F. Off-Duty weapons

- 1. Off-duty weapons shall at a minimum meet the criteria set forth in the secondary weapons policy.
 - a. Deputies must qualify with off-duty or secondary weapons in accordance with the secondary weapon policy.

- b. The armorer must approve any concealed holster for an off-duty weapon.
 - c. The armorer will maintain a record of all holsters and weapons used by each deputy.
- 2. Deputies may carry, while off-duty, either an issued weapon or one purchased at deputy's expense. To ensure proficiency with the weapon, at a regularly scheduled shoot each deputy shall qualify with an off-duty weapon (not an issued weapon) according to the procedure outlined herein with ammunition purchased at the deputy's expense.
- 3. Deputies may not carry weapons when socially inappropriate and shall not when consuming alcoholic beverages.
 - a. Off-duty weapons shall be carried safely and concealed from public view.
 - b. Deputies shall have their badge and department ID in possession when carrying an off-duty weapon.

G. Holsters

- 1. Deputies are required to use a level 2, or above, holster while on duty.
- 2. Deputies who prefer to use a thigh holster will be allowed to wear them with BDU's and must qualify with a minimum 80% with the holster during qualifications.
- 3. Investigators are authorized to use a level 1 holster or greater.
- 4. Any deputy who carries an off-duty weapon will also be authorized to utilize a level 1 holster with that weapon.

IV. PROCEDURES

A. Safety

- 1. Each deputy, before going to the shooting line, must have approved ear and eye protection. Deputies are also required to wear their issued body armor during qualifications or shooting exercises.
- 2. All weapons and ammunition pouches/speed loaders shall be emptied before entering the firing range area. (Normally, unload in the vehicle parking area.)

3. Once weapons have been emptied, they shall remain in holsters until deputies have taken positions on the firing line and the firearms instructor has given permission to "dry fire" or "load with ammunition."
4. Once a shooting phase has begun, weapons shall be kept pointed down range, and deputies shall remain facing their targets. A deputy shall raise his hands to draw the instructor's attention if he or she misunderstands a command.
5. At no time shall anyone go beyond the firing line until it is safe, and then only when the firearms instructor gives the command.
6. Keep the trigger finger out of the trigger guard and away from the trigger until the weapon is pointed down range.
7. With the cylinder open, always check the weapon twice to make sure it is unloaded.

B. Shotgun & Rifle

1. The qualification course shall include:
 - a. The qualification course for shotguns and rifles shall be conducted and scored according to NMDPS standards.
2. The ammunition chamber shall be left open and the safety on until instructed by the firearms instructor to load or check the weapon.
3. Shotguns will not be handled except on the command of the firearms instructor.
4. Deputies may choose to use a personally acquired patrol rifle or shotgun.
 - a. Such weapons must meet department standards and be approved for use by the department armorer.

D. Classroom instruction

Classroom instruction will be conducted in accordance with NMDPS standards regarding annual and biennium training.

Annual policy review is required with each deputy passing a written exam on firearms policy and use of force policy.

LCSO Secondary Weapon Policy

I. Purpose

- a. The purpose of this memorandum is to improve, clarify, and standardize the current secondary weapon policy of the Luna County Sheriff's Office
- b. This policy memorandum supersedes the current secondary weapon policy of the LCSO

II. Scope

- a. The scope of this memorandum applies only to full-time, sworn, commissioned, and certified peace officers within the Luna County Sheriff's Office
- b. The scope of this memorandum applies to weapon type, ammunition type, caliber of ammunition, retention devices (holsters), required qualification, and the use of secondary weapons on and off duty

III. Secondary Weapon Criteria

- a. Secondary weapons will be at least .380 in caliber
 - i. Approved calibers are .380, .38, .357, .40, .45, 9MM, and 10MM
 - ii. Secondary weapons must have a minimum capacity of 5 rounds
- b. Secondary weapons may be revolver or semi-automatic pistol
- c. Secondary weapons must be deemed as adequate by a LCSO fire-arms instructor prior to use on duty
- d. Secondary weapons will be registered with the LCSO prior to being used on duty

IV. Issuing of Weapons

- a. Secondary weapons, until further notice, **will not** be issued by the LCSO
- b. Deputies will purchase their own secondary weapons

V. Ammunition

- a. Deputies will purchase their own qualification ammunition
- b. Deputies will purchase their own duty ammunition
 - i. Duty ammunition will be a "hollow point" type cartridge
 - ii. Full metal jacket or "Ball" type ammunition is not approved for use on duty
 - iii. Duty ammunition will be approved by a LCSO firearms instructor before use on duty

VI. Equipment

- a. Secondary holsters must be rated, at a minimum, as a Threat Level 1 holster

- b. Secondary holsters must be approved for use by a LCSO fire-arms instructor prior to use on duty
- c. Deputies wishing to carry a secondary weapon will use a holster to retain the weapon on their body
- d. Deputies will purchase their own holsters and all other equipment necessary for the use of the secondary weapon

VII. Qualification

- a. Deputies will qualify with the secondary weapon prior to carrying it, on or off duty
- b. Deputies will qualify using the NMSP Back-Up Qualification Course
 - i. The NMSP Back-Up Qualification Course is attached as an addendum to this policy
- c. Deputies must achieve a passing score of 80% on the back-up qualification prior to carrying the secondary weapon
- d. Prior to qualification, deputies will fire a minimum of 5 rounds of duty ammunition from their secondary weapon to ensure compatibility with the weapon

VIII. Use

- a. Secondary weapons will be carried concealed while on duty
- b. Secondary weapons may be carried off-duty
 - i. All applicable New Mexico laws and regulations regarding the carrying of concealed weapons remain in effect and supersede this policy
 - ii. All applicable New Mexico laws and regulations regarding the open carry of weapons remain in effect and supersede this policy
 - iii. All federal fire-arms laws and regulations remain in effect and supersede this policy
 - iv. All LCSO regulations and policies regarding the carrying and use of weapons remain in effect
- c. Violation or abuse of this policy **will** result in disciplinary action
- d. The Luna County Sheriff's Office shall not be responsible for any damage to or loss of a secondary weapon that may result from the use of the weapon by the deputy while on duty

FIREARMS QUALIFICATION AND REMEDIATION POLICY

I. PURPOSE

To provide guidelines and clarification for the Luna County Sheriff's Office "Qualification, Remediation, and Firearms Retraining Policy".

II. POLICY

- A. All sworn, commissioned, and/or certified members (Patrol Deputies, Patrol Supervisors, Investigators, Investigative Supervisors, Court Security Officers, CSO Supervisors, Administrative Deputies, and certified Administrative Supervisors) of the Luna County Sheriff's Office are required to carry and demonstrate proficiency with the duty handgun as a requisite of employment.
- B. All sworn, commissioned, and/or certified members (Patrol Deputies, Patrol Supervisors, Investigators, Investigative Supervisors, Court Security Officers, CSO Supervisors, Administrative Deputies, and certified Administrative Supervisors) of the Luna County Sheriff's Office are required to carry and demonstrate proficiency with any personal duty handguns or secondary handguns as a requisite of carrying said weapon on duty.
- C. All sworn, commissioned, and/or certified members (Patrol Deputies, Patrol Supervisors, Investigators, Investigative Supervisors, Court Security Officers, CSO Supervisors, Administrative Deputies, and certified Administrative Supervisors) of the Luna County Sheriff's Office are required to carry and demonstrate proficiency with any issued long guns (patrol rifles/shotguns) as a requisite of carrying said weapon on duty.
- D. Patrol Deputies, Patrol Supervisors, Investigators, Investigative Supervisors, Administrative Deputies, and certified Administrative Supervisors are mandated by LCSO policy to be issued and carry either a patrol rifle or a shotgun as a requisite of performing their duties.
- E. Inability to pass mandated qualifications with and/or demonstrate adequate proficiency with any weapon system will result in Remedial Training.
- F. Inability to pass mandated qualifications with and/or demonstrate adequate proficiency with any weapons system after Remedial Training will result in Basic Firearms Retraining.
- G. A minimum score of 80% is considered passing for all weapons systems.
- H. Basic Weapons Qualifications will be conducted at least once per calendar year for each weapons system.
- I. Additional mandatory weapons training may be conducted throughout the calendar year.

III. DUTY HANDGUN

- A. Personnel will be allowed a maximum of 2 attempts per calendar year at qualifying with the duty handgun.
- B. Failure to qualify after 2 attempts will result in Remedial Training within 24 hours.
 - 1. Remedial Training will be no more than 4 hours of classroom and live fire training.
 - 2. Upon the conclusion of Remedial Training, personnel will be afforded the chance to qualify.
- C. Failure to qualify within 2 attempts after Remedial Training will result in personnel being placed on Administrative Reassignment/Modified Duty.
 - 1. Personnel placed into this category will undergo Basic Firearms Retraining within 72 hours.
 - a. Basic Firearms Retraining will be no more than 18 hours of training consisting of classroom and live fire training.
 - 2. Personnel placed on Administrative Reassignment/Modified Duty as a result of failing to qualify with the duty handgun will be removed from any field service/investigative duties.
 - a. As such; personnel in this category will be prohibited from carrying their duty weapon, wearing a LCSO uniform, operating a marked LCSO vehicle, or displaying their badge of office.
 - b. Personnel placed into this category will have a memorandum, documenting this administrative action, placed into their personnel file.
 - i. A copy of this memorandum will be provided to the deputy.
 - ii. A copy of this memorandum will be provided to the deputy's squad commander/supervisor.
 - iii. A copy of this memorandum will be provided to the Captain of Patrol.
 - iv. A copy of this memorandum will be provided to the Sheriff, via the Captain of Administration/Under-Sheriff.
 - 3. Upon the completion of Basic Firearms Retraining, personnel will be afforded the chance to qualify.
 - 4. Personnel will have a maximum of 2 attempts at qualification after completing Basic Firearms Retraining.
 - a. At least 1 LCSO firearms instructor and the Captain of Patrol (or his designee) will be present during all qualification attempts following Basic Firearms Retraining.
- D. Personnel who fail to qualify after Basic Firearms Retraining will be determined unfit to carry out their duties within the LCSO.
 - 1. A memorandum attesting to this fact, signed by the LCSO firearms instructor **and** the Captain of Patrol (or his designee), will be forwarded to the Sheriff, via the Captain of Administration, for further action.

- E. No deputy, CSO, investigator, or supervisor will be returned to full duty without first successfully completing duty handgun qualification.
- F. Personnel with more than one duty handgun will only be provided with enough ammunition to qualify/remediate with 1 duty handgun.
- G. Personnel with multiple duty handguns who fail to qualify with one of those duty handguns after 3 attempts will forfeit the privilege to carry that handgun for 1 calendar year.
 - 1. Personnel with more than 1 duty handgun must qualify with at least 1 handgun or be subject to the provisions stipulated in the above sections B-E.

IV. SECONDARY HANDGUN/BACKUP HANDGUN

- A. Personnel within the LCSO are highly encouraged to equip themselves with a secondary handgun/backup handgun.
- B. Personnel within the LCSO are not mandated to carry a secondary handgun/backup handgun.
- C. Personnel within the LCSO wishing to carry a secondary handgun/backup handgun will have a maximum of 3 attempts at qualifying with the secondary handgun/backup handgun.
 - 1. For specifics on secondary handgun/backup handgun requirements and qualification standards; see the Secondary Handgun/Backup Handgun Policy.
- D. Personnel who fail to qualify with their secondary handgun/backup handgun will forfeit the privilege to carry that handgun for 1 calendar year.
- E. Personnel wishing to qualify with a secondary handgun/backup handgun must provide their own ammunition for qualification and use on duty.

V. LONG GUNS

- A. Personnel will be allowed a maximum of 2 attempts at qualifying with their issued long gun.
- B. Failure to qualify after 2 attempts will result in Remedial Training within 24 hours.
 - 1. Remedial Training will be no more than 2 hours of classroom and live fire training.
 - 2. Upon the conclusion of Remedial Training, personnel will be afforded the chance to qualify.
- C. Failure to qualify within 2 attempts after Remedial Training will result in Basic Long Gun Retraining within 72 hours.
 - 1. Personnel placed in this category will have a memorandum, documenting this administrative action, placed in their personnel file.
 - a. A copy of this memorandum will be provided to the deputy.

- b. A copy of this memorandum will be provided to the deputy's squad commander/supervisor.
 - c. A copy of this memorandum will be provided to the Captain of Patrol.
 - d. A copy of this memorandum will be provided to the Sheriff, via the Captain of Administration/Under-Sheriff.
- 2. Basic Long Gun Retraining will be no more than 9 hours of training consisting of classroom and live fire training.
- 3. Upon the completion of Basic Long Gun Retraining, personnel will be afforded the chance to qualify.
- D. Personnel will have a maximum of 2 chances to qualify after the completion of Basic Long Gun Retraining.
 - 1. At least 1 LCSO firearms instructor and the Captain of Patrol (or his designee) will be present during all qualification attempts following Basic Long Gun Retraining.
- E. Personnel who fail to qualify within 2 attempts after Basic Long Gun Retraining will lose the privilege of carrying their assigned long gun for a period of 1 calendar year.
 - 1. Personnel placed in this category will have a memorandum, documenting this administrative action, placed in their personnel file.
 - a. A copy of this memorandum will be provided to the deputy.
 - b. A copy of this memorandum will be provided to the deputy's squad commander/supervisor.
 - c. A copy of this memorandum will be provided to the Captain of Patrol.
 - d. A copy of this memorandum will be provided to the Sheriff, via the Captain of Administration/Under-Sheriff.
- F. Failure to qualify with an issued long gun will result in administrative action deemed fit by the Sheriff.

VI. APPLICABILITY

- A. This policy and its enclosed procedures will be adhered to by all sworn, commissioned, and/or certified members (Patrol Deputies, Patrol Supervisors, Investigators, Investigative Supervisors, Court Security Officers, CSO Supervisors, Administrative Deputies, and certified Administrative Supervisors) of the Luna County Sheriff's Office in regard to firearms qualification, remediation, and retraining.

VII. REFERENCES

- A. Dona Ana County Sheriff's Office Firearms Policy (2016)
- B. Bernalillo County Sheriff's Office Firearms Policy (2014)

VIII. PRECEDENCE

- A. This policy and its enclosed procedures take precedence over any and all previous Luna County Sheriff's Office policies, regulations, and procedures regarding weapons qualification, remediation, and retraining.
- B. This policy and its enclosed procedures will be effective as of 1 July 2017.

LUNA COUNTY SHERIFF		RULES AND REGULATIONS	
SUBJECT: Complaints Against Law Enforcement Personnel		NUMBER: 1-12	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA 29-14-4-29-14-11	

INDEX WORDS

Board of inquiry
 Criminal misconduct
 Complaint
 Due process
 Financial disclosure statements
 Internal investigations
 Lineups, photographs of employees
 Medical laboratory examinations of employees

I. POLICY

The image of the department depends on the personal integrity and discipline of all departmental members. To a large degree, the public image of this department is determined by the professional response of the department to allegations of misconduct against it or its members. The department must competently and professionally investigate all allegations of misfeasance, malfeasance, nonfeasance by members and complaints bearing on the department's response to community needs.

II. PURPOSE

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the dispositions of complaints.

III. PROCEDURES - GENERAL

- A. The department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. Department members shall receive complaints courteously and shall handle them efficiently. All deputies are obligated to explain to inquiring citizens the complaint procedures.
- B. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The member must remain neutral under

circumstances that are likely to generate tension, excitement, and emotion. These situations frequently result in misunderstanding and confusion. It is to the advantage of all members to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of law enforcement work.

- C. A copy of "How to Make A Complaint" will be posted in the public area of the Sheriff's Office, provided to media representatives, and may be given to any citizen requesting information on how to make a complaint against the department or a member of the department. A copy of "How to Make a Complaint" is found in the appendix to this order.

D. Responsibility for handling complaints:

1. As a rule, complaints regarding law enforcement operations will be handled through the chain of command. Complaints involving how law enforcement services are provided or a failure to provide services or improper attitudes or behavior normally will be investigated and handled by the Sheriff or his designee. The Sheriff may ask an investigator from another agency or the State Police to undertake the investigation.
2. Complaints alleging improper law enforcement conduct, brutality, or misconduct involving several personnel or supervisory personnel shall be handled as an internal affairs matter and shall be investigated by an outside agency upon request of the Sheriff.

E. Receipt of complaints:

1. Complaints, regardless of nature, can be logged in person, by mail, or by phone at any time. As part of the follow-up investigative activity, persons making complaints by mail or phone normally shall be interviewed and a written, signed complaint prepared. A copy of the complaint form is found in the appendix to this order. Anonymous complaints shall be followed up to the extent possible.
2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of citizen complaints. A member of the department who interferes with, discourages or delays the making of such complaints shall be subject to disciplinary action.
3. Normally, a citizen with a complaint will be referred to the Sheriff who shall assist the citizen in recording pertinent information. The Sheriff will, if appropriate, conduct a preliminary investigation.

4. If the supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or apparently suffers from a mental disorder, or displays any other trait or condition bearing on his or her credibility, he shall note such conditions on the reverse side of the complaint form. Any visible marks or injuries relative to the allegation shall be noted and photographed.
 - a. Prisoners or arrestees also may make complaints, and circumstances may require a department representative to meet the complainant at a jail or prison for an interview. If appropriate, the law enforcement representative will have photographs taken of prisoners' injuries.
5. A department member receiving a citizen complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the Sheriff, who will determine investigative responsibility.
6. Complaints received by telephone by dispatchers or other members will be courteously and promptly referred to the Sheriff. The dispatcher or member shall record the name and telephone number of the complainant and state that the Sheriff or, if unavailable, the supervisor shall call back as soon as practicable.
7. The above procedure may also be used when department members desire to enter a complaint against any other member governed by this order.

F. Disposition of Complaints:

The Sheriff shall:

1. Notify the complainant, in writing, as soon as practicable, that the department acknowledges receipt of the complaint, that it is under investigation, that the investigation will be completed within thirty days, and that the complainant will be advised of the outcome. If the investigation exceeds thirty days, the Sheriff shall write the complainant a letter explaining the circumstances of the delay,
2. Maintain complaint files separate from personnel files.
3. Take appropriate disciplinary action following the investigation.

G. Disposition of serious complaint:

1. Serious complaints allege violations of the law or gross negligence in

violating or failing to enforce civil rights of citizens. Internal investigations examine alleged brutality, gross excesses of legal authority, or allegations, involving supervisory personnel or multiple law enforcement personnel.

2. In such cases, the Sheriff shall:
 - a. Record, register, control or cause to be recorded, registered, or controlled the investigations of members
 - b. Supervise the activities under "a"
 - c. Maintain confidential records of same.
 - d. Ensure that the investigations are conducted according to New Mexico state statute Peace Officer's Employee-Employer Relations Act NMSA 1978§ 29-14-1 through 11, a copy of which the Sheriff shall provide to each member under investigation.
 - e. Maintain close liaison with the District Attorney in investigating alleged criminal conduct. Where liability is at issue, the Sheriff shall similarly maintain contact with the county attorney.

IV. PROCEDURES: Investigative

Two types of investigations may take place: administrative or criminal. Different rules govern interviews of members in each case.

- A. Interview for administrative purposes: If the Sheriff wishes to compel an employee to answer questions directly related to his or her official duties and the Sheriff is willing to forego the use of such answers in a criminal prosecution, the Sheriff or another interviewer shall advise the member that:
 1. The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.
 2. All questions specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
 3. No answers given, nor any information obtained by reason of such statements are admissible against the member in any criminal proceeding.

- a. Read to the member the following:

"I wish to advise you that you are being questioned as part of an official investigation of the Sheriff's Office. You will be asked questions, specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which could result in your dismissal from the department. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges."

- 4. In an interview for administrative purpose, no Miranda rights are required. Further, the foregoing rules are inconsistent with Miranda in that members' statements cannot be used as evidence. Further, as the interview does not serve criminal prosecution, the member has no Sixth Amendment right to counsel.

- a. The governing case is Garrity v. New Jersey. 385 U.S. 483, 87 S. Ct. 616 (1967).

- b. The interviewing official(s) shall use the "administrative proceedings rights" form found in the appendix to this instruction.

- B. Interviews for criminal investigative purposes: If the Sheriff believes that criminal prosecutions are possible and wishes to use statements against the member in a criminal proceeding, or at least wishes to maintain the option of their use, he or another interviewer shall:

- 1. Give the member Miranda rights.
- 2. Advise the member that if he asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
 - a. If the member decides to answer questions at this point, the responses may be used in both, criminal and disciplinary proceedings.

- b. Note that the Miranda admonition includes the provision that a lawyer may be present at an interview. Although technically the member has no right to counsel until the member has been criminally charged or his or her freedom of action has been deprived by this policy the department has decided to allow members who are under investigation to have counsel at their option.
- c. The governing case is Gardner v. Broderick; 392 U.S. 273, 88 S.Ct. 1913, 1916 (1968). The case made clear that a public employee may not be fired for asserting his Fifth Amendment right not to incriminate himself in a criminal investigation. However, an employee may be fired for failing to cooperate with an internal investigation.

V. INVESTIGATIVE TOOLS AND RESOURCES

In addition to interviews of the member and witnesses, the Sheriff may require other activities in support of a complaint investigation or internal investigation, including:

A. Medical and Laboratory Examination

The Sheriff or official in authority may, based on his observation, require a department member to submit to a test for alcohol or drug use while on duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the member's dismissal.

- 1. If the member is believed to be under the influence of alcohol, a licensed breathalyzer operator shall administer the test. The Sheriff or official in authority shall witness the test and sign the report.
- 2. If the member has a reading of .02 or higher or there is other competent evidence of impaired abilities to perform duties, the member shall be relieved of duty by the Sheriff or official in authority.
- 3. If the member is believed to be under the influence of self-administered drugs, he may be compelled to submit to a blood and/or urine test. The test shall be administered under medical supervision where hygienic safeguards are met. The sample will be handled using the same safeguards as evidence in a criminal process.
- 4. If the test shows positive results, or there is other competent evidence of

impaired abilities to perform duties, the member shall be relieved of duty as soon as possible by the Sheriff or other official in authority.

5. If a member refuses to submit to a test, (alcohol or drugs) then the Sheriff or other official in authority will immediately relieve the member from duty for failure to cooperate in an administrative investigation.

B. Photograph and Lineup Identification Procedures:

Members may be required to stand in a lineup for viewing by citizens for the purpose of identifying a member accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and may result in dismissal.

1. A photo identification book of department members may be maintained for the purpose of identification by citizens of a member accused of misconduct. Photographs of members for the identification book are required by the department and shall be used when narrowly related to the member's job.
2. Photographs or videotape pictures of members, with or without a member's consent, may be taken for the purpose of internal investigations as related to the member's job when the member is suspected of misconduct.

C. Financial Disclosure Statements:

A member may be compelled to make financial disclosure statements when directly and narrowly related to allegations of misconduct involving any unlawful financial gain. Any evidence gained during the investigation of an administrative matter cannot be used in any criminal proceeding.

Use of polygraph examinations in internal investigations shall be in accordance with the following departmental policy.

D. Polygraph

1. Policy: All department personnel, effective with the promulgation of this policy, shall be required to submit to a polygraph when ordered to do so by the Sheriff, or by another superior officer with the authorization of the Sheriff.
2. The Sheriff or his designee may order members to take a polygraph when charged with a Category III offense.

3. The results of the polygraph examination shall not be used as the sole basis for disciplinary action against any member.
4. Any polygraph examination administered under the provisions of this policy and procedure shall be administered by a private contractor licensed to administer polygraph examinations in the State of New Mexico or must be a licensed examiner from another law enforcement agency. No department member shall be used to administer an examination to another department member.
5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination shall be grounds for disciplinary action and may result in dismissal from the department.
6. In order to comply with state (NMSA 29-14-4 and 29-14-5) and federal (privilege against self-incrimination) law, the following information must be provided to the member asked to submit to such examination:
 - a. The nature of the inquiry, the name and rank of the investigating member, and the name and rank of any person present during the examination.
 - b. That his answers will not be used to prosecute him.
 - c. That he may refuse to take the polygraph or examination to answer any questions, however, such refusal shall be grounds for disciplinary action which may include dismissal.
 - d. That answers given during the polygraph examination do not constitute a waiver of the privilege against self-incrimination as it relates to criminal matters.
 - e. A Polygraph Examination Acknowledgement of Rights form must be initialed and signed in the spaces indicated (see appendix to this instruction). Refusal to do so shall be grounds for disciplinary action which may result in dismissal.
7. The declaration is here made that the intent of all of the above is that any person who refuses to submit to polygraph examination or refuses to answer any questions pertaining to the charges in such an examination may be terminated from employment.

VI. ADJUDICATION OF COMPLAINTS:

- A. The Sheriff will classify completed internal affairs investigations as:
1. Unfounded - no truth to allegations.
 2. Exonerated - allegations true but result of adherence to proper and appropriate department procedures and techniques.
 3. Not sustained - unable to verify the truth of the matters under investigation.
 4. Sustained - allegations true.
 5. Completed investigations classified as unfounded, exonerated, or not sustained will be maintained in internal affairs files in the Sheriff's office. Sustained complaints will be filed in the individual member's department personnel file with a copy in the internal affairs files.
- B. Disciplinary records:

Disciplinary action taken shall be determined by the seriousness of the violation. It shall be commensurate with the circumstances surrounding the incident and in consideration of the member's service record and prior sustained complaints. See Rules & Regulations 1-5 for details.

VII. DUE PROCESS:

- A. The Fourteenth Amendment to the Constitution provides that a citizen may not be deprived of "life, liberty, or property, without due process of law." Public employees have a limited property interest in continued employment sufficient enough to require due process in any administrative proceedings that might result in suspension or dismissal.
- B. The department seeks to provide its employees due process of law in any disciplinary proceeding. Nevertheless, the foregoing rules circumscribe when legal counsel may or may not be used during interviews of members suspected of misconduct.
- C. Despite a member's limited property interest in his job, as described in paragraph A, the simple fact that a member has held a job for years does not entitle him or her to keep it.
- D. The department recognizes that a member, though dismissed or suspended, may have a liberty interest to enjoy future employment elsewhere and, if suspended or dismissed, should have an opportunity to set forth his or her point of view for

name-clearing purposes. In view of this interest, the department affords an employee a hearing in accordance with the provisions of the Collective Bargaining Agreement.

VIII. BOARD OF INQUIRY:

- A. The Sheriff may invoke a board of inquiry at any time for any disciplinary purpose. The board will serve to review facts or information to resolve an allegation of misconduct. A board will always be convened in the event of a department shooting, death, or serious injury of a member or citizen killed or injured incident to a law enforcement action, or accident involving a department vehicle.
 - 1. A board of inquiry shall consist of at least three people, including the county manager, Sheriff (unless involved in the incident under scrutiny), plus a law enforcement officer of the rank of sergeant or above from nearby agency or the State Police.
 - 2. The board shall recommend a decision to the Sheriff, or if the Sheriff is involved in the incident, to the county manager.
 - 3. The board's proceedings will not be recorded; however, a board chairman shall be selected from among the board members who shall write, in a memorandum to file, a summary of the proceedings, names of board members, and the board's recommendations.

HOW TO MAKE A COMPLAINT

1. If you wish to make a complaint about the actions of a department member or about any aspect of department operations.
 - a. Come to the department and tell any member that you want to make a complaint.
 - b. Call the department or the county manager's office and tell the person answering the phone that you want to make a complaint.
 - c. Write your complaint and mail it to the Sheriff.
2. A supervisory official will assist you in filling out a report of complaint against department personnel form. This form asks you to identify yourself and then to give specific details about your complaint.
3. Your complaint will then be investigated. You may be contacted and asked additional questions about your complaint.
4. If it is going to take a long time to investigate your complaint, you will receive a letter telling you approximately when you may expect a reply.
5. When your complaint has been investigated, the Sheriff will review the investigation and write you a letter explaining what has been found out about the matter.

Appendix to Rules & Regulations 1-12

**LUNA COUNTY SHERIFF
ADMINISTRATIVE PROCEEDINGS RIGHTS
NOTICE OF ALLEGATIONS**

NAME _____ DATE _____
TIME _____

New Mexico State Statute 29-14-4 provides that whenever an investigation by an agency focuses on matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law enforcement officer, the following conditions shall be compiled with:

1. Any questions of the member shall take place at a reasonable time and place as designated by the investigating official, preferably when the member under investigation is on duty and at the department office.
2. Before questioning the member, he shall be informed of: (1) the name and rank of the investigating official and of any individual to be present during the questioning and (2) the nature of the investigation.

Departmental policy provides that:

1. You are entitled to read the complaint lodged by the complainant.
2. Refusal to answer all questions pertaining to the allegations made by the complainant, either orally or in writing, shall be grounds for disciplinary action and may result in dismissal from the department.
3. The answers given during the investigation of an administrative matter will not be used against you in any criminal proceedings.
4. The answers given do not constitute a waiver of your privilege against self-incrimination as related to criminal matters.
5. Before being formally charged, during an administrative investigation, no attorney will be permitted to be present.

Accordingly, you are hereby advised that the following allegations have been directed to you:

COMPLAINANT(S):

1. _____
2. _____
3. _____

The undersigned hereby acknowledges receipt in writing of the charges or allegations against him and his rights as pertaining to administrative proceedings.

Signature: _____

WITNESSES: _____

LUNA COUNTY SHERIFF
POLYGRAPH EXAMINATION ACKNOWLEDGEMENT OF RIGHTS

I, _____ have been ordered by _____
_____ to submit to a polygraph examination as a condition of
employment in connection with the investigation of _____

I understand that my answers to such examination, as they relate to the above referenced
investigation, will not be used to prosecute me. ____ (initial)

I understand my refusal to submit to such examination and/or to answer questions pursuant to
such examination shall lead to disciplinary action which may include termination of my
employment. _____ (initial)

I understand that my responses do not constitute a waiver of my privilege against self-
incrimination as it relates to criminal matters. _____ (initial)

I understand my refusal to sign this form shall lead to disciplinary action which may include
termination of my employment. _____ (initial)

Member Signature

Date

Witness Signature

Date

CERTIFICATE TO BE COMPLETED IN EVENT OF REFUSAL TO SIGN FORM

I, _____ hereby
(Name and Rank)

certify this form was presented to _____ on this date
(Name and Rank)

in connection with the above referenced investigation, that the contents of the form were made
known to him, and that failure to sign the form was grounds for
disciplinary action, including dismissal from employment, said _____

_____ refused in my presence to sign this form.

(Employee Signature)

Date

(Witness Signature)

Date

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Relationships with other Agencies	NUMBER: 1-13
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Agencies

I. POLICY

Establishing and maintaining effective liaison and open channels of communication between the department, neighboring law enforcement departments, and criminal justice and referral agencies are essential first steps in improving cooperation. Good liaison can break down barriers that may exist and can result in savings and improved and more efficient and effective law enforcement operations.

II. PURPOSE

To establish procedures and responsibilities for liaison and maintaining communication between the (your agency), neighboring law enforcement agencies, and other criminal justice or social service agencies, both public and private.

III. PROCEDURES

A. Relationships with other criminal justice agencies:

1. It is the responsibility of all department personnel to maintain harmonious working relations and communication with law enforcement agencies, the District Attorney, public defender, District, Juvenile and Family Relations, and Magistrate and Municipal Courts; respective clerk's officers, the local probation and parole officers, County Adult and Juvenile Detention Centers, juvenile detention homes, State Correctional Facilities and any other criminal justice agencies. The department shall normally provide all possible information, assistance, and support to these agencies allowed by law.
 - a. Any serious policy or procedural problems or differences with another agency or its personnel shall be brought to the attention of the Sheriff, through the chain of command, who will meet with

appropriate personnel of these agencies in order to resolve the problems.

- b. During any investigation, questions of law or criminal procedure will be addressed to the District Attorney's Office. Questions on law enforcement procedure will be addressed to the appropriate supervisor or the Sheriff.
- c. Any criminal cases referred to the District Attorney's office which result either in a decision not to prosecute or to dismiss, due to department mishandling, shall be carefully reviewed and appropriate corrective action taken. The District Attorney has been asked to bring such cases to the attention of the Sheriff.
- d. All members of the department shall assist and cooperate with all federal, state, and local law enforcement agencies in every way possible allowed by law.

B. Referrals

Members of the department often encounter citizens, either adult or juvenile, who need specialized help that the department cannot give, i.e., marriage counseling, mental health counseling, welfare assistance, assistance in handling civil matters. When, in the best judgment of a member, this situation arises, he or she shall refer the citizen to the most qualified agency to deal with the problem or consult his supervisor.

Members will not give legal advice to citizens nor will they refer them to a specific attorney's office or bonding company.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Off-Duty Employment	NUMBER: 1-14
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Liability Off-duty employment
Off-duty arrests Secondary employment

I. POLICY

The Sheriff must ensure the continued efficiency and effectiveness of the department while simultaneously reducing or eliminating conflicts of interest. To this end, the Sheriff shall manage according to whatever reasonable controls he deems necessary to restrict or regulate the conduct of members. It is the policy of the department, therefore, to prohibit off-duty employment when it may impair efficiency or conflict with members' duties and responsibilities. To promote the welfare and good reputation of the department, however, this order outlines procedures to ensure appropriate, accountable, and reasonable off-duty work.

II. PURPOSE

To define regulations governing off-duty employment.

III. DEFINITIONS

- A. Employment: Any work performed, or services provided for compensation (a fee or otherwise), including self-employment. Volunteer charity work is excluded.
- B. Law enforcement- related employment: Off-duty employment which may entail the use of law enforcement powers granted by the State of New Mexico or the County of Luna.
- C. Probationary period: Unless specifically stated by the Sheriff, all sworn Sheriff's personnel will complete a 12-month probationary period.
- D. Secondary employment: Any non-law enforcement-related off-duty work for pay. Secondary employment does not require sworn enforcement powers as a condition of employment and the work does not provide implied law enforcement service.

IV. PROCEDURES

A. General

No member shall work off duty during their probationary period. Members on medical or sick leave, temporary disability, or light duty due to injury are ineligible for off-duty employment. A member engaged in any off-duty employment may be called to duty in an emergency.

B. Secondary employment

Employment shall not constitute a conflict of interest. A conflict of interest, as determined by the Sheriff, is any activity inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of employment.

C. Law enforcement-related off-duty employment:

1. Law enforcement-related employment shall not exceed 14 hours per day, including on-duty time: e.g., a member working a 10-hour tour may work four hours of off-duty employment on the same day and a member on a day off may work up to 14 hours. For the purpose of computing allowable work time, court appearances constitute on-duty time.
2. Law enforcement-related employment is restricted to the county boundaries unless the member is working in conjunction with another jurisdiction's regular law enforcement agency after having been duly sworn as a law enforcement deputy in that jurisdiction.
3. Serving as a recruiter and receiving compensation for procurement of law enforcement-related jobs for other department employees is prohibited.
4. No member shall solicit any person or business for the purpose of gaining law enforcement-related off-duty employment, and, while on duty, shall not solicit any person or business for the purpose of gaining secondary employment.
5. Except for public school security activities and other employment specifically authorized by the Sheriff, the following regulations apply:
 - a. The Luna County Sheriff's Office uniform shall not be worn while engaged in off-duty employment.
 - b. County-owned vehicles, radios, or other equipment shall not be used while traveling to and from or engaging in off-duty employment, unless specifically authorized by the Sheriff.

6. Deputies, while engaged in law enforcement-related employment, shall be subject to the orders of the on-duty law enforcement supervisor.

D. Administration

1. Members must submit a written request to the Sheriff through the chain of command for any off-duty employment. The form found at the end of this order shall be used for the purpose. Members shall not begin any off-duty work until approval has been granted. The request shall be filed in the member's personnel file.
 - a. The approved request is subject to periodic review by the Sheriff. Members shall communicate any changes in information contained on the form to the Sheriff as soon as possible.
 - b. The Sheriff may revoke permission to work off duty if the member fails to perform adequately on duty or receives disciplinary action. To be eligible for permission to work off duty, members must be in good standing with the department. Continued permission to work off duty is contingent upon remaining in good standing.
2. The Sheriff shall disapprove any employment that demeans the status or dignity of the law enforcement profession, or otherwise represents a conflict of interest. Examples of such employment include:
 - a. Retailers which sell pornographic materials or provide services of a sexual nature.
 - b. Retailers who sell, manufacture, or transport alcoholic beverages as the principal business.
 - c. Gambling establishments not exempted by law.
 - d. Any firm connected with the towing or storage of vehicles, bill collecting, bodyguards, repossessions, private investigators, process servers, or taxi cab drivers.
 - e. Performance in department uniform of any tasks other than those of law enforcement.
 - f. Performance of any work for a business or labor group that is on strike.

- g. Performance of any work regulated or licensed through the department.
 - h. Performance of personnel investigations for private firms, or any employment requiring the member to have access to department files, records, or information as a condition of employment.
 - (1) Performance of any activity which supports case preparation for the defense in any criminal or civil action.
- 3. Arrests made while engaged in off-duty law enforcement-related employment shall be limited to felonies or criminal misdemeanors committed in the deputy's presence or a breach of the peace jeopardizing public safety. See General Order 2-4 for further details concerning off-duty arrests.
 - a. Members shall understand that department liability protection does not extend to willful acts which cause injury or damage, or acts the member knew or reasonably should have known conflicted with department policy or the law.
 - b. Off-duty arrests shall not be made when the deputy is personally involved in the incident underlying the arrest.
 - c. Off-duty arrests shall not be made when the deputy's actions only further the interests of the private employer.

E. Liability, Indemnification & Insurance

- 1. All members who wish permission to engage in law enforcement-related employment shall complete the application found at the end of this order. The member may not commence the off-duty work until it is approved by the Sheriff. In addition to the application form, the member must submit to the Sheriff a copy of the contract with the off-duty employer. The contract must specify:
 - a. precise nature of the work to be performed;
 - b. hours or schedule of the work performed;
 - c. what equipment the member must maintain;
 - d. insurance coverage of the business providing for medical treatment for job-related injuries and indemnification for litigation arising

from off-duty employment.

2. The department shall not be responsible for medical expenses incurred from injuries sustained while working in any off-duty employment.
3. The department recognizes that a member in law enforcement-related employment may undertake an action connected with the employment that the courts may construe as a law enforcement duty, and therefore an extension of the job. Members are reminded that their off-duty performance must follow the same standards required for on-duty performance. Off-duty law enforcement actions, whether for a private employer or not, must meet the requirements of this manual.

APPLICATION FOR OFF-DUTY EMPLOYMENT

Name of employee requesting off-duty employment: _____

Effective date of off-duty employment: _____

Expiration of employment (*indicate whether open-ended*): _____

Name of business or off-duty employer: _____

Address of business: _____

Telephone # of employer: _____

Contact person at business: _____

Type/Nature of business: _____

Address and telephone number of employment sites if different from above:

1. _____

2. _____

3. _____

DESCRIPTION OF DUTIES:

Number of hours worked by employee:

Per Day: _____ Per Week: _____

Employee Signature: _____

Date of application: _____

Contract or memorandum of understanding (*circle response*) YES NO

Approved: _____ Disapproved: _____

Sheriff

Date

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Prohibited bias-based policing or profiling practices.	NUMBER: 1-15
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 29-21-1

INDEX WORDS

Biased-based policing
Profiling
General Procedures

PURPOSE:

The purpose of this policy is to state the Luna County Sheriff's Office commitment to unbiased, equitable treatment of all persons in enforcing the law and providing law enforcement services

POLICY:

Public trust and confidence in the Sheriff's office are critical to effective law enforcement and is achieved largely through fair and equitable treatment of the public. It is the policy of the Luna Sheriff's Office to respect and protect the constitutional rights of all individuals during law enforcement contacts and/or enforcement actions and that such enforcement decisions will not be predicated solely on the basis of an individual's race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, or economic status.

To this end, biased-based policing and/or profiling in the Office are unacceptable practices that will not be tolerated.

DEFINITIONS:

BIASED-BASED POLICING/PROFILING

The interdiction, detention, arrest or other nonconsensual treatment of an individual because of a characteristic or status, such as race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability or serious medical condition, or economic status.

LAW ENFORCEMENT CONTACTS / ENFORCEMENT ACTIONS

Includes, but is not limited to, a routine or spontaneous investigatory activity, including an interview, a detention, a traffic stop, a pedestrian stop, a frisk or other type of bodily search or a search of personal or real property.

GENERAL PROCEDURES:

- A. Biased-based policing / profiling by any member of this Office is prohibited. Investigative detentions, field contacts, traffic stops, pedestrian stops, searches, a frisk, other type bodily searches, arrests, property seizures and forfeiture efforts will be based on a standard of reasonable suspicion or probable cause for determining when or how to take enforcement action in accordance with the Fourth Amendment of the U.S. Constitution.
- B. Nothing in this policy prohibits deputies from using the traits and characteristics of persons, such as race, ethnicity, or national origin in the same manner that deputies would use hair color, height, weight, or gender to the extent that credible information, relevant to the locality or time frame, links a person with those identifying characteristics to an identified criminal incident or criminal activity
- C. Office personnel will provide the same level of police service to every citizen regardless of their race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, physical or mental disability, serious medical condition, or economic status.

REPORTING

- A. Anyone may lodge a complaint regarding alleged unlawful police profiling with the Luna County Sheriff's Office. All complaints will be investigated regardless of whether they are oral or in writing, anonymous or made by 3rd parties. Complaints must be made within 90 (Ninety) days of the original incident.
- B. The Office will provide complaint forms and personnel will make them available to the public.

DUTIES OF OFFICE PERSONNEL

- A. Any member of this Office who is aware of a violation of this section, or who receives a citizen complaint, shall immediately report the alleged violation to a supervisor orally and submit the information in writing.

- B. Personnel shall not discourage citizens from filing complaints of biased-based policing / profiling and shall not intimidate, coerce, or threaten retaliation against citizens to discourage or prevent them from filing complaints.

SUPERVISOR DUTIES

- A. Supervisors are responsible for seeing that all personnel under their command are familiar with this policy.
- B. Supervisors will monitor the activities of personnel under their command in order to identify behaviors that may be indicative of a violation of this policy.
- C. Supervisors, will respond to all citizen complaints of biased-based policing / profiling and will ensure that complaints are handled in accordance with this policy. Supervisors will not discourage citizens from filing complaints of biased-based policing / profiling and shall not intimidate, coerce, or threaten retaliation against citizens to discourage or prevent them from filing complaints.

TRAINING

- A. The Luna County Sheriff's Office provides training to its law enforcement deputies during orientation and every two years thereafter to assist deputies in adhering to this policy and the Prohibition of Profiling Practices Act, Laws 2009 Chapter 177, §§ 1-4, NMSA 1978 § 29-21-1 et seq.

INVESTIGATION OF ALLEGATIONS OF ILLEGAL PROFILING

Allegations of illegal profiling will be handled as follows:

- A. All complaints will be investigated by the Sheriff, or his designee.
- B. Training will be utilized to address needs based on the outcome of the investigation.
- C. The Sheriff will submit a redacted copy of all complaints and a description of their disposition to the New Mexico Attorney General. The documents submitted to the Attorney General shall disclose the nature and disposition of the complaint but shall not disclose personal identifying information of

D. A law enforcement deputy or complainant.

DISCIPLINE

- A. Violation of this policy prohibiting unlawful police profiling is cause for discipline. The Sheriff will take any action necessary to enforce this policy up to and including termination.

Luna County Sheriff
Citizen Complaint Form

You have the right to make a complaint against any Sheriff's Office Employee for improper conduct. The Office will conduct an investigation and you will be notified of the outcome if you have given us a way to contact you.

Complainant Information (if known):

Name: _____

Address: _____

Phone(s): _____

Email(s): _____

Sheriff's Office personnel involved in the alleged misconduct (if known):

Name: _____

Name: _____

Description of incident (please provide as much detail as possible):

I understand that this statement will be submitted to the Luna County Sheriff's Office records clerk and will serve as a basis for an internal investigation. I declare and affirm that the facts contained in this statement are complete, accurate and true to the best of my knowledge and belief. Furthermore, I agree to fully cooperate with any investigation and agree to appear at any civil or criminal proceedings, if necessary. I also understand that if I attest to any intentional false statement it may be cause for criminal and/or civil proceeding against me.

Signed: _____ Date: _____

Parent or Guardian if under 18 years of age: _____

Sheriff's Office personnel accepting the complaint:

Name (printed) _____ Date: _____

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Physical Fitness	NUMBER: 1-17
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. GENERAL HEALTH AND PHYSICAL FITNESS POLICY

The Luna County Sheriff's Office (LCSO) has adopted a new physical fitness program. The program is voluntary; LCSO recognizes the benefits of such a program and recommends that all personnel take full advantage of it. LCSO will allow each employee to perform physical training each day for one paid hour (total) while on duty.

II. PURPOSE

The Luna County Sheriff's Office recognizes that a physically fit and healthy officer receives fewer injuries and heals faster from an injury, which is a benefit both to the employee and the employer.

The Luna County Sheriff's Office encourages its employee's by allowing such a program and recommends that each employee take full advantage of creating a healthier lifestyle.

III. PROCEDURE

- A. Supervisor has the responsibility of regulating time requests for the physical fitness program.
- B. Supervisor will ensure that calls for service and man power are not affected due to this program.
- C. Supervisor will allow a maximum of one hour per day to each employee for physical fitness training.
- D. Deputies may train at the LCSO facility, any of the local gyms or at another facility designed for the physical training of a person, to include any of the walking paths or tracks throughout Luna County.

- E. Deputies will maintain cell phone, or other means of communication at all times in case of call back.
- F. Duty gear will be secured at LCSO or within an LCSO unit.
- G. In the event that the Deputies activities come into question it will be the responsibility of the shift supervisor to monitor, investigate and document any abuse of this program.
- H. If proven that an abuse/violation of policy has occurred that individual deputy will be disciplined accordingly.

The Sheriff has ultimate authority over this program, lack of integrity or abuse of this privilege will result in the suspension of it.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Grant Funded Patrol	NUMBER: 1-18
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. Purpose:

This policy is to provide a structure for working, monitoring, managing and defining Special Projects/Grant Funded Patrol Operations.

II: Policy:

All Luna County Sheriff's Department personnel who participate in Special Projects/Grant Funded Patrol Operations shall understand and follow the guidelines of the specific program being worked to be eligible. Without adequate controls, there is the potential to bring the agency under scrutiny and perhaps damaging the agency's integrity and reputation. Therefore, it is the policy of this agency to effectively manage Special Projects/Grant Funded Patrol Operations and each employee's participation. Participants who do not comply with this policy will be subject to disciplinary action as outlined in the Luna County Sheriff's Department Manual of Operating Procedures and Collective Bargaining Agreement – Article 11.

III: Scope:

Establish procedures and guidelines pertaining to Special Projects/Grant Funded Patrol Operations. This policy applies to all eligible agency members who may participate in Special Projects/Grant Funded Patrol Operations.

IV: Definition:

Grant Funded Patrol: Federal or State awarded funds to the Luna County Sheriff's Department as a cost reimbursed grant to participate in additional patrols and traffic enforcement.

Eligible Personnel: A Member of the Luna County Sheriff's Department who has completed the LE Academy, FTO Program, not on suspension, not on Administrative

Leave, medical leave or FLSA exempt status. The employee must be in good standing within the Department, or otherwise approved by the Sheriff or his Designee.

Disciplinary Action: The process by which incidents of policy violation(s) will be conducted as per the Departments Standard Operating Procedures Manual or Collective Bargaining Agreement – Article 11, for failure to comply with the policy or procedures of Special Projects/Grant Funded Patrol Operations

Area of Responsibility (AOR): The designated location where a particular Special Projects/Grant Funded Patrol Operations patrol will be worked based on the deployment time, minimum number of hours to be worked, guidelines of the award and INTEL.

Special Projects: Any project/patrol, other than Special Projects/Grant Funded Patrol Operations, ie: Regular duty, Fair/Duck races security, SWAT, parade patrol and any other patrol authorized by the Sheriff and/or his designee.

Special Stonegarden Operation: Any operation initiated by ACTT/USBP ie; Nimbus, ATV Operations, Southbound Patrol, Gear Jammer, Scales verification and any other operation authorized by USBP.

1. **Pay Compensation:** Eligible participants conducting Special Projects/Grant Funded Patrol Operations will be compensated for hours worked at a rate of 1 ½ times their normal rate of pay as long as they have met eighty-six (86) hours **worked** in a pay period.

V: Procedure:

A. Stonegarden

2. Eligible employees working “Stonegarden Operations” will adhere to all Department rules and regulations as if they were on normal/regular duty.
3. Operation Stonegarden eligible participants will be compensated for hours worked at a rate of 1 ½ times their normal rate of pay as long as they have met eighty-six (86) hours worked in a pay period.
4. Each eligible employee of the Luna County Sheriff’s Department will be allotted a number of Stonegarden Operation hours to work during “*each*” month as determined by the Grants Supervisor based on operational needs and available funding.
 - a. Eligible employees will be authorized to work a maximum of 2-five (5) hour shifts of Stonegarden Operations per day while on regular shift.

- b. Eligible employees will be authorized to work a minimum of eight (8) hours and up to a maximum of ten (10) hours on their regularly scheduled days off.
 - 1) If the five hour shifts are consecutive and in conjunction with a regular ten (10) hour shift for a total work day being fifteen (15) hours, there **must** be one day free from **any** Special Projects.
 - 2) The maximum number of hours of Special Projects and regular duty combined cannot exceed sixteen (16) hours unless special circumstances apply.
 - 3) The maximum number of total hours worked to include regular duty and any Special Projects is sixteen (16) hours in a twenty four (24) hour period unless special circumstances apply. This means there is a minimum of eight (8) hours down time between your next shift, whether it is Special Projects or regular duty.
 - 4) Deputies will not work two Stonegarden projects within the same day. i.e. – you cannot work 0500-1000 then come back out and work from 2200-0300.
 - c. Eligible employees can only work the maximum number of Stonegarden Operation patrol hours per month as designated by the Grants Supervisor, to include any **“special”** Stonegarden operations posted by the Grants Supervisor.
 - d. Eligible employees may go over the maximum hours allotted for a Stonegarden Operation patrol if the circumstances of the operation **“require”** it.
5. An operation is defined as a patrol in a designated area determined by the Grants Supervisor/USBP Dispatch Supervisor for a minimum of five (5) hours and may be up to ten (10) hours based on the Area of Responsibility (**AOR**). As INTEL from USBP is received, the Grants Supervisor will distribute the information to Eligible employees by MEMO, CAD or email. The Eligible employee will be **“responsible”** for knowing the details of the AOR they plan to work and any special conditions/requirements that must be met.
6. Eligible employees **“must”** notify the Shift OIC, Luna County Central Dispatch and the Deming Border Patrol Station “bubble” they are working a Stonegarden patrol. The notification must include the time they will be on/off duty and the AOR they will be working in. The notification will be made by CAD, telephone call, in person or other electronic means. The name of the OIC, dispatcher, and BP Supervisor/Agent will be documented on the eligible employee’s daily activity log. If no one is available at the time of the call this shall also be noted on your daily activity log.

7. Eligible employees will be responsible to know the number of allotted hours allowed to work each month.
 - a. Eligible employees may work up to twenty (20) hours of Stonegarden Operation patrols in one (1) work week (Monday-Sunday) until the maximum number of Stonegarden Operation patrol hours has been reached as designated by the Grants Supervisor for the month.
 - b. A minimum of eight (8) hours of the allotted hours for the month shall be conducted in the Columbus AOR.
 - 1) If you are directed by Border Patrol to other areas and cannot meet this requirement it is your responsibility to let your supervisor and the grant administrator know and document this on your daily activity log
 - c. A maximum of twenty (20) hours of the allotted hours for the month may include an ATV operation.
 - d. Stonegarden “ATV/UPV” Operations require eligible employees to work on their regularly scheduled days **off** due to the hours of operation being a minimum of ten (10) hours.
 - e. Each eligible employee must show responsibility and diligence in managing their own hours as not to exceed the maximum number of Stonegarden Operation patrol hours per month as designated by the Grants Supervisor, unless the circumstances of an individual operation requires otherwise. Stonegarden Operation patrol hours exceeding the allotted time must be supported on the eligible employee’s daily activity log.
8. Eligible employees who work Stonegarden “ATV/UPV” Operations with USBP must have successfully completed ATV training with USBP or a state approved ATV training course. Eligible employees who work Stonegarden “ATV/UPV” operations not in conjunction with USBP must have successfully completed “Off Highway Vehicle” training at a minimum.
 - a. If you choose to work a Stonegarden “ATV” Operation with USBP and are eligible to participate in the operation, the hours of operation are 0500-1500 or 1300-2300, unless **specific intel** from the Border Patrol Agents support a change in these hours.
 - b. Eligible employees who wish to work\ a Stonegarden “ATV/UPV” Operation must work with another eligible employee for a minimum of two (2) eligible employees conducting “ATV/UPV” operations. Stonegarden Operations involving ATV/UPV require the responsibility of the Eligible employees who have agreed to work together on the shift to advise one another of any changes in scheduling because one Eligible employee is **NOT** permitted to conduct an operation alone.

- c. The maximum number of eligible employees conducting a Stonegarden “ATV/UPV” Operation is four (4). It will be the responsibility of the senior Deputy to coordinate operations where there are more than two (2) Deputies conducting an operation to prevent double coverage of an AOR. This does not apply to **“special”** Stonegarden “ATV/UPV” Operations hours as designated by the Grants Supervisor. Special Stonegarden “ATV/UPV” Operations hours will be counted towards the maximum number of hours allowed in a month.
 - d. ATV Inspection sheets shall be turned into Investigator Holguin with your paperwork at the end of shift.
9. Eligible employees may **“NOT”** comp out or use PTO to work Stonegarden Operations. The total hours **worked** must be eighty-six (86) to receive 1 ½ times your normal rate of pay.
10. Employees must use the County fuel card before starting your Stonegarden operation. At the conclusion of the operation, you will fuel up with the Stonegarden fuel card, **no exceptions**. You must have a Stonegarden gas card prior to signing up to work a Stonegarden Operation.
11. Eligible employees are to turn in hard copies of Stonegarden Operation documentation, ie: Special Projects Authorization, Daily Activity Log, Copy of gas receipt, OI, Stonegarden Incident Report and any other paperwork (if applicable), prior to going home without exception.
- a) Your fuel receipts need to include total gallons with all digits on the sales receipt and must include pre- and post-operation fuel receipts.
 - b) Maintenance receipts need to be turned in before you go home for the day
 - c) Do not include citations or other paperwork that is not required
 - d) If an arrest is made: You need to document name, DOB, location of arrest and the reason for the arrest on your Daily Activity Log
 - e) **Hand written forms will not be accepted.**
12. Eligible employees are responsible for signing in on the time sheet **prior to** working an operation before going home. If they fail to do so and sign up after the pay period ends then they will be subject to disciplinary action as noted in Collective Bargaining Agreement – Article 11. If an employee signs in after the pay period is finalized it is the employees responsibility to complete the

paperwork to the Grant administrator and payroll. Payment will be made in a timely manner once this is complete. The Grants Supervisor **will not** call the individual and remind them that they failed to sign in. For those employees who sign in after the pay period has been finalized, the employee will be paid in a timely manner at the next available pay day.

13. While working in the field you are to document all contact with Border Patrol on your OT forms. This will help track required “Spot Checks” that are required by Border Patrol.
14. Citizen Contacts need to be documented on your daily activity log with the name of the person you spoke to and document the specific concern that was brought to your attention so it can be forwarded to Border Patrol Intel and other LE officers.
15. While working Operation Stonegarden you will be required to make no less than 20 traffic stops for every 40 hours worked.
16. The Grant Administrator will let you know in advance on when you will not be allowed to work Stonegarden Operations at the end of a pay period/quarter to ensure timely submission of grant documentation.

B. Traffic Safety- ENDWI, STEP, 100 Days & Nights of Summer

1. Eligible employee(s) working “Traffic Safety” will adhere to all Department rules and regulations as if they were on normal/regular duty.
2. The Traffic Safety Grant Supervisor will post Traffic Safety operations at a central location. Eligible employees will be able to sign up for an operation based on availability.
3. Traffic Safety operations are statistic driven and require a minimum of two (2) citations per hour with the exception of ENDWI.
 - a. ENDWI operations will be monitored by the ENDWI coordinator. If an eligible employee signs up for an ENDWI operation and cannot work the detail, they must find a replacement.
4. Eligible employees **“must”** work Traffic Safety outside their normally scheduled hours of regular duty. Regular duty shall include any court ordered appearances, training or on call status.

5. Eligible employees **“must”** notify the Shift OIC and Luna County Central Dispatch they are working Traffic Safety. The notification must include the time they will be on/off duty and the AOR they will be working in. The notification will be made by CAD, telephone call, in person or other electronic means. The notifications will be documented on the eligible employee’s daily activity log.
6. Eligible employees are to turn in their documentation, ie: Overtime Authorization & Activity Report, Daily, any Offense Incident Report or any other paperwork (if applicable), at the end of their shift without exception.
7. Eligible employees are responsible for signing in and out on the time sheet for each operation they work. The Traffic Safety Grants Supervisor **will not** call the individual and remind them that they failed to sign in. For those employees who sign in after the pay period has been finalized, the employee will be paid in a timely matter at the next available pay day.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Jurisdiction; Mutual Aid	NUMBER: 1-19
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS Jurisdiction
Mutual aid

I. POLICY

On occasion, the need arises to request assistance from or give assistance to a neighboring law enforcement agency. This need usually results from an emergency such as a civil disorder, fire, flood, or other disaster. Before the need arises, agencies must clarify and plan emergency procedures. Available state and local support systems shall be appropriately used in support of our law enforcement operations.

II. PURPOSE

To establish procedures, duties and responsibilities for providing assistance to, or requesting assistance from another law enforcement agency and to provide for use of statewide law enforcement support systems.

III. PROCEDURE

A. Jurisdiction

1. Generally, the legal jurisdiction of the sheriff department stops at the county lines, as defined by charter, and New Mexico Law. Deputies may enter another jurisdiction to:
 - a. Assist neighboring law enforcement agencies or the New Mexico State Police in handling emergency calls at times when they are unable to respond immediately.
 - b. When a felony or serious misdemeanor crime-in-progress is observed by a deputy and the suspect is pursued across jurisdictional boundaries.

c. The Sheriff or his deputies shall have the right to enter any county of this State, or any part of this state, for the purpose of arresting any person charged with a crime. 4-41-12 NMSA

1. Whenever a person in the custody of a deputy shall escape or whenever a person shall flee from a deputy attempting to arrest him, such deputy, with or without warrant, may pursue such person anywhere in the state and, when actually in close pursuit, may arrest him whenever he is found. No deputy of the department shall leave the county in a pursuit or chase without authorization from a supervisor and informing the dispatcher.
3. Mutual aid shall be requested from other law enforcement agencies as appropriate. On-duty supervisors shall closely monitor all pursuits and will terminate them when necessary.

B. Mutual Aid

1. For the purpose of this general order, mutual aid is defined as the short-term assistance given or asked for between the department and neighboring law enforcement agencies during emergencies such as civil disorders, fires, floods, or other public disasters. Typical law enforcement services required or provided may include mass processing of arrestees, transporting prisoners, and operating temporary detention facilities.
2. Mutual aid may be requested from or provided to another law enforcement agency by the department at the discretion of the on-duty supervisor; deputies must remember, however, that they are responsible for providing law enforcement service to our jurisdiction. Normally, outside agency personnel will be used to assist in a show of force, traffic control, mass processing of prisoners, prisoner transportation, and operating temporary detention facilities. There are generally three levels of mutual aid assistance as follows:
 - a. Short duration, approximately 30 minutes or less, where an additional show of force or traffic control or assistance with prisoner transportation is required.
 - b. Medium duration, one to four hours, where the senior official on duty may request assistance from the neighboring law enforcement agencies and the State Police; however, their role should normally be in a showing of force, transporting prisoners, or traffic control.
 - c. Long duration, more than four hours, full scale assistance required.

The on-duty supervisor shall immediately notify the sheriff who will assist in coordinating additional aid as required.

3. Any long-term support between the department and neighboring law enforcement agencies shall be coordinated in advance by department heads. Coordination shall be accomplished by written agreement incorporating the following:
 - a. Indemnification of the provider agency and its personnel, i.e., life, health, and liability insurance. Both agencies must understand that one agency's liability insurance will not release a deputy's department from liability if the deputy's action is negligent. Both agencies may be liable.
 - b. List of resources to be shared.
 - c. Estimate of amount of aid available.
 - d. Payment for certain expenses, e.g., meals, lodging, gas, overtime pay.
4. Occasionally it is necessary to request assistance from a federal law enforcement agency, such as the FBI, when a bank robbery or a major crime has been committed (e.g., murder and kidnapping) and it is believed that the perpetrator of the crime has left the state. The sheriff will decide whether or not to notify the FBI.
5. If the department with the help of neighboring law enforcement agencies and the State Police is unable to cope with an emergency such as a riot or civil disturbance, the sheriff may call upon the National Guard for assistance. In this event, the State Police will be notified and contact made with the Governor's office requesting assistance.

C. Statewide law enforcement support

1. The department participates in the use of the National Crime Information Center (NCIC) and the New Mexico Law Enforcement Teletype System (NMLETS) and complies with the procedures for the use of this exchange.
2. In addition, the department participates in the Uniform Crime Reporting system of the State of New Mexico and the Federal Bureau of Investigation.
3. Certain state-owned law enforcement resources may be made available to

the department for special use. These resources, and the state agency to contact, include:

- a. Canine teams- New Mexico Search and Rescue. Canine teams, if requested, shall only be used to track, and great caution shall be used in deploying teams in heavily populated or congested areas. Handlers are responsible for compliance with their own agency policies, procedures, and restrictions. Canine teams will not be used for building searches.
- b. Helicopter or fixed-wing aircraft- New Mexico State Police. Normally requested in advance by the sheriff from the State police Chief; may be available on emergency basis through the New Mexico State Police.
- c. Polygraph- New Mexico State Police.
- d. Riot truck and equipment- New Mexico State Police.
- e. Bomb Disposal- New Mexico State Police.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Grooming Standards	NUMBER: 1-20
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. Purpose

The purpose of this policy is to provide the grooming standards that shall be adhered to by all department personnel.

II. Policy

Department policy establishes that all employees meet appropriate grooming standards as prescribed by the Sheriff. All employees, while on duty, unless otherwise directed by their commanding officer, shall be well groomed and clean. Clothes and shoes shall be clean and properly cared for. Attire shall conform to department rules and regulations. All department personnel are expected to dress appropriately for the work place. The Sheriff reserves the right to determine the appropriate standard for personnel in a particular assignment.

III. Procedures

A. Grooming and Attire – All Department Personnel

1. Personal Hygiene

Employees are expected to be attentive to personal hygiene including, but not limited to, regular personal bathing, shampooing and oral hygiene.

2. Attire

Clothing is to be neat and clean, without rips, tears or holes and appropriate for the work environment. Employees should not wear suggestive or provocative attire, halter tops, non-uniform shorts, flip flops, T-shirts and other similar items of casual attire, nor should attire be unusually tight fitting, short, or low-cut.

3. Hair

a. Hair should be clean, combed and neatly trimmed or arranged. Unkempt hair is not permissible regardless of length. Hair coloring must be natural hair tone colors. Lopsided and extremely asymmetrical styles are not

authorized. Hairstyles that do not allow for the proper wear of headgear are prohibited.

b. Wigs or hairpieces shall be of good quality and fit, present a natural appearance and conform to the grooming standards set forth in this section.

4. Fingernails

a. Males

Fingernails shall be kept clean and well groomed. Colored nail polish will not be worn while on duty.

b. Females

Length of fingernails shall not exceed a reasonable length for the duties required of the individual employee. Nail polish may be worn, but colors shall be conservative and complement the skin tone. Dangling fingernail rings or decorative adornments are not permitted.

5. Jewelry

Conservative jewelry is authorized for all personnel and shall be in good taste while on duty. Earrings are allowed only on female employees. Earrings shall not exceed two per ear lobe and shall be small and inconspicuous. Additional piercing of the ear lobes and cartilage are prohibited.

6. Body Piercing

No articles, other than earrings for females specified above, shall be attached to or through the ear, nose, tongue, chin, eyebrow or any other body part that would be visible to the public while on duty.

7. Body Mutilation

Mutilation is defined as the intentional radical alteration of the body, head, face or skin for the purpose of and or resulting in an abnormal appearance. Visible, intentional mutilation of any part of the body is prohibited.

8. Dental Ornamentation

The use of decorative veneers or caps for purposes of dental ornamentation is prohibited. Teeth, whether natural, capped, or veneered, will not be ornamented with designs, jewels, initials, etc.

9. Cosmetics

- a. Cosmetics may be applied so that colors blend with natural skin tone, enhance natural features and do not give a dramatic appearance.
- b. An employee's chain of command has the authority to have the employee change or remove cosmetics determined to be in violation of this section.

10. Eyeglasses

- a. Personnel shall wear prescription glasses that are conservative in design.
- b. Sunglasses should be removed when addressing the public.

B. Male Personnel

1. Hair

When in regular uniform, males shall wear their hair in compliance with the following:

- a. Hair on the side may extend to the ears but will not protrude over the ears. Hair at the nape of the neck may be rounded or blocked but it shall not touch or extend beyond the top of the collar when the head is held in the position of attention. Hair in front will not fall below the eyebrows. Hairstyles that do not allow for the proper wear of headgear are prohibited.
- b. Sideburns shall not extend in length below the opening of the ear. The sideburns shall be neatly trimmed, not bushed nor flared. Sideburns shall be cut level when the head is held in the position of attention. The width of the sideburns shall not be more than 1-1/4 inch.
- c. Mustaches will be neatly trimmed and shall not extend in length below the top edge of the upper lip nor extend more than 1/4 inch upward, downward, or to the side from the corner of the mouth.
- d. No facial hair other than a mustache is authorized. The Sheriff will consider and may approve accommodations to this standard only in cases where the deputy demonstrates a medical or religious need for accommodation. In such instances, the deputy should bring the need for accommodation to the Sheriff's attention through the chain of command. The deputy must provide sufficient documentation and proof for the need for the accommodation. Even with a medical or religious accommodation, a deputy's facial hair shall be trimmed or shaved so as not to interfere with the proper seal of the any department issued gas mask and under no circumstances shall the facial hair be more than 1/4 inch in length. Deputies

with this accommodation will maintain a full but trim beard. The shaving, waxing, plucking, or otherwise removal of superfluous hair from the beard for the purpose of aesthetic grooming or other cosmetic effect is prohibited.

e. Designs will not be allowed to be cut/shaved into short hairstyles.

2. Jewelry

a. Earrings are prohibited.

b. Necklaces shall not be visible.

c. Male sworn officers may wear a wristwatch, wedding band or other conservative type ring.

3. Employees excused from the above regulations because of special assignment, such as CID, shall be in compliance with the above regulations when wearing the official uniform.

C. Female Personnel

1. Hair

When in uniform, females shall wear their hair in compliance with the following:

a. Hair may be cut short.

b. Longer hair will be secured and styled.

c. Hair shall not be styled so that it hangs below the eyebrows.

d. Hair will be neat and clean.

e. Pigtails or dreadlocks are not permitted.

f. Hairstyles that do not allow for the proper wear of headgear are prohibited.

2. Jewelry

a. Female sworn officers may wear a wristwatch, wedding band or other conservative type ring.

b. Necklaces shall not be visible.

D. Tattoos and Body Art Standards

1. All Personnel – Uniformed, non-uniformed, sworn and civilian personnel

are prohibited from displaying any tattoos, piercings or brandings that are apparent while wearing a long sleeve uniform shirt while on-duty or representing the department in an official capacity. Personnel will be required to cover existing tattoos and/or body art while on-duty or representing the department in an official capacity.

2. Content of Tattoos - Tattoos located anywhere on the body that are prejudicial to good order and discipline, or are of a nature to bring discredit upon the Department, are prohibited. Examples include, but are not limited to, tattoos that are drug-related, gang-related, extremist, obscene or indecent, sexist, or racist, as further defined below:
 - a. Extremist. Extremist tattoos are those affiliated with, depicting, or symbolizing extremist philosophies, organizations, or activities. Extremist philosophies, organizations, and activities are those which advocate racial, gender, or ethnic hatred or intolerance; advocate, create, or engage in illegal discrimination based on race, color, gender, ethnicity, religion, or national origin; or advocate violence or other unlawful means of depriving individual rights under the U.S. Constitution and federal or state law.
 - b. Obscene or Indecent. Indecent tattoos are those that are grossly offensive to modesty, decency, or propriety.
 - c. Sexist. Sexist tattoos are those that advocate a philosophy that degrades or demeans a person based on gender.
 - d. Racist. Racist tattoos are those that advocate a philosophy that degrades or demeans a person based on race, ethnicity, or national origin .
3. Employees with tattoos/branding located in an area not practical to cover may submit a request for exemption to the Sheriff or designee for consideration.
 - a. Tattoos that substitute for the application of cosmetics are acceptable provided that the make-up is applied in shades appropriate to natural skin tones.
4. Court, Administrative and Pre-Trial Hearings – All personnel attending any court proceeding, administrative or pre-trial hearing shall adhere to this policy.
 - a. Non-uniformed personnel may be exempt from this policy at the discretion of the Division Commander.

E. Exceptions

The Sheriff will make the final decision of whether body art or a tattoo violates this policy, if a determination has to be made.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Constitutional Safeguards	NUMBER: 2-1
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 3-18-1, 29-1-1, 31-2-8, 29-8-3

INDEX WORDS

Abandoned property
 Authority; limitations
 Consent to search
 Confessions
 Constitutional safeguards
 Curtilage
 Discretion
 Emergency searches
 Eyewitnesses
 Hearsay
 Interrogations
 Interviews
 Line-ups
 Miranda rights
 Plain view search
 Probable cause
 Reasonable suspicion
 Search and seizure;
 limitations of vehicles (custodial arrests)
 of vehicles (generally)
 of vehicles (inventory)
 Warrants;
 executing
 protective sweeps

I. POLICY

Of all the actions a deputy might take during the course of duty, the ones with the most severe consequences concern constitutional rights. The use of deadly force might result not only in injury or death but a review of the constitutionality of the act. Similarly, the arrest of a person for a misdemeanor shoplifting, by contrast, invokes the law of arrest and search and seizure that

are controlled by the Constitution. The U.S. Constitution and the Bill of Rights guarantee every citizen certain safeguards from government intrusion into their lives. These safeguards have become the cornerstone for the application of criminal justice in America. Consequently, these safeguards have placed limitations on the authority of law enforcement to enforce the laws of the United States, state of New Mexico, and the County of Luna. The department expects deputies to observe constitutional safeguards scrupulously and knowledgeably. The department further expects that deputies understand the limits and prerogatives of their authority to act. Respect for the civil liberties of citizens shall be the paramount concern in all enforcement matters.

II. PURPOSE

The purpose of this general order is to define the legally mandated authority for the enforcement of laws. The general order will establish procedures for ensuring compliance with constitutional requirements during criminal investigations, to set forth guidelines concerning the use of discretion by deputies, and to define the authority, guidelines and circumstances when deputies should exercise alternatives to arrests and pretrial confinement.

III. PROBABLE CAUSE AND REASONABLE SUSPICION

A. Probable cause

Searches (with the few important exceptions outlined in this order) and all arrests are based on the deputy's perception of probable cause. According to the Supreme Court, "Probable cause exists where the facts and circumstances within their [the arresting officer's] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed."

1. A deputy must have probable cause to undertake a search or make an arrest.
2. When a deputy has probable cause, he or she may undertake a complete body search, record the suspect's fingerprints, take the suspect's photograph, and jail him. The aim of probable cause is to make a formal charge. Body search, (i.e., pat down, is meant for field situations for officer safety.)

B. Reasonable suspicion

Reasonable suspicion involves a standard less than probable cause, generally defined by the courts as a circumstance or collection of circumstances that would lead a trained, experienced deputy to believe that criminal activity may be afoot.

1. A deputy must have reasonable suspicion to temporarily detain a citizen.
2. When a deputy has reasonable suspicion, he or she may undertake a pat-down of a suspect's outer clothing for weapons and record the circumstances of the encounter. The aim of reasonable suspicion is to resolve an ambiguous situation.

C. Elements of probable cause

1. Probable cause may be established through investigation and observation, witnesses, confidential informants, or through anonymous sources provided that the information is backed by investigation.
2. Unnamed informants may be used in an affidavit for a search warrant if information is included about why the informant is credible (reliability) and the informant has knowledge of specific use in the investigation.

IV. PROCEDURES - General

A. Law enforcement authority

1. The Constitution of New Mexico article XX sec. 1 requires that all officers, before performing their duties, take an oath whereby they swear to support the Constitution of the United States and the Constitution and the laws of New Mexico.

B. Limitations on law enforcement authority & jurisdiction

Limitations on law enforcement authority are derived from statutes, federal, state, and local judicial interpretation of laws, opinions of the attorney general and, departmental policies/rules and regulations, and county administrative decisions.

1. Statutory limitations:

These limitations include, but are not limited to;

- a. Enforcement of laws outside of the county boundaries. NMSA 31-2-8 grants authority to enforce state criminal laws beyond the boundaries of the county during fresh pursuit.
- b. NMSA 29-8-3 allows county deputies to be sent to other New Mexico jurisdictions by use of a Mutual Aid agreement to assist

another locality in meeting an emergency involving any immediate threat to life or public safety, as outlined in the statute. Further, NMSA 29-8-3 allows localities to enter into reciprocal agreements with localities to provide mutual aid. Notwithstanding the provisions of this statute, New Mexico Law allows the Sheriff, in a declared emergency, to call upon other chief law-enforcement officers of towns or counties to provide law-enforcement assistance without a need to deputize officers from other jurisdictions.

2. Judicial limitations:

Courts constantly interpret laws that place limitations on the authority of law enforcement personnel. The more common limitations address Miranda rights/warnings, rulings on search and seizure, eyewitness identification, and lineups. The department shall provide policy guidance concerning these decisions, as appropriate.

V. INTERVIEWS AND INTERROGATIONS

A. Definitions:

1. An interview, as opposed to an interrogation, may be construed as any conversation with a suspect, witness, victim, or the citizen.
2. An interrogation, to paraphrase the Supreme Court, includes direct questioning (or its functional equivalent) about a crime or suspected crime, as well as any words or conduct on behalf of the law enforcement that may elicit an incriminating response from the suspect.
 - a. Deputies are reminded that an interrogation does not rely solely or exclusively on words: conduct can be the "functional equivalent" of asking questions. A person is under custody when a deputy tells him or her that he or she is under arrest. The functional equivalent of being in custody occurs when a reasonable person in the suspect's place would feel that his or her freedom of action has been restricted to the same degree as a formal arrest or is in a law enforcement dominated atmosphere that a reasonable person would believe they are not free to leave.

B. Rights admonition

1. In order to achieve uniformity in administering Miranda warnings,

deputies shall be issued cards with the *Miranda* warnings and waiver of them. Before custodial interrogation, deputies shall advise suspects of their rights by reading aloud from the card the following:

- a. "You have the right to remain silent."
 - b. "Anything you say can and will be used against you in a court of law."
 - c. "You have the right to talk to a lawyer and have him present with you while you are being questioned."
 - d. "If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one."
 - e. "You may cease talking at any time."
2. After the warning, in order to secure a waiver, the deputy shall ask and receive affirmative replies to the following questions:
- a. "Do you understand each of these rights I have explained to you?"
 - b. "Having these rights in mind, do you wish to talk to us now?"
3. After the rights have been read, understood, and the person wishes to waive them, the deputy will have the suspect sign the waiver of rights form. Deputies shall interrogate suspects only when they have knowingly and intelligently waived their rights. Deputies shall cease questioning whenever the suspect invokes the right to silence or requests the presence of counsel.
- a. After the suspect has been arraigned or formally charged, deputies shall not try to elicit incriminating evidence unless the suspect waives the right to counsel.
 - b. If a suspect, once in custody, requests counsel after being advised of *Miranda* rights, he or she cannot be interrogated again about the crime for which he or she was charged, or other crimes, or by any other deputies unless:
 - (1) counsel is present during the interrogation or
 - (2) the suspect himself initiates the interrogation. Deputies

therefore, cannot obtain a waiver under these circumstances unless the suspect initiates interrogation. If a suspect's intentions are unclear, deputies may question the suspect further to clarify his or her intentions.

- c. If the suspect is deaf, the interrogating deputy shall notify the on-duty supervisor and shall immediately arrange to obtain an interpreter.
- 4. Deputies will take care when advising juveniles of their rights to ensure that the rights are understood before obtaining a waiver. Deputies should honor a child's request to speak to a parent or guardian before waiving his or her rights. Whenever possible, the child's parents should be present while the child's rights are explained, and the waiver obtained.
- 5. If a suspect has invoked his or her right to silence, deputies may interrogate the suspect if, after a passage of time, the suspect initiates communication with deputies. Before questioning, however, deputies shall administer Miranda warnings and shall obtain a written waiver.

C. Voluntariness of confessions:

The courts have provided deputies with much latitude in interrogating suspects. If a suspect claim that he or she was coerced into confessing, the courts will examine the interrogation according to the totality of the circumstances. If interrogation methods appear to overcome the suspect's will, then the courts will find any resulting confession to be involuntary. If deputies use trickery, threats, or offer promises to obtain confessions, they must:

- 1. Carefully assess the suspect's background, age, education, mental impairment, and physical condition to determine vulnerability to coercion; and
- 2. Coupled with the background characteristics; choose an appropriate mix of interrogation tactics and environmental factors to convince the suspect to confess without overbearing the suspect's will.

D. Exemptions or special cases:

- 1. *Miranda* warnings do not apply to the following situations which are non-custodial. This list is not all-inclusive:

- a. Brief on-scene questioning.
- b. Identification procedures such as fingerprinting, conducting a line-up, sobriety tests.
- c. Volunteered, spontaneous statements (Once the deputy has heard the suspect express spontaneous incriminating statements, the deputy shall then advise the suspect of *Miranda* rights and obtain a waiver before undertaking additional questions.)
- d. Brief investigative detention or stop/frisk.
- e. Roadside questioning during routine traffic stops, including DUI stops until custodial interrogation begins.
- f. Routine booking questions attendant to arrest.
- g. Questioning by private persons, not acting as an agent for law enforcement.

2. Public safety exception

When a deputy urgently needs information from a suspect because lives are in imminent danger, deputies may delay giving *Miranda* warnings until the deputies have received information sufficient to dispel the emergency. Deputies are advised that a genuine, life-threatening emergency must exist.

E. Documentation requirements:

- 1. Deputies shall document the circumstances surrounding the conduct of interrogations and the recording of confessions. Required information includes but is not limited to:
 - a. location, date, time, duration of the interrogation.
 - b. identities of the deputies present.
 - c. *Miranda* warnings given, the suspect's responses, and any waivers provided.
 - d. the nature and duration of any breaks or lapses during the interrogation and the reasons for them.

2. Video or audio recordings shall be treated as evidence and handled accordingly. Before the tapes are stored as evidence, a duplicate shall be made and likewise treated as evidence, the fact of it being a duplicate should be clearly noted on all paperwork.

VI. SEARCH AND SEIZURE - Warrantless Searches

A. Definition:

Law enforcement action termed a search where (1) there is a "prying into hidden places by the deputy" (2) the person whose premises or person is being searched has a reasonable expectation of privacy.

- B. The Fourth Amendment guarantees the right for people to be free from unreasonable searches and seizures of their homes, persons and things. The Supreme Court is continuously interpreting the Fourth Amendment as it applies to law enforcement conduct. Illegally seized items of evidence will not be admitted in court and may be cause for a lost criminal case. Additionally, an illegally conducted search invites civil suits under the Civil Rights Act. In order to ensure that Fourth Amendment rights are protected, deputies will obtain search warrants upon probable cause in all appropriate criminal cases except for the following circumstances. Search warrants are discussed under General Order 2-2.**

1. Consent searches
2. Emergency searches
3. Plain view
4. Abandoned property and open fields
5. Inventory searches of vehicles
6. When executing arrest warrants
7. Incident to arrest (see General Order 2-4)
8. Pat-downs of suspicious persons (see General Order 2-3)

As a general rule, no arrest warrant or search warrant is required for an arrest in a public place, as long as probable cause exists.

C. Consent:

1. A search warrant is not necessary where a person who has authority or control over the thing or place searched consents to the search. Note that the deputy doesn't have to have reasonable suspicion nor probable cause to make a consent search: he or she may merely ask for permission from someone with control over the premises. If that person grants permission, the search may take place. The sole justification for consent search is the existence of voluntary consent.
2. Consent searches must observe the following rules:
 - a. Generally, the person granting consent must use, access, or control the property. A person having exclusive possession of some part of jointly-owned property can only give consent for a search of that part.
 - b. If two people have joint ownership of property, either may give consent.
 - c. A landlord, including a hotel or motel manager, cannot consent to a search of a tenant's premises, unless the tenant has been evicted or has abandoned the property.
 - d. A husband or wife, or one member of a cohabiting unmarried couple, may consent to a search of areas in common ownership or use. However, if one party consents and the other objects to the search, the search may NOT take place.
 - e. A parent may consent to a search of premises occupied by a dependent child if the parent also has access to the premises.
 - f. An employee cannot give valid consent to a search of his employer's premises unless he has been left in custody of the premises.
 - g. An employer may generally consent to a search of premises used by employees, except premises used solely by an employee {e.g., a locker}.
2. Consent must be given voluntarily. If a deputy requests consent from a citizen under circumstances which a reasonable person would consider coercive, then deputies must seek a warrant. The deputy may have the burden of demonstrating voluntariness.
3. A person who initially gives consent may withdraw it at any time.

Deputies shall then secure the premises and seek a warrant.

4. Refusal to give consent, in itself, cannot justify further law-enforcement action.
5. The scope of a consent search is limited to the area for which consent has been given, and within this area deputies may search only into areas where the objects sought could reasonably be hidden.

D. Emergency searches:

1. A search warrant is not necessary in an emergency. An emergency is sometimes termed "exigent circumstances."
2. Ten considerations determine whether an emergency exists:
 - a. The degree of urgency involved, and the time required to get a warrant.
 - b. Deputy's reasonable belief that contraband is about to be removed or destroyed. *[Note that not all crimes are serious enough to create exigent circumstances. See "e" below.]*
 - c. The possibility of danger to others including deputies left to guard the site.
 - d. Information that the possessors of contraband are aware that law enforcement personnel are on their trail.
 - e. Whether the offense is serious or involves violence.
 - f. Whether deputies reasonably believe the suspects are armed.
 - g. Whether the deputies have probable cause at the time of entry.
 - h. Whether the deputies have strong reason to believe the suspects are present on the premises.
 - i. The likelihood that the suspects will escape.
 - j. The suspects' entry onto premises after hot pursuit. To justify warrantless entry following hot pursuit, the arrest process must

have begun away from the premises, the offender knows that he or she is under arrest, and the offender tries to avoid arrest.

k. A reasonable belief that someone on the premises is in distress and in need of emergency assistance.

3. If deputies enter premises with probable cause and believe that critical evidence may be destroyed or removed unless immediate action is taken, they may enter without a warrant, secure premises, and obtain a search warrant before proceeding further unless they have obtained consent to search, or some new circumstances arise necessitating another warrantless search.

E. Plain view:

1. A plain view seizure is, technically, not a search. To make a plain view seizure of property (contraband, fruits or instruments of the crime), two requirements must be met:
 - a. From a lawful vantage point, the deputy must observe contraband left in open view; and
 - b. It must be immediately apparent to the deputy that the items he or she observes may be evidence of a crime, contraband, or otherwise subject to seizure.

F. Abandoned property and open fields:

1. A search warrant is not required for property that has been abandoned.
2. To constitute abandoned property, two conditions must apply:
 - a. Property was voluntarily abandoned.
 - b. Property was discarded outside the area in which someone has a reasonable expectation of privacy.
3. Open fields are not protected by the Fourth Amendment, but deputies must distinguish them from curtilage, searches of which require a warrant. Curtilage is the area of a dwelling, which is necessary, convenient, and habitually used by the family for domestic purposes. The extent of curtilage of a private residence, is determined by whether the area is

enclosed; the nature and use of the area; the proximity of the area to the home; and any measures taken by the owner to protect the area from observation. Note that under some circumstances surveillance of activities within curtilage may take place without a warrant.

G. Inventories of vehicles:

1. The department requires deputies to inventory any lawfully impounded vehicle, or a vehicle removed from the street and placed in law enforcement custody. Any evidence or contraband found during the inventory may be used to formulate probable cause for a subsequent search or arrest. Vehicles shall be inventoried per departmental procedure, which requires an inventory of the entire contents, including closed containers (provided they can be opened without breakage). The purpose of an inventory is to ensure safekeeping of private property and to protect the department from liability. In order to justify an inventory of a vehicle:
 - a. deputies must have lawful custody of it; and
 - b. the inventory shall be conducted pursuant to departmental policy; and
 - c. the scope of the inventory shall be limited to those parts of a vehicle likely to conceal important, hazardous, or valuable items including, but not limited to, the passenger compartment, the trunk, and glove compartment.
2. Closed containers may be examined if they are likely to contain valuable property. If closed containers are locked or sealed, they shall not be forced open but simply logged on the inventory form.
3. The vehicle and its closed containers shall not be damaged.

H. When executing arrest warrants:

1. General guidance:

A deputy with an arrest warrant may search for the defendant in his or her own home provided that the warrant was valid; the deputy searches the defendant's home (and not someone else's); and probable cause exists that the defendant is home at the time of the search. The search for the defendant must be limited to places where he or she might be found.

2. Protective sweep:

Deputies may undertake a "protective sweep" of premises, without a warrant, following the arrest upon a warrant. Certain limitations must be observed, however:

- a. The purpose of the protective sweep is to discover persons on the premises who might present a danger to deputies.
- b. Incident to arrest, deputies may, without probable cause or reasonable suspicion, look into closets or other spaces immediately adjoining the place of arrest where threatening persons might be located.
- c. In order to extend the protective sweep beyond closets and adjoining spaces, deputies must have reasonable suspicion for fearing that persons may be on the premises who pose a threat. In such cases, the sweep is limited to examining places where a person might hide.
 - (1) Deputies shall carefully document their reasonable suspicion.
- d. During a protective sweep, evidence discovered in plain view may be seized.
- e. The sweep must cease when deputies have dispelled a reasonable suspicion of danger.

[Note: With a search warrant, a protective sweep is always justified.]

VII. EYEWITNESSES

- A. Eyewitness identifications generally do not provide reliable evidence during criminal investigations. Consequently, the Supreme Court has addressed this issue in numerous cases and set forth guidelines to be followed when eyewitness identifications are solicited by deputies. Eyewitness identifications may take the following form.

- 1. On-scene investigation;

One-on-one identifications have been held constitutional so long as the period of time between the offense and the identification is brief. One to three hours would be a reasonable amount of time.

2. Line-ups:

Line-ups should be conducted using a minimum of six persons having similar physical characteristics as the suspect. The accused has the right to have an attorney present during the line-up and the line-up may not take place until the attorney is present. The attorney may not offer any suggestions concerning the conduct of the line-up but may merely observe. Deputies shall document the date, time, place, name of participants and witnesses, and the location of suspect/participants in the line-up.

3. Photo line-ups:

In conducting photo line-ups, the photos shall depict persons displaying similar physical characteristics as the suspect. Simply showing an eyewitness a single photo of the suspect has been ruled unconstitutional. As a general rule, a photo line-up containing 6-8 photos is reasonable. Photographs shown to witnesses shall not contain any identifying information. A standard set of instructions should be read to a witness when conducting a photo lineup, thus the deputy can testify factually how the photo lineup was administered. These instructions should be time stamped and tagged as evidence with the photos. Photo line-ups will be documented as under (2) above.

B. Hearsay:

1. Deputies shall understand the rules by which hearsay can be considered evidence and therefore of use in an investigation.
 - a. According to the Virginia Supreme Court, hearsay is "evidence not proceeding from the personal knowledge of the witness, but from the mere repetition of what he has heard others say."
2. Hearsay is generally inadmissible in court.
3. Some hearsay is useful as evidence. Exceptions to the Hearsay Rule, and therefore admissible include:
 - a. A dying declaration or a statement, oral or written, made by a mortally wounded person who knows that he is about to die and has abandoned hope of recovery.
 - b. Spontaneous declarations, or exclamations of a participant or bystander concerning an incident, made without time for reflection.

- c. Public records, or reports prepared by public officials under a duty imposed by law or regulation.

VIII. VEHICLES

In recent years, the U.S. Supreme Court has modified and expanded the conditions under which deputies may search vehicles. Preferably, deputies shall search vehicles under the authority of a warrant whenever sufficient time exists to obtain one. Nevertheless, warrantless searches of vehicles may take place under many conditions and circumstances. It is imperative that deputies understand the different types of vehicle searches and their limitations.

A. Definitions:

1. For the purposes of this section, a motor vehicle is any vehicle operating or capable of being operated on public streets or highways, from trucks to automobiles to mobile homes. A vehicle that has been immobilized in one location for use as a storage facility or home is not a motor vehicle for 4th Amendment purposes.
2. For the purposes of this section, a search is an examination of a motor vehicle with an investigative motive, that is, to discover evidence or to examine the vehicle identification number (VIN) to ascertain ownership.

B. When warrantless vehicle searches may be performed:

As noted earlier, warrants shall be obtained to search vehicles, if feasible, unless an emergency exists. Any vehicle that has been disabled with little chance of it being driven away shall be searched with a warrant. In all other cases, vehicles may be searched without a warrant:

1. when probable cause exists.
2. with the driver's consent.
3. incident to the arrest of the occupants.
4. to frisk for weapons.
5. when necessary to examine the VIN or to otherwise ascertain ownership.
6. under emergencies or exigent circumstances.

C. Searches may be conducted within the following limitations:

1. With a warrant, a search may extend anywhere within the vehicle, unless limited by the warrant itself.
2. When probable cause exists, a search may extend anywhere within the vehicle, unless the probable cause is limited to a specific part of the vehicle.
3. When consent has been obtained from the driver, deputies may search the vehicle subject to any limitations specified by the consenting person. Consent shall be obtained in writing, if feasible.
4. Searches incident to the arrest of an occupant shall be limited to any area within reach of the arrestee. The area within reach is deemed to be the passenger compartment. The trunk, engine compartment, and any locked compartments shall not be searched. (See General Order 2-4 for a fuller treatment of searches incident to arrests.)
5. Frisks for weapons shall be confined to the passenger area. Areas not immediately accessible to the occupants, such as a locked glove compartment shall not be frisked. If the contents of a container are immediately accessible to the subject, a closed container may be searched for weapons.
 - a. Note: a deputy can order the suspect from the vehicle and frisk both the suspect and the vehicle.
6. An entry into the vehicle to examine the VIN or otherwise determine ownership must be limited to these purposes.
7. An emergency search of the vehicle may be conducted but the extent of the search must not exceed whatever is necessary to respond to the emergency.

[Note: If the initial search under the above conditions gives rise to probable cause that evidence, contraband, fruits or instrumentalities of the crime might be found elsewhere in the vehicle; deputies may search those areas that might reasonably contain such items.]

D. Containers within the vehicle:

As a rule, no container within a vehicle shall be searched unless it might contain the item(s) sought.

1. Procedures for unlocked containers:
 - a. In a probable cause search, containers may be opened wherever found in the vehicle.
 - b. When the passenger area is searched incident to an arrest, containers within the passenger area may be opened.
 - c. During a consent search, containers may be opened provided that the terms of the consent either so permit or reasonably imply permission.
 - d. Containers found in or discarded from a vehicle under circumstances not amounting to probable cause or in connection with a search incident to an arrest shall not be searched but shall be secured until a warrant is obtained.
2. Procedures for locked containers:
 - a. Under most conditions, locked containers shall be opened only under a warrant unless.
 - b. Consent has been given.
 - c. When probable cause exists to search the vehicle and the object of the search might be found in the container. (Even in this circumstance, a warrant is preferred.).

E. Conducting the vehicle search:

1. When possible, searches of vehicles shall be conducted contemporaneous with the stopping or discovery of the vehicle. As a general rule, vehicle searches shall be conducted as soon as reasonably possible.
2. When possible, deputies shall avoid damaging a vehicle or its contents, and shall minimize the intrusiveness of the search and any inconvenience suffered by the passengers or owner.
3. As vehicles may contain sharp or pointed objects, and perhaps even syringes or other materials with body fluids on them, deputies shall take precautions to minimize exposure to communicable diseases. See General Order 2-30.

IX. LIMITATIONS ON AUTHORITY

A. Limitations on law enforcement authority by local courts:

Occasionally, the local courts may limit law enforcement authority to enforce state statutes and local ordinances. The department manual shall contain relevant orders offering appropriate guidance to deputies. These limitations include, but are not limited to:

1. The enforcement of certain parking ordinances.
2. The handling of juvenile offenders.
3. The issuance of summonses as opposed to arrests/incarceration.
4. Restrictions relating to the animal control ordinance.

B. Limitations on law enforcement authority by the District Attorney:

Occasionally, the District Attorney may issue opinions to the department imposing limitations on deputies. These areas include, but are not limited to:

1. Prosecution of certain cases,
2. Extradition,
3. Enforcement of certain statutes pending opinions from the Attorney General's Office.

C. Limitations on law enforcement authority by the county manager or Sheriff:

Limitations on law enforcement actions by the County Commission, County manager or the Sheriff include, but are not limited to:

1. County Ordinances
2. Parking violations

D. Changes in laws/interpretational limitations:

Periodically, changes take place which may impose new limitations on law enforcement authority or remove or alter existing limitations. Normally, annual updates on such changes are provided to all personnel by the District Attorney. In case immediate changes in departmental operations are required, the District Attorney's office may provide information orally and confirm it in writing.

X. CONSTITUTIONAL REQUIREMENTS: GENERAL

A. Compliance with constitutional requirements during criminal investigation:

1. All deputies when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Deputies shall ensure that:
 - a. All statements or confessions are voluntary and non-coercive.
 - b. All persons are advised of their rights in accordance with this general order.
 - c. All arrested persons are taken before a magistrate within the time limits required for formal charging.
 - d. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.
 - e. Prejudicial pre-trial publicity of the accused is avoided so as not to interfere with a defendant's right to a fair and impartial trial. See Rules & Regulations 1-8, Media Relations.

B. The use of discretion by deputies:

1. Deputies, by the nature of their job, are required to exercise discretion in the performance of their duties. The department provides deputies with written policies, rules, departmental orders, directed patrol assignments, and training in order to aid them in making decisions which govern discretion in performing their duties.
2. With the exception of rules and regulations, general orders give deputies procedures to follow for common or critical enforcement tasks. By definition, general orders afford deputies a window of discretion within which to act. General orders are to be followed unless unusual or extreme circumstances dictate another course of action. In this case, deputies shall make reasoned decisions in their discretion based on good judgment, experience, and training, and accepted law enforcement practices. It is up to the individual deputy to consider the relevant facts, the situation, and then, using knowledge, training, and good judgment, make appropriate decisions. Supervisors must closely observe the use of discretion by their subordinates and point out factual errors or alternatives that may be more

appropriate.

C. Alternatives to arrest/pre-arraignment confinement:

1. Under certain circumstances, deputies are faced with situations where an arrest and pre-arraignment confinement will not be possible. In such cases, deputies may elect to exercise certain alternatives such as the issuance of summonses, referral to a social service agency, or simply to give a warning.

Examples:

- a. Mentally or emotionally disturbed persons.
 - b. Juvenile offenders. See General Order 2-25, Juvenile Procedures.
 - c. Transient persons who need shelter and food.
 - d. Certain misdemeanor cases.
2. Authority to issue summonses in lieu of arrest/confinement:
 - a. NMSA 31-1-6 authorizes police officers to issue a citation in lieu of arrest for persons charged with a petty-misdemeanor criminal offense. Additionally, NMSA authorizes the use of citations when enforcing Game and Fish violations found in Chapter 17 NMSA.
 - b. In determining whether a citation should be used, the deputy shall:
 - (1) Decide whether the offense committed is serious.
 - (2) Make a judgment as to whether the accused poses a danger to the public or himself.
 - (3) Decide, based on circumstances, whether the person may disregard a citation.

3. Informal handling of criminal matters:

Deputies often deal with situations where the public interest would be better served by social service agencies or crisis and professional

organizations. When in the judgment of the deputy a better solution to the problem will be achieved by use of alternatives to enforcement, he or she should refer the citizen to a social services agency.

4. Use of warnings as an alternative to arrest:

The use of warnings may sometimes provide a solution to a problem and may enhance the public perception of the department. Normally, the use of a warning occurs in traffic offenses, but occasionally may be applied to criminal offenses. In determining if a warning should be issued, the deputy shall consider:

- a. the seriousness of the offense;
- b. the likelihood that the violator will heed the warning;
- c. the reputation of the violator, i.e., known repeat offender, has received previous warnings, etc.

5. Limitations on intelligence activity:

- a. Departmental intelligence gathering activities shall be limited to that information concerning criminal conduct that presents a threat to the community.
- b. Departmental personnel and equipment shall only be used in conjunction with intelligence gathering activities, as defined above, in full compliance with all law, and only with the advance approval of the Sheriff.
- c. Intelligence information will be collected, used and processed in full compliance with all laws.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Search Warrants	NUMBER: 2-2
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Affidavit
 Curtilage
 Eyewitnesses
 Force; use of in executing warrants

Informants
 Search warrants
 Seizure

I. POLICY

The Fourth Amendment to the U.S. Constitution guarantees every citizen the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. Supreme Court decisions regarding search and seizure place the responsibility on law enforcement to ensure that citizens' Fourth Amendment rights are protected. Deputies shall scrupulously observe constitutional guidelines when conducting searches and always remain mindful of their lawful purpose. Search warrants, in particular, are one of the most valuable and powerful tools available to law-enforcement deputies. Because of the potential harm to citizens, the risks to deputy safety, and to the department image in the community, deputies shall have a thorough knowledge of the legal requirements in obtaining search warrants.

II. PURPOSE

The purpose of this general order is to establish guidelines and procedures which deputies must follow when conducting searches and seizures.

III. DEFINITIONS

- A. Search warrant: A written order, signed by a judicial authority, directing a law enforcement to search for specified personal property and bring it before the judicial officer.
- B. Curtilage: Curtilage usually refers to the yard, garden, or piece of ground which adjoins a private residence. While the term has no absolute definition

that applies under all circumstances, the curtilage of a private residence, for instance, is determined by whether the area is enclosed; the nature and use of the area; the proximity of the area to the home; and any measures taken by the owner to protect the area from observation.

IV. PROCEDURES - General

A. Legal authorities:

1. New Mexico Criminal Procedures Rule 5-211 states that a court may issue a search warrant if:
 - a. there is a reasonable and probable cause to do so
 - b. there is a complaint on oath supported by an affidavit.
2. *Rule 5-211* states that search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:
 - a. property which has been obtained or is possessed in a manner which constitutes a criminal offense.
 - b. property designed or intended for use or which is or has been used as the means of committing a criminal offense.
 - c. property which would be material evidence in a criminal prosecution.
 - d. persons whose arrest there is probable cause or is unlawfully restrained.
3. The Fourth Amendment to the Constitution prohibits unreasonable searches and seizures. Deputies bear the burden of proving that the search was reasonable. The court will examine reasonableness according to the answers to these questions:
 1. Was there probable cause to issue the search warrant?
 2. Was the scope of the search appropriate?

C. Exceptions to search warrant requirements:

See General Order 2-1 for a discussion of exceptions to search warrant requirements.

V. PROCEDURES - Obtaining a search warrant

A. Essential legal requirements:

1. To obtain a search warrant, a deputy must show probable cause to believe that specific evidence, contraband, or fruits of a crime may be found at a particular place.
2. The deputy shall carefully document specific facts that constitute probable cause. Two kinds of facts must be considered;
 - a. the facts from which the deputy concluded that the person or thing is probably located at the place to be searched
 - b. the facts which address the reliability of the source of the deputy's information.
3. The court considers only those facts presented in the warrant and affidavit.
4. Conclusions and suspicions are not facts.
5. Facts must be recent.
6. Apart from the deputy's personal knowledge or observations, facts may derive from a reliable informant.
7. Reliability of facts is established by:
 - a. personal observation or knowledge by a deputy
 - b. eyewitnesses who have first-hand knowledge
 - c. informants

B. Where to obtain a search warrant:

1. A search warrant may be obtained from any of the following sources;

- a. any judge
- b. any magistrate
- c. must have District Attorney approval.

C. Affidavits:

1. The accuracy of the affidavit is vital to the validity of the search warrant. On the designated form, deputies shall provide the information listed below. New Mexico Law requires deputies to swear the affidavit before a judge or magistrate. Note that the search warrant must be obtained in the jurisdiction where the place or person to be searched is located.
2. The affidavit shall include the following elements:
 - a. a description of the place, thing, or person to be searched, including map coordinates or distances from given reference points, if necessary;
 - b. a description of the things or persons to be searched for.
 - c. a substantial allegation of the offense in relation to which the search is to be made.
 - d. an allegation that the object, thing or person to be searched constitutes evidence of the commission of the offense.
 - e. material facts which would show that there is probable cause for issuing the search warrant.

D. Language of the warrant:

Only the things specified in the search warrant can be seized (for a discussion of exceptions to this, such as plain-view seizures and searches incident to arrest, see General Order 2-1 & 2-4). The warrant shall specify the following:

1. The areas to be search shall be precisely stated. If deputies wish to search a home and its surroundings, the affidavit must specify a "premises" search and its curtilage and must identify outbuildings, garages, as appropriate.

2. If motor vehicles to be searched are on the premises, the warrant shall so specify.
3. If searches of specific persons (other than frisks) are to be included during the search, the warrant shall so specify. If the warrant states that all persons present shall be searched, then probable cause to do so must be justified in the affidavit.
4. The items to be searched for shall be precisely described. If an item to be searched for may be dismantled (e.g., firearms), then the warrant must specify the search for parts, pieces, or components of the item.
5. If deputies anticipate searching for and seizing computers or similar, complex technology, then experts must be consulted to determine the appropriate language to list in the affidavit and for outlining appropriate guidelines in the warrant for seizure of hardware and software.

VI. PROCEDURES - Executing a search warrant

A. When a search warrant must be executed:

1. A deputy is required by court procedures to execute a warrant within 10 days of the date it was issued. If it has not been executed during that time, the deputy shall void the warrant and return it to the magistrate who issued it.
2. A copy of the affidavit must be attached to the warrant and served with it.
3. A deputy may execute a search warrant between 6:00am and 10:00pm local time unless other provisions are approved and documented by the issuing judge. These provisions are authorized by a judge and commonly referred to as a “Nighttime Search Authorization”.

B. Preparing to execute the warrant:

Before executing the warrant, the on-duty supervisor shall review the warrant and the affidavit; brief the search team deputies on the procedures to be followed. The supervisor shall ensure that the entire warrant process is documented. Written reports shall be supplemented with photographs or videotape, if available and appropriate.

C. Gaining entrance to premises:

1. The search team shall first deploy around the premises to be searched,

ensuring that all exits are covered. Uniformed deputies shall be the most visible members of the search team and shall conduct the entry.

2. In most cases the deputies shall do all of the following before entering the premises to be searched:
 - a. He or she must announce his presence as a law-enforcement officer
 - b. The deputy must announce that his purpose is to execute a search warrant
 - c. The deputy must wait a reasonable time either to be admitted or refused admission to the premises.

3. When entrance is refused:

If the deputy is refused entrance after a reasonable time, he may force his way into the premises. "Reasonable time" in this context depends on the circumstances. A refusal may be expressed or implied. A refusal can be implied in two circumstances:

- a. No one has admitted the deputy within a time in which it would be reasonable to expect someone to let the deputy in if he or she is going to be admitted at all.
- b. The deputy waiting to be admitted sees or hears suspicious circumstances, such as flushing toilets or footsteps running away from the door, which indicate that someone might be concealing or destroying evidence or trying to escape.

4. No-knock entry

In some circumstances law enforcement personnel may enter the premises to be searched without announcing his or her presence and purpose. The judicial authority issuing the warrant may add a no-knock entry provision to the warrant. If not, the decision to make a no-knock entry shall be made by the on-scene supervisor based on facts that would lead him or her to reasonably believe that an announcement would result in:

- a. the escape of the person to be searched or arrested
- b. the destruction of evidence

c. bodily harm either to the deputy or to someone within the premises to be searched.

5. In executing any warrants, deputy may use whatever force is reasonably necessary under the circumstances to affect a lawful purpose.

D. Conduct of the search:

1. Once evidence being searched for is located, the search must cease.

2. Deputies shall not use a search warrant to conduct a fishing expedition, i.e., if the search warrant is for a television, or large item, small places such as jewelry boxes may not be searched.

3. A deputy may seize only the property listed in the warrant with two exceptions:

a. the other evidence is reasonably related to the offense for which the search warrant was issued

b. it is property which the deputy knows or has probable cause to believe is evidence of another crime, (See the discussion of plain-view seizures under General Order 2-1.)

E. Searches of persons found on premises:

1. A person's presence on the premises to be searched with a warrant does not, without more, give rise to probable cause to search that person beyond a frisk for deputy's safety.

2. A warrant to search the premises for contraband does carry with it the authority to detain the occupants of the premises while a search is being conducted. If the search of the premises gives rise to probable cause to arrest the detainee, he or she may be arrested and his or her person searched incident to arrest.

3. A person on the premises may be searched if the deputy has probable cause to believe that items listed in the warrant are concealed on the person. Mere presence on premises does not constitute probable cause.

VII. PROCEDURES - Return of the search warrant

A. Per court rules, after a deputy has finished a search, he or she shall:

1. note the date of execution on the search warrant
2. under oath, make an inventory of all the property seized
3. promptly after the search file a return along with an inventory of items taken with the court of the jurisdiction wherein the search was made:
 - a. the search warrant
 - b. either the inventory of articles seized or a notation that nothing was seized during the search
 - c. the affidavit.

B. Responsibility for property seized:

1. All property seized must follow a rigorous chain-of-custody procedure. Documentation must appear in all narrative reports pertaining to the chain of custody of any items seized. The department evidence tag shall be used to mark all seizures.
2. Deputies shall place evidence in the locker reserved for the purpose.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Field Interviews; Stop/Frisk	NUMBER: 2-3
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Field interviews

Reasonable suspicion

Frisks

Stops

Investigative detention

I. POLICY

The agency expects and encourages deputies to conduct field interviews. Field interviews are important contacts with citizens that aid in preventing and investigating crime. Technically, a field interview is a lawful stop of a citizen for investigative purposes. Deputies shall document stops for the purposes of identifying a suspect, witness, or victim, or for crime prevention, intelligence gathering, or community relations. The agency further expects deputies to gather information with proper observance of constitutional safeguards. Strict constitutional guidelines exist that protect both the civil rights of citizens and the rights of deputies to obtain information crucial to the reduction and prevention of crime. Further, field interviews frequently contribute to building a reasonable suspicion or even probable cause to arrest or conduct a search. The only restricted search that sometimes accompanies field interviews, the frisk or pat-down, may be performed when the deputy suspects the presence of a weapon.

II. PURPOSE

To help deputies determine when field interviews and frisks for weapons are necessary and useful, and to establish procedures for conducting both safely.

III. DEFINITIONS

- A. Field interview: A brief detention of a person to determine the person's identity and to resolve the deputy's suspicions about possible criminal activity. A field interview resolves an ambiguous situation. A field interview contrasts with a stop which is based on reasonable suspicion of criminal behavior. Field interviews require voluntary cooperation of citizens.

- B. Frisk: A "pat-down" search of outer garments for weapons.
- C. Reasonable suspicion: Articulable facts which lead an experienced deputy to reasonably suspect that a crime has been or is about to be committed. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated.
- D. Stop: The detention of a subject for a brief period of time. In order to make the stop, the deputy must have reasonable suspicion to believe that criminal activity is afoot and that the person to be stopped is involved.

A stop is investigative detention. The following characteristics may, under the circumstances, give rise to reasonable suspicion for a stop.

1. Deputy has knowledge that the person has a criminal record.
2. A person fits the description of a wanted notice.
3. A person has exhibited furtive conduct such as fleeing from the presence of a deputy or attempting to conceal an object from the deputy's view.
4. The appearance, behavior, or actions of the suspect suggest that he is committing a crime.
5. The time of day or night is inappropriate for the suspect's presence in a particular area.
6. The deputy observes a vehicle that is similar to that of a broadcast description for a known offense.
7. A person exhibits unusual behavior, such as staggering or appearing to be in need of medical attention.
8. The suspect is in a place proximate in time and location to an alleged crime.
9. Hearsay information is acceptable. In order for the information to be credible, the deputy must have some means to gauge the reliability of the informant's knowledge.
10. The suspect is carrying an unusual object, or his clothing bulges in a manner consistent with concealing a weapon.

IV. PROCEDURES

A. Making the field interview or stop: general

1. A deputy may conduct field interviews or stops when he reasonably believes that some investigative inquiry is warranted. The Supreme Court has ruled that an officer "may in appropriate circumstances and in an appropriate manner approach a person for the purposes of investigating possible criminal behavior even though there is not probable cause to make an arrest".
2. A field interview, therefore, requires voluntary cooperation from the citizen. In the absence of probable cause to arrest, the citizen may discontinue the interview at any time and leave. The citizen may also refuse to produce identification or otherwise identify himself,
 - a. A distinction is drawn herein between a field interview (which is made to resolve an ambiguous situation) and a stop (or a brief detention of a person because of suspected criminal behavior).
3. A deputy must be able to articulate the circumstances that warranted the interview or stop of the citizen. The circumstances may constitute the deputy's reasonable suspicion. In court-should a field interview result in an arrest-a deputy must justify his intrusion by describing "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." Articulable circumstances derive from:
 - a. firsthand observations;
 - b. hearsay, as from informants;
 - c. "collective knowledge" or information shared by several deputies;or
 - d. the totality of facts and circumstances. The agency encourages deputies to question persons whose behavior, conduct, or mere presence at a particular place and time does not match the deputy's notion of what is appropriate for the place and time.

B. Field interviews and field interview cards serve as:

1. a source of information.

The field inquiry is based on the principle that the opportunity to apprehend criminals and to prevent crime increases with the number and frequency of persons interviewed. One way a deputy can increase his skill as an observer is to obtain information from persons living or working within his patrol area.

2. a means of identifying the suspect.

An on-view arrest is not always based upon the immediate recognition of a wanted criminal. Frequently, it is the outgrowth of the action taken by a deputy who stops to question a person who has aroused his suspicions. Information obtained during a field contact may also be used at a later date to identify a criminal.

3. a means of obtaining suspects or witnesses.

The value of reported field inquiries becomes very pronounced when a crime is committed and there are but a few investigative leads. The investigator must then rely on the field interview reports to sift out useful information. A review of these reports will show if anyone had been questioned in the vicinity at the approximate time of the crime.

C. Place of the interview:

1. The difference between a field interview and a lawful detainment is a thin one. As noted earlier, reasonable suspicion provides the key basis for the deputy's actions.
2. As a general rule, field interviews may be conducted anywhere the deputy has right to be, including
 - a. Luna County-owned or controlled property normally open to members of the public;
 - b. areas intended for public use or normally exposed to public view.
 - c. places to which a deputy has been admitted with the consent of the person empowered to give such consent;
 - d. places where circumstances require an immediate law enforcement presence to protect life, well-being or property;
 - e. areas where a deputy may be admitted pursuant to a lawful arrest or search warrant.

- f. any other area in which a deputy may effect a warrantless arrest.
- 3. Field contacts shall not be done to coerce a person to leave an area or place where he or she has a legitimate right to be and where no violation of law has occurred.

D. Conduct of interviews:

- 1. Deputies shall clearly identify themselves and, if not in uniform, display identification.
- 1. As noted above, a person interviewed by the deputy may discontinue the interview at any time. Further details of frisk requirements are found under section V. B and C of this order. To repeat, during a routine field interview, persons shall not be detained in any manner against their will nor shall they be required to answer questions or respond in any manner if they choose not to do so. The fine line drawn between a field interview and a stop and frisk must be strictly observed. Since the distinction between an interview and a stop depends to a great extent on whether, under the circumstances, the citizen perceives that he is free to leave, deputies shall comply with the following guidelines:
 - a. All requests during the interview should be phrased with neutral or optional words, such as "may," "would you mind," etc.
 - b. Abrupt, short responses which could be misunderstood and requests which could be misinterpreted as commands must be avoided.
 - c. The duration of an interview should be as brief as possible.
 - d. During the interview, deputies shall confine their questions to those concerning the suspect's identity, place of residence, and other matters necessary to resolve the deputy's suspicions.
 - e. Miranda warnings are not required during field interviews unless probable cause evolves to arrest.
- 3. The success or failure in obtaining information beneficial to crime analysis and criminal investigation will depend upon a deputy's ability to put citizens at ease and establish a rapport. However, during a field interview, if the person should ask whether he must respond, or indicate that he feels compelled to respond, the deputy shall immediately inform him (or her) of the right to refuse, as well as the right to leave.

- a. Where citizens refuse or cease to cooperate during an interview, the refusal itself cannot be used as the basis for escalating the encounter into a stop and frisk,
- b. Suspects cannot be compelled to answer any questions during field interviews.

V. STOP AND FRISK OR INVESTIGATIVE DETENTION

- A. The legal authority to conduct an investigative detention (stop and frisk) is based in constitutional law and court decisions. A deputy's temporary detention of a person to investigate suspected criminal activity is controlled by the Fourth Amendment.
- B. Investigative detention involves two distinct acts: (1) the stop (a brief detention of a person because of suspected criminal behavior) and (2) the frisk (a limited search). Not every field interview or stop requires a frisk. Reasonable suspicion justifying a frisk may be based on factors including:
 - 1. the type of crime suspected, particularly those involving weapons.
 - 2. when the deputy must confront multiple suspects.
 - 3. the time of day and location of the stop.
 - 4. prior knowledge of the suspect's propensity for violence.
 - 5. any indication that the suspect is armed.
 - 6. age and sex of the suspect (deputies shall exercise caution with very young or very old people or persons of the opposite sex).
- C. Manner of conducting a frisk:
 - 1. Ideally, two or more deputies will conduct the frisk, one to search and the other to provide protective cover.
 - 2. The minimally intrusive nature of a frisk permits the suspect to be searched while standing, or with hands placed against a stationary object, feet spread apart or placed in a position of disadvantage for officer safety.
 - 3. When frisking, deputies shall search only the external clothing for objects that *reasonably* could be weapons and remove them. Deputies shall not

place hands in pockets unless they *reasonably* suspect that weapons are concealed in them.

- a. Retrieval of the weapon may give probable cause to arrest. If so, deputies may conduct a complete custodial search of the suspect incident to arrest (see General Order 2-4 for a discussion of searches incident to arrests).
4. If, during a lawful stop based on reasonable suspicion, the deputy conducts a frisk and feels an object whose contour or mass makes its identity as contraband (or drugs) immediately apparent, he may withdraw and examine the object. (This has been called the "plain feel" or "plain touch" rule.)
5. If the suspect is carrying a bag, purse, suitcase, briefcase, sack, or other container that may conceal a weapon, deputies shall not open it but place them it beyond reach for the duration of the stop.
6. Deputies are reminded that a frisk is limited to a search of the external clothing for weapons or possible contraband (if reasonable suspicion exists). Frisks shall be conducted reasonably and in good faith.

D. Protective search:

Under some conditions, the protective search or the search for weapons may be extended beyond the person detained. This search most often involves vehicles. A lawful protective search for weapons, which extends to an area beyond the person in the absence of probable cause to arrest, must have all of the following elements present:

1. a lawful investigative stop as defined herein or a lawful vehicle stop (see General Order 2-2 & 2-4).
2. a reasonable belief that the suspect poses a danger.
3. the search must be limited to those areas in which a weapon may be placed or hidden.
4. the search must be limited to an area which would ensure that there are no weapons within the subject's immediate grasp.

E. Period of detention:

Investigative detention - as with non-criminal field interviews-must be conducted as briefly as possible. Once the detaining deputy determines that his basis for reasonable suspicion no longer exists, the person detained shall be immediately released. Should the suspicion be reinforced with additional information or the deputy develops probable cause, the period of detention could be lengthened. The courts generally permit up to 20 minutes to constitute a reasonable period of time for the interview.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Arrests	NUMBER: 2-4
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Arrests;
 laws of
 release from
 summary of laws
 with warrants
 without warrants
 Booking
 Diplomatic immunity
 Legislative immunity
 Post-arrest procedures
 Summonses
 Criminal citations

I. POLICY

Short of the application of force, an arrest is the most serious action a deputy can undertake. An arrest can cause repercussions throughout a person's life, even if he or she is eventually found not guilty or never brought to trial. The most important legal question facing a deputy at the moment of an arrest is the existence of probable cause: without probable cause, the arrest is illegal and the evidence of criminality that was obtained because of the arrest is inadmissible. Deputies shall accordingly exercise critical judgment in making arrests. Critical judgment includes consideration for bystanders, the time, place, and location of offenses, and the use of force in making the arrests. Deputies shall consider alternatives to arrest consistent with their law enforcement mission.

II. PURPOSE

To define the authority of deputies to arrest and the mechanism for making arrests with and without a warrant.

III. DEFINITIONS

- A. Arrest: An arrest is a seizure of a person and must be supported by probable cause. Generally, the test of whether an arrest has taken place is whether a reasonable person under the circumstances would have felt free to leave.
- B. Probable cause: According to the Supreme Court, "Probable cause exists where the facts and circumstances within their [the arresting deputy's] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed" and that the person to be arrested committed it.
 - 1. A deputy must have probable cause to make an arrest.
 - 2. When a deputy has probable cause, he or she may undertake a body search, record the suspect's fingerprints, take the suspect's photograph, and jail him. The aim of probable cause is to make a formal charge.

IV. DISCRETION

- A. Deputies shall continuously demonstrate discretionary judgment. Discretion shall be applied reasonably and shall be guided by the oath of office, the limits of authority as established by law, the decisions and interpretations of the courts, the written orders of our department, and the oral instruction provided by field supervisors.
- B. A deputy's decision to make an arrest will not be based on or affected by a person's sex, race, creed, color, ethnic or national origin.
- C. Deputies have five forms of discretionary authority when making arrests: no arrest at all, an informal resolution of the incident or problem, issuance of a summons, a full-custody arrest or issue a criminal citation.
 - 1. Informal resolutions take the form of referrals to other agencies, mediating agreements between two or more parties, or issuance of a warning. Informal resolutions are the least coercive of all enforcement measures and shall be applied when stronger enforcement methods are unnecessary or inappropriate under the circumstances.
 - 2. Issuance of a summons may be requested of the court or decided by the judge upon review of complaint.
 - 3. Criminal Citations may be issued for violations in accordance with NMSA 31-1-6.

- D. The decision to apply one or more enforcement methods must account for the totality of the circumstances and must be consistently applied.
- E. Supervisors shall review each arrest report to ensure that proper action was taken under the circumstances.

V. ARRESTS WITH A WARRANT

- A. Who may issue: any municipal, magistrate, or district judge who has jurisdiction for the case may issue an arrest warrant.
- B. When it may issue: what to recite: Court rules provide that the person having authority to issue an arrest warrant shall first examine on oath any complainant or other witnesses and, if probable cause exist, issue the warrant. (Rule 5-208, 6-204, 8-203)
- C. What the warrant contains: a warrant commands a law enforcement officer to arrest and bring the accused to appear before a judge or magistrate at a stated time and place. The warrant names the accused or gives a description if his or her name is not known, describes the offense and names the violation, and bears a judge's signature. The warrant contains the complaint and sworn statements from witnesses.
- D. Issuance of a summons instead of warrant: *Court Rule 5-208* provides for issuance of a summons instead of a warrant. Summonses impose the same requirements to appear at an appointed place and time as with a warrant.
- E. Issuance and service of summons in place of warrants in misdemeanor cases.
 - 1. Deputies may issue summonses for offenses committed in their presence when the offenses violate local ordinances.
 - 2. Persons to whom summonses have been issued shall not be held in custody until after an adjudication of guilty. Booking procedures at the time of a physical arrest, however, allow the taking of fingerprints or photographs.
 - 3. Any person refusing to give a written promise to appear under the provisions of this section shall be taken immediately by the arresting or other deputy before a magistrate or other appropriate issuing.
- F. Copy of process to be left with accused:

Criminal procedures require that in most circumstances the deputy shall leave a

copy of the criminal process with the person charged.

G. Execution of arrest warrants:

1. *NMSA 31-1-4* authorizes a law enforcement officer to execute within his jurisdiction a District or Magistrate warrant, or summons issued anywhere in New Mexico. Municipal court actions may be served within the court's jurisdiction, except for DWI actions which may be served anywhere in New Mexico.
2. *NMSA 31-1-5* requires an officer who arrests a person on a warrant from this or another jurisdiction, to take the arrestee without unnecessary delay to an appropriate judicial officer serving our locality.

H. Escape, flight, and pursuit: Arrest anywhere in the state:

1. *NMSA 29-1-4* allows an officer, with or without a warrant, to pursue within his jurisdiction an escapee from custody. If the deputy is in close pursuit, he or she may arrest the suspect wherever he is found.
2. If the arrest is made in an adjacent county or city than the one from which the suspect fled, then the deputy shall deliver him or her to the judicial authority of local jurisdiction.
3. *NMSA 31-2-1* authorizes a law enforcement officer from any other state or the District of Columbia to pursue a fleeing felon into New Mexico and take the suspect into custody as if the suspect had committed a felony in New Mexico. Foreign officers shall immediately take the arrestee to a local magistrate judge to determine the lawfulness of the arrest as required in *NMSA 31-2-2*.

I. Arrest of suspect inside dwelling:

If a deputy wishes to arrest a suspect inside his residence, he must first obtain an arrest warrant. If the residence belongs to the suspect, only an arrest warrant is required. If the dwelling belongs to someone else, the deputy must obtain a search warrant as well.

1. A search warrant is not required if the deputy is in hot pursuit or the owner of a residence consents to the deputy's search for the suspect.

J. Return of warrant:

Upon executing the warrant, the arresting deputy shall note the date of execution on it, and then return it to the court, less the copies given to the arrested person.

VI. ARREST WITHOUT A WARRANT

A. Authority:

As noted earlier, the search and seizure provision of the Fourth Amendment protects citizens from the arbitrary and oppressive interference by law enforcement officials with privacy. Further, deputies must have probable cause that a crime has been committed, and that the person to be arrested has committed the crime. See General Order 2-1 on constitutional safeguards and General Order 2-2 on search warrants.

B. When warrantless arrests may be made:

To summarize, a deputy may make a warrantless arrest

1. when a person commits any crime in the deputy's presence.
2. when the deputy has reasonable grounds or probable cause to suspect any person of having committed a felony not in his presence.
3. at the scene of any motor vehicle accident when the deputy has reasonable grounds to believe, upon personal investigation, that a crime was committed by any person and there present (66-8-125 NMSA).
4. at the scene of a domestic disturbance and has probable cause a crime was committed (31-1-7 NMSA).
5. at any hospital or medical facility to which any person involved in a motor vehicle accident has been transported, provided the deputy has reasonable grounds to believe, based upon personal investigation, that a crime has been committed by that person.
6. when any person is charged with a crime in another jurisdiction and the deputy has received:
 - a. a photocopy of a warrant.
 - b. a telegram.
 - c. a computer or facsimile printout.

- d. a radio, telephone or teletype message which gives the name or a reasonably accurate description of the wanted person and the crime alleged.
- 7. when the deputy investigates the crimes of assault or battery in a licensed liquor establishment and has probable cause to believe a crime was committed (30-3-6 NMSA).
- 8. when the deputy has probable cause based upon a reasonable complaint of a misdemeanor not committed in the deputy's presence involving shoplifting, or falsely obtaining services or accommodations, (30-16-23, 30-16-16 NMSA).

Other statutes:

- 9. Under NMSA 40-13-6, deputies may arrest without a warrant in cases of assault and battery against a family or household member and for violations of protective orders, regardless of whether the violation occurred in the deputy's presence, provided the deputy has probable cause. See General Order 2-28, domestic violence.

C. Actions upon arrest from charges filed in another jurisdiction:

- 1. Upon arrest on a photocopy of the warrant, telegram, computer or facsimile printout, or teletype message, the arresting deputy shall serve a copy of the document on the accused.
- 2. The arresting deputy shall bring the accused before the magistrate for arraignment, 35-5-1 NMSA.
- 3. The magistrate shall conduct a bail hearing and set bail or secure bond if appropriate just as if the accused had been arrested on the warrant. The deputy shall not request the issuance of any arrest process such as duplicate warrants or fugitive warrants based on the charge in the other jurisdiction within New Mexico.
- 4. The arresting deputy shall contact the law enforcement officials where the charge was made and inform them that the accused has been arrested on the teletype message (or other arrest document), and if not bonded, ascertain when a representative will arrive to transfer the accused back to the locality having trial jurisdiction.

D. Juveniles:

Refer to General Order 2-25 concerning handling of juveniles.

E. Criminal Citations:

1. Per *NMSA 31-1-6*, an arresting deputy shall issue a citation to appear at a time and place specified in such citation whenever any person is detained by or in the custody of an arresting deputy for:
 - a. any offense committed in the deputy's presence which is a violation of any county ordinance or state statute for any petty misdemeanor offense.
2. If, after issuing a citation for (a) above, the suspect continues the unlawful act, then the deputy shall immediately take him or her before a magistrate.
3. If the deputy believes that the suspect is likely to disregard a citation, or may cause harm to himself or another person, then the deputy shall immediately take him or her into custody so they may be taken before a magistrate.
4. Complete a NCIC check on any person to whom a citation was issued before releasing them.

VII. POST-ARREST PROCEDURES

A. Juvenile Identification Inquiry:

1. Deputy's making arrests shall at the time of the arrest, inquire whether the person is a parent or guardian of minor or dependent children who may be at risk as a result of the arrest. (NMSA 1978§ 31-1-8)
 - a. If children are at risk, the deputy shall make reasonable efforts to ensure the children tended too.

B. Constitutional considerations:

Refer to General Order 2-1 and General Order 2-4 for a discussion of search guidelines and searches incident to arrest.

C. Releases on citations and mandatory arrest:

If the arrested person is not released on a citation or is charged with a felony, deputies shall observe the following procedures:

1. .transport the suspect to the detention center, advise him/her of the bond and arrange with the court an arraignment time for the subject to be formally charged.
2. The deputy shall call the records clerk to obtain a document control number for the arrest.
3. If the warrant was obtained before the arrest, transport the suspect to the detention center and begin booking.
4. Read the charge on each warrant to the suspect.
5. If a warrant was not obtained, complete a criminal complaint and probable cause statement for each charge. (Multiple charges may be on same form)

D. Injury before or during arrest:

If a person receives an injury before or during an arrest and either requests medical attention or, in the deputy's judgment, medical attention is needed, the deputy shall transport the suspect or arrange for his or her transportation to the hospital for an examination before booking.

[Note: If the suspect received the injury before the arrest, the suspect IS responsible for the medical bill.]

E. Processing of paperwork:

- offense reports,
- booking forms,
- copies of summonses
- copies of warrant,
- criminal complaint
- statement of probable cause
- fugitive complaint

In the case of juvenile offenders:

- petitions, and
- detention orders
- parental notification

F. Further processing:

1. If bond is allowed, the magistrate completes a bond certificate which is attached to the warrant(s), and the person is allowed to leave.

2. If bond is not allowed or cannot be made, the person is then committed to the detention center by the magistrate, who then completes a committal form and attaches it to the warrant whereupon the arrested person is placed in the detention center.
3. Items seized as evidence shall be tagged and booked into the departmental evidence locker.

VIII. RELEASE FROM ARREST

A. Legal background:

1. Deputies may encounter a circumstance where probable cause develops to arrest a person for an offense, only to find out shortly thereafter that the person under arrest did not commit a crime, or that the event was not a crime. It is imperative, then, that the deputy end the arrest process immediately to avoid becoming liable for false arrest.

B. Procedure:

1. If the arresting deputy determines that probable cause no longer exists to arrest a suspect, and the deputy is satisfied that the person under arrest either did not commit the crime or that the crime did not occur, then the deputy shall release the suspect.
2. When a deputy releases a subject from arrest, he or she shall return the person to the place of the arrest or a place of safety. The deputy shall not release the person along the roadside. If a vehicle has been towed, the vehicle shall be returned to the operator/registered owner. (Insert agency name) shall be responsible for any tow bill should this situation occur.
3. Prior to releasing a person in this manner, the deputy shall immediately contact the on-duty supervisor and advise him or her of the incident.
4. To protect yourself and the department, the deputy shall document in an incident report:
 - a. the date and time of arrest
 - b. the person arrested (name, address, date of birth, race)
 - c. the location of arrest

- d. the location and time of release from arrest and whether the person was transported
 - e. the reasons or discovery of information which led the deputy to release from arrest
 - f. any witnesses to the alleged crime, or to the fact the person arrested was allegedly involved.
5. If the deputy makes an arrest based on probable cause, the arrest is lawful. Probable cause must continue to exist through the appearance of the deputy and arrested person before the magistrate. If not, the deputy must release the person as soon as practicable.

IX. IMMUNITY FROM ARREST

A. Legislative immunity:

Members of the United States Congress are exempt from arrest during when Congress is in session, or when they are in route to or from congressional business, except for traffic summonses. (Article I, Section 6. U.S. Constitution)

Members of the New Mexico Legislature are exempt from arrest during a legislative session except in cases of treason, a felony, or a breach of the peace. (Article IV Section 13, Constitution of New Mexico)

B. Diplomatic immunity:

- 1. Upon exhibiting proof of diplomatic immunity, persons shall be released upon being stopped for a misdemeanor traffic violation. If questions arise about this procedure, or if an arrest for a felony is necessary, call and advise the U.S. State Department Office of Security (202-673-3881, days, or 202-647-2412, nights and weekends).
- 2. While a person claiming diplomatic immunity may present any number of identification papers, the only one that is indicative of the level of privilege and immunity is a card issued by the U.S. State Department. The holder's level of immunity will be indicated on the card. If a person claiming immunity does not possess this card and the incident involves a criminal offense, deputies may detain the person either at the scene or at the department long enough to verify official status.
- 3. When encountering a criminal suspect who claims diplomatic immunity, deputies shall first take reasonable measures-including pat-downs or other

legal searches-to ensure safety to the public, themselves, or other deputies. Verification of the diplomatic claim shall take place after a danger has been neutralized. A criminal investigation shall proceed as if no valid diplomatic immunity claim has been made. Interviews, interrogations, seizures of evidence, or issuance of warrants shall proceed per departmental procedure. In a criminal investigation, the Sheriff shall remain in contact with the State Department.

4. Regardless of the claim of immunity, in any case where deputies arrest or detain foreign nationals, the suspects shall be advised of their right to have their consular officials notified. In some cases, this notification is mandatory. Note: the list of countries which require mandatory notification of consular officials in the event that one of their citizens has been arrested is extensive. The State Department shall be contacted for guidance.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Search Incident to Arrest	NUMBER: 2-5
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Body-cavity searches
 Force; use of during a search
 Search incident to arrest
 Search procedures
 Searches; of vehicles
 Strip searches
 Vehicles; searches of

I. POLICY

Deputies who develop reasonable suspicion that a crime has been committed may make investigative stops of citizens, and under probable cause may make arrests or conduct searches. The department encourages investigations and expects deputies to search competently and knowledgeably whenever the occasion requires. Consistent with the policies of General Orders 2-1 through 2-4, deputies shall not conduct general exploratory searches but shall adhere strictly to constitutional law. Deputies are reminded that when a search is made incidental to an arrest, the search must be based on the arrest and not the arrest on the search. The deputy's authority to search without a warrant comes automatically from a lawful arrest.

II. PURPOSE

To establish guidelines for the search of person(s) placed under arrest and taken into custody.

III. DEFINITIONS

- A. Strip search: A search of a person requiring the removal or rearrangement of some or all clothing to permit the visual inspection of their breasts, buttock or genitalia.
- B. Body cavity search: A search involving not only visual inspection of skin

surfaces but the internal physical examination of body cavities and, in some instances, organs such as the stomach cavity.

IV. PROCEDURE

A. General:

The general rule is that a reasonable search may follow a valid arrest. The deputy has the authority to make a search which may extend to articles carried by the suspect and to the suspect's immediate surroundings. Although an arrestee who is handcuffed at the time of search cannot reach into the area being searched, the search of the area is still legally justified.

B. Time and place of search incident to an arrest:

1. A search incident to an arrest must occur in such a way that it and the arrest are part, of a continuous, uninterrupted transaction. Two conditions are necessary for this to occur:
 - a. The search must be made as soon as practical after the arrest.
 - b. The search must be made at or near the place of the arrest.
 - c. These two conditions have been fulfilled if the deputy takes the arrested person to the station house or to another detention center to be searched.

C. When a search before an arrest is valid:

A search incident to an arrest is normally required to follow the arrest. A deputy cannot search a person without probable cause and then arrest the person if something incriminating turns up.

A search before an arrest is valid only if:

1. probable cause for the arrest existed before the search began.
2. the search and arrest occur almost at the same time.

D. Use of force:

A deputy conducting a search incident to an arrest is permitted to use whatever degree of force is reasonable and necessary. If he or she used an unreasonable amount of force under the circumstances, the search is unlawful.

1. Deputies are reminded that the use of deadly force to prevent the escape of a fleeing felon constitutes an unreasonable seizure under the Fourth Amendment. The same logic applies to any application of excessive force during a search. (See General Order 2-6 for a definition of excessive force.)

E. Scope of search:

A deputy making a search incident to an arrest may search only the following permissible places:

1. the entirety of the person being arrested
2. the area in the immediate control of the person being arrested into which he or she could reach for a weapon or for evidence. The purpose of this search must be to:
 - a. protect the deputy
 - b. prevent escape
 - c. prevent the destruction of evidence.
3. Accessories carried by the suspect may be searched incident to a full custodial arrest for they are within the area in which the defendant might reach to grab a weapon or an item of evidence. See General Order 2-1 for an additional discussion of searches and seizures.
 - a. Pagers seized incident to an arrest may be checked for voice or alphanumeric codes. Activation of the pager's memory shall be contemporaneous with the arrest.
4. Vehicles may be searched contemporaneous with the arrest of the occupant or driver. The search shall be conducted as soon as practicable following the arrest.
 - a. A contemporaneous search of the entire passenger compartment may be undertaken incident to the arrest of the occupant or driver, even if the driver or occupant is not in the vehicle at the time of the search.
 - b. A search undertaken pursuant to "a" includes any container found within the passenger compartment. A container is any object

capable of holding another object, and includes open or closed glove compartments, luggage, boxes, and bags.

- c. The trunk of the vehicle shall not be searched incident to an arrest. The search of the trunk can only be undertaken pursuant to the conditions outlined in General Order 2-1.

F. Strip searches:

1. A strip search in the field shall only be conducted under exigent circumstances where the life of the deputy or others is at risk and the on-duty supervisor has expressly authorized it.
2. When authorized, the strip search shall be performed by the least number of same-sex personnel present as necessary, and under circumstances that provide privacy from all but those authorized to conduct the search.

G. Body-cavity searches:

1. Body cavity searches other than the mouth shall be conducted only when there is probable cause to believe a particular prisoner may be concealing contraband within a body cavity or otherwise on his or her person. These searches shall be conducted only in extreme emergencies to protect the lives of prisoners or to prevent serious breaches of security. Body cavity searches shall only be conducted under the express direction of the on-duty supervisor in charge.
2. If appropriate, upon authority of the supervisor, the deputy shall seek a search warrant and shall prepare the necessary affidavit.
3. The body-cavity search shall be performed only by a licensed physician or other medically-trained person as directed by the physician.
4. The process of conducting the body-cavity search shall involve the same safeguards for privacy and hygiene as for strip searches.

H. What may be seized:

1. During a search incident to an arrest, a deputy may seize the following things:
 - a. anything in the permissible area that is evidence of the offense for which the deputy has probable cause to make the arrest

- b. anything in the permissible area that is evidence of any other offense
- c. anything else which is outside the permissible area that is evidence of the offense for which the deputy makes the arrest or of any other offense if the evidence is in plain view of the spot where that deputy makes the arrest.

V. SEARCHES OF PRISONERS - PROCEDURES

The department advocates the following method of searching arrested persons;

- A. Wall search: Place the suspect with hands high on a wall or other vertical surfaces and extended approximately three feet apart. Do not allow him or her to place palms flat on the wall: have him or her extend the fingers. The feet should be positioned one of two ways. The first method is to separate the feet wide apart; the other is to make the suspect cross his or her legs. The suspect's legs should be far enough away from the wall so that the suspect would not have significant balance to push away from the wall with any force. The suspect's back should be in a straight line with the legs and not be arched. When searching the suspect's left side, the deputy's left leg should be placed aligned with the middle of the suspect's back. With proper hand and foot location, the deputy maintains complete control. With this approach, the deputy searches with one hand.
- B. Search the following:
 - 1. Hair
 - 2. Open mouth (have suspect open mouth; deputy checks visually)
 - 3. Collar
 - 4. Back of neck
 - 5. Both arms
 - 6. Armpits
 - 7. Chest
 - 8. Back
 - 9. Waistline (feel inside the pants)
 - 10. Inside belt
 - 11. Crotch
 - 12. Down both legs
 - 13. Cuffs
 - 14. Socks
 - 15. Inside shoes

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Use of Force	NUMBER: 2-6
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

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 Choke holds
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I. POLICY

Deputies are confronted daily with situations requiring the use of force to affect an arrest or ensure public safety. The degree of force used depends on what the deputy perceives as reasonable and necessary under the circumstances at the time he or she decides to use force. Except for deadly force, the application of any degree of force is justified only when the deputy reasonably believes that it is necessary

- A. to prevent the escape from custody, make an arrest or an investigative detention of

a person the deputy believes has committed a crime

- B. to defend him or herself or another from what the deputy believes is the use of force while trying to arrest another, prevent his or her escape, or otherwise lawfully take the person into custody.

Facts or circumstances unknown to the deputy shall not be considered in later determining whether the force was justified. The department expects deputies to observe the following two guidelines in all applications of force:

1. Employ the minimum force reasonably necessary to accomplish a legal purpose.
2. Deputies may resort to more serious methods of force to overcome either increasing resistance or an increasingly dangerous threat to public safety.

The escalation in the use of force typically follows a pattern: verbal control, compliance techniques (control holds), chemical weapons, defensive tactics (e.g., baton), and finally deadly force. Deputies must understand how to recognize increasing or decreasing levels of threat and respond appropriately.

When applying deadly force, deputies' objective shall be to stop or incapacitate the suspect, not to kill, unless no other choice presents itself. The objective of the use of any force is to overcome the suspect's resistance to a deputy's lawful purpose: deputies shall avoid unnecessary or excessive applications of force.

Deputies shall not unreasonably or unnecessarily endanger themselves or the public when applying this policy.

II. PURPOSE

This policy establishes guidelines governing the use of force and its limitations, and to describe prohibited activities.

III. DEFINITIONS

A. Deadly force:

1. The firing of a firearm, even though no intent exists to kill or inflict bodily harm.
2. Any force applied in any manner by any means that could reasonably be expected to cause death or great bodily harm.

- a. “Great bodily harm” means bodily injury which creates a substantial risk of death or which likely to cause serious permanent disfigurement or loss, or extended impairment of the function of any body member or organ.

B. Non-deadly force:

Force employed which is not likely to or intended to cause death or serious physical injury.

C. Firearms:

Any weapon from which a projectile is forcibly ejected by an explosive.

D. Reasonable Belief:

When facts or circumstances the deputy knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

E. Serious physical injury:

A physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, or impairment of the function of any bodily organ or limb.

F. Excessive force:

Force is excessive when its application is inappropriate to the circumstances. Excessive force may result in serious physical injury or death to a suspect. In determining whether force has been excessively applied, the primary concern is whether the on-scene deputy reasonably believes that its application was necessary and appropriate. Based on the reasonableness standard, excessive force may be determined based on:

1. the severity of the crime
2. the nature and extent of the threat posed by the suspect
3. the degree to which the suspect resists arrest or detention
4. any attempts by the suspect to evade arrest by flight.

In evaluating the reasonable application of force, deputies must consider their

own age, size, strength, skill level with department weapons, state of health, and the number of deputies opposing the number of suspects.

IV. PROCEDURES - Non-deadly force

The department trains deputies in the use-of-force continuum which emphasizes the recognition of and response to increasing levels of threat. Most instances in which force is applied are non-deadly. Deputies shall assess the incident to determine which technique will best bring the situation under control. Following the application of any method of force, once the situation is contained, deputies shall provide or arrange to provide medical help. The following discussion reinforces key principles from training.

A. Verbal control:

Verbal control refers to the manner in which the deputy speaks to a person, which alone can manage a situation. Verbal control includes advice, persuasion, admonitions, or orders. The volume and tone of the deputy's speech may also contribute to control without having to resort to another method of force. The department urges the use of verbal commands without the use of profanity or disrespectful or argumentative behavior.

B. Compliance techniques:

At times, uncooperative people who refuse to be taken into custody may only respond to a combination of strength, leverage, control holds or take-downs with sufficient force to make the lawful arrest without aggravating a suspect's combativeness. The object of this level of force is to gain control and enforce the suspect's compliance while minimizing the risk of injury to deputies, bystanders, or the person being placed in custody. Where lesser levels of force appear ineffective, deputies may employ hands, fists, feet, knees, and so on in striking an adversary, according to methods sanctioned through training.

C. Taser:

The Taser device may be used by deputies in accordance with the use of force continuum.

1. Deputies shall have successfully been trained and certified in the use of the Taser device before carrying it.
2. Deputies deploying the Taser shall:
 - a. Request paramedics to respond to the scene.

- b. Not remove probes from the subject's eyes, neck, face or groin.
 - c. Notify supervisor, who shall respond to the scene.
- 3. Deputies certified in the use of the Taser device may remove probes from other areas of the subject's body, utilizing latex or similar gloves and utilizing proper removal techniques.
- 4. Reporting Requirements for the use of Taser
 - a. A deputy using the Taser shall complete a Use of Force form appropriate for the Taser device.
 - b. A deputy shall report incidents involving the use of the Taser device in the appropriate incident reporting system.

D. Chemical agents:

The use of chemical agents is restricted to situations where higher levels of force are unnecessary and lesser levels are inappropriate or ineffective. The only chemical weapon authorized for sworn personnel is the oleoresin capsicum (OC) or "pepper spray." Chemical agents shall be used only to the extent necessary to overcome the resistance of the suspect within training standards. Specialized chemical agents such as concussion grenades or tear gas shall be used only by personnel trained in their application, and then only under direct orders of the on-scene supervisor upon consultation with the Sheriff.

- 1. Chemical sprays shall not be used to threaten, elicit information or persuade people to comply with orders, nor will they be used on people who are handcuffed, secured, and properly in custody.
- 2. Keep the application to the absolute minimum required to effectively control the subject.
- 3. Do not use on persons who are sick, intoxicated or who are not in possession of their normal protective reflexes (such as being able to turn away from the applied spray). NOTE: Applying a chemical agent to such persons can result in injury out of proportion to the threat they may present.
- 4. If the use of tear gas is authorized by the on-scene supervisor, observe the following:
 - a. These chemicals are used primarily in dealing with unruly crowds

and armed barricaded subjects.

- b. Gas grenades are used to disperse unruly crowds and induce the surrender of barricaded subjects when negotiations have failed.
- c. Tear gas gun is used to fire projectiles into the area of an armed, barricaded suspect when the use of hand-tossed grenades is unsafe or impractical.

D. DEFENSIVE TACTICS:

The department authorizes the carrying and use of the expandable baton as the only striking weapon for deputies: all other forms of striking or punching weapons are prohibited for carrying or use, including but not limited to saps, blackjacks, slapjacks, nunchaku and similar sticks, and brass knuckles. Deputies who carry the baton shall be certified in its use. The weapon may be used in quelling confrontations involving physical violence where higher levels of force are unnecessary or not appropriate and lesser levels are ineffective.

- 1. The baton shall not be used to strike handcuffed individuals or to threaten or intimidate people.
- 2. The baton is mainly useful as an instrument to manage various control holds, not as a club or prod. Deputies shall not raise the baton above the head to strike a blow.

E. PEPPER BALL SYSTEM:

Air-Powered launch device and projectiles that are plastic spheres filled with powdered Oleoresin Capsicum (OC). Projectiles burst on impact and release OC. Pepper Ball projectiles subdue by strongly irritating the nose, lungs, and breathing. Response to inhaling Pepper Ball projectile OC powder varies greatly among individuals. In most cases, the symptoms last for a few minutes. The Pepper Ball can deliver projectiles with enough kinetic energy to produce abrasions, bruises, and/or welts.

The Pepper Ball system may be issued for general patrol use and administration may also issue Pepper Ball deployment systems and less lethal shotguns or forty (40) mm projectile systems to qualified personnel assigned to each squad.

- 1. Use of the Pepper Ball projectile shall be considered a use of force and must meet the requirements of all department policies and procedures and applicable New Mexico laws.

2. Acceptable uses of the Pepper Ball projectile may include:
 - a. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Defensive Resistance. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. (Defensive Resistance is defined as physical actions that attempt to prevent an deputy's control including flight or attempt to flee, but do not involve attempts to harm the deputy).
 - b. In situations when its use is likely to prevent an deputy or a third person from being injured,
 - c. To incapacitate a suicidal person who cannot be safely controlled with other force options,
 - d. When ordered by the commanding deputy in crowd control or riot situations.
3. Unless deadly force is warranted, a deputy shall not intentionally deploy the Pepper Ball projectile as follows:
 - a. To the head, eyes, throat, neck, breasts of a female, genitalia, or spinal column.
 - b. To a pregnant female, if the deputy has knowledge of the pregnancy.
 - c. On or in an open wound if the deputy has knowledge of the open wound.
4. Deputies shall communicate to other deputies that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to deputies in the immediate area unless urgent circumstances prevent this from occurring.
5. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the Use of Force report. If the prisoner is jailed, the deputy will notify detention facility personnel that a less lethal weapon was used.

V. DEADLY FORCE

A. Firearms - general:

1. Firearms may be used:
 - a. In defense of the deputy or others from what is reasonably believed to be an immediate threat of death or serious bodily harm; or
 - b. To prevent the escape of a fleeing felon whom the deputy has probable cause to believe will pose a significant threat to human life should escape occur. No other reasonable means of capture must be available to the deputy in this case without endangering the deputy's life or the life of another person.
 - (1) In evaluating a "significant threat," the deputy must reasonably believe that the person has either used deadly force in the commission of a crime or may inflict death or serious harm to the deputy or others if apprehension is delayed.
 - (2) Where feasible, deputies shall identify themselves and give a warning before shooting.
 - c. To kill seriously injured or dangerous animals when no other disposition is reasonably practical. A supervisor's approval should be sought when possible.
 - d. In routine firearm training or practice at an approved range.
2. Before using a firearm, deputies shall identify themselves and state their intent to shoot, where feasible.

B. Shotgun:

1. Due to its wide shot dispersion, the shotgun shall only be used when a possibility exists that the deputy will be dealing with an armed suspect, e.g., armed robbery in progress, searching for armed suspects, answering calls when the complainant has indicated that a person is armed.
2. The Sheriff may approve the use of shotguns on raids and stakeouts when he believes that a threat to human life exists.
3. Shotguns shall be encased/mounted and carried in patrol units when not in preparation for use. When the shotgun is not encased/mounted, it shall be

carried with the safety on at all times until there is an immediate need to fire the weapon.

4. Shotguns shall be removed from vehicles before leaving them at any garage or service department.
5. Before beginning a tour of duty or immediately thereafter deputies shall inspect the shotgun assigned to the patrol car.
6. During regular firearms qualification, each deputy shall be required to demonstrate proficiency with the shotgun.
7. The range deputy or armorer shall develop a shotgun maintenance schedule. The armorer shall clean and inspect shotguns according to schedule.
8. The general rules for the use of firearms above apply to shotguns.

VI. LIMITATIONS ON FORCE

The following acts associated with the use of force are prohibited.

- A. Firing into crowds.
- B. Firing a warning shot.
- C. Firing at or from a moving vehicle, except where the deputy reasonably believes that:
 1. an occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle.
 2. a vehicle is operated in a manner deliberately intended to strike a deputy or a citizen and all other reasonable means of defense have been exhausted (or are not present), including moving out of the path of the vehicle, and the safety of innocent persons would not be unduly jeopardized by the deputy's action.
 3. Deputies shall not fire at or in the direction of a vehicle that no longer poses an immediate threat.
- D. Firing into a building or through doors when the person fired at is not clearly

visible unless the deputy is being fired upon from such building or through such door.

- E. Firing at a suspect when lesser force could be used, and the deputy believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force, or when there is any substantial danger to innocent bystanders.
{When in doubt, don't shoot.}
- F. Application of choke hold, or carotid control holds, except when the deputy reasonably believes such holds are the only means of protecting him/herself or another person from an imminent threat of serious physical injury or death.
- G. Use of flashlights as batons. A deputy may use a flashlight only to defend him- or herself or another from imminent serious physical injury or death and then only if departmentally sanctioned methods are not available or are impractical. The use of a flashlight under such circumstances shall be deemed an application of deadly force.
- H. Deputies should be allowed a backup weapon.
- I. The carrying or use of saps, blackjacks, slapjacks.
- J. Use of deadly force against unarmed, non-dangerous fleeing felons, fleeing misdemeanants, or traffic offenders.
- K. Any use of force not reasonably necessary in the light of the circumstances confronting the deputy.
- L. Any forcible enforcement action when off duty except in circumstances which seriously threaten life, valuable property, or public order.

VII. WEAPONS

- A. Duty weapon: While on duty, a deputy shall carry a department issued or approved weapon, either a .40mm, .45mm, .357 Sig or a .9mm semiautomatic pistol. The department shall issue ammunition for the weapon.
 - 1. Any deputy who wishes to carry a personally-owned weapon on duty must request permission, in writing, from the Sheriff. Weapons shall be inspected and approved by the range instructor/armorer. In addition, the weapon shall fire department-issued ammunition and the deputy shall qualify with the weapon as well as with department-issued weapons. Deputies shall buy ammunition for their personally-owned off-duty weapons.

2. The Sheriff shall maintain a record of all weapons used by deputies either on or off duty. The record lists weapon descriptions, ammunition type issued, date of issue, and information pertaining to qualifications. Deputies shall annually review the records to ensure that they are up to date.

B. Off-duty weapons: Deputies are encouraged, but not required, to carry a handgun when off duty. A deputy who elects not to carry a handgun while off duty shall

not be subject to disciplinary action if an occasion should arise in which he or she could have taken law enforcement action if he were armed.

1. (Exception) Off-duty deputies while operating a department vehicle shall be armed with an approved weapon.
2. Deputies who carry off-duty weapons must understand that in some social situations (e.g., sports) the carrying of a firearm is inappropriate.
3. Deputies who have consumed alcoholic beverages shall not carry an off-duty weapon under any circumstances.
4. Deputies shall submit off-duty weapons to the range instructor for inspection and firing before carrying them.
5. Off-duty deputies who carry firearms while in plain clothes shall not wear them in any way that allows the public to see them.

C. Qualification:

Deputy shall not carry or use any firearm, chemical agent, or (baton) unless he or she has received training and demonstrated proficiency in its use.

1. Deputies who fail to pass the qualification shall be relieved of their law enforcement powers and immediately reassigned to non-enforcement duties.
2. Deputies who have taken extensive leave or suffered an illness or injury that could affect the use of firearms shall re-qualify before returning to enforcement duties.
3. Annual firearms qualification will follow required state standards for daylight and night shooting.

4. Quarterly firearms training will be held, and a use of force policy review will be completed annually.

VIII. REPORTING USE OF FORCE

- A. Deputies shall document any application of force except for those arising in training or departmental demonstrations.
- B. If deputies have employed chemical weapons or any higher degree of force, they shall:
 1. Immediately notify the on-duty supervisor or the Sheriff (if the on-duty supervisor is unavailable) of any use of physical force.
 2. Submit a memorandum to the Sheriff within 24 hours describing the incident and any medical aid rendered and shall substantiate the force used. The memorandum shall be in addition to any other reports.
- C. Depending on the seriousness of any injury resulting from the application of force, whether to a citizen or deputy, the Sheriff shall notify the county manager/mayor and, in case of death, the District Attorney and the medical examiner.

IX. DEPARTMENTAL RESPONSE

- A. Assignment:

Pending administrative review, any deputy who has taken the life of another person shall be removed from line-duty assignment for a minimum of three days. This action protects both the deputy's and community's interests until the situation is resolved. The deputy will complete a psychological review before being returned to line-duty.

- B. Review:

1. The Sheriff shall review all reported uses of force to determine whether:
 - a. departmental orders were violated
 - b. relevant departmental policy was clearly understandable and effective to cover the situation
 - c. departmental training was adequate.

2. The Sheriff may convene a board of inquiry to examine an incident in which force was applied.

a. The board of inquiry will ascertain training and policy needs.

3. At least annually, the Sheriff shall compile a summary of use-of-force incidents to be made available to the public.

C. Internal investigations:

Internal investigations of serious applications of force (usually of compliance techniques and more severe methods) shall be of two types conducted simultaneously; first, an administrative investigation to determine whether department standards were followed; second, a criminal one to detect lawbreaking. A criminal investigation shall be discontinued whenever the department is satisfied that no misconduct occurred. Rules & Regulations 1-12 details the two types of investigations.

1. Dual internal investigations shall be conducted on all shootings.

D. Psychological services:

Psychological follow-up of post-shooting trauma will normally be directed by the Sheriff whenever deemed appropriate. During an internal investigation, the department shall do all within its power to avoid placement of a stigma on the deputy who shoots in performance of duty. Following a shooting resulting in a death, the deputy shall not return to duty until a psychological evaluation has been conducted, and the deputy has received counseling.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Use of Handcuffs/Restraints	NUMBER: 2-7
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Handcuffs

Positional asphyxia

Investigative detention

Restraints

I. POLICY

The deputy's responsibility for the safe custody of his or her prisoner permits some discretion in the use of handcuffs and restraining devices. See also General Order 2-8, Transporting Prisoners. The department requires deputies to exercise safety awareness by carefully restraining most prisoners (except children) who must be transported to a jail or other location.

II. PURPOSE

This policy establishes guidelines for the use of handcuffs and other department approved restraining devices.

III. PROCEDURES - Arrested Persons

A. General:

1. Deputies shall handcuff or restrain all arrested persons until such time they reasonably believe that the suspect no longer poses a danger to the deputy or other persons.
2. The nature of the restraint chosen to subdue a suspect and the related method of transporting a suspect to jail or to court depends on the level of threat against the deputy. A minimal threat may require restraint through handcuffing or plastic handcuffs. A threat of property damage or injury posed by the suspect may require restraint through a body belt, leg or ankle restraint, or a vehicle cage. The most severe threat may involve a full-body wrap or a straight jacket and perhaps a vehicle equipped with specialized restraints.

A. Handcuffs:

1. Deputies shall handcuff a person with the hands in back, palms facing outward, but may choose to handcuff hands in front if the prisoner:
 - a. is obviously pregnant
 - b. has a physical handicap
 - c. has injuries that may be aggravated by standard handcuffing procedures.
2. Deputies shall not handcuff a person to the transport vehicle or any part of it, or to any other fixed object such as a door or pipe.
3. Deputies shall double-lock handcuffs to help ensure prisoner and deputy safety. Double locking reduces the chance of picking the lock or of the bracelet accidentally closing, further restricting circulation.

B. Body belt:

The body belt allows the deputy to handcuff the prisoner in front yet restricts the movement of the prisoner's arms and hands. Normally, this device will be used when transporting prisoners' considerable distances.

C. Ankle shackles:

Ankle shackles shall be used by deputies when transporting any prisoner they have reason to believe might be an escape risk.

D. Plastic handcuffs:

Plastic handcuffs shall be used when deputies take into custody several prisoners or when a prisoner requires multiple restraints. Deputies must understand that plastic handcuffs once applied can only be removed with pair of shears, scissors, or knife.

IV. PROCEDURES - Persons not arrested

- A. If deputies have a reasonable suspicion that a suspect has been involved with a violent offense, then handcuffs may be applied while deputies investigate the possibility that criminal conduct occurred. See General Order 2-3, field interviews, for further discussion of the legal aspects of investigative detention.
- B. Persons not arrested but who are subject to investigative detention may be restrained under the following circumstances.

1. Suspects shall be handcuffed only as long as necessary to accomplish the investigative goal.
2. Handcuffing of suspects shall be accomplished with minimal discomfort to the suspect.
3. Deputies shall limit the number and type of restraints used on the suspect to what is reasonably necessary to accomplish the investigation.

V. SPECIAL CIRCUMSTANCES

A. Positional asphyxia:

Deputies shall not hog-tie suspects by placing them in a prone position with the hands and ankles bound from behind with handcuffs, belts, or other devices. As soon as any suspect who is lying on his or her stomach has been handcuffed, deputies shall roll the suspect onto his or her side, or place the suspect in a sitting position.

1. Positional asphyxia occurs when the position of the body interferes with respiration. A prone, hog-tied suspect may suffocate. Intoxication, presence of a head injury, obesity, and physical disability are all circumstances that can increase the possibility of suffocation.
1. Ascertain if the suspect has used alcohol or drugs recently or suffers from any cardiac or respiratory problem. Monitor the suspect and obtain medical treatment if necessary.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Prisoner Transports	NUMBER: 2-8
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Extraditions

Positional asphyxia

Prisoners

Transportation of prisoners

Transportation of juveniles

I. POLICY

Transportation of persons in custody is a constant requirement and a frequent activity. Transportation usually occurs in two instances. The first is immediately after arrest when the arrestee is taken by the arresting deputy for booking and holding or transfer to another facility. The second concerns the movement of prisoners from one of our detention facilities, to another local or state institution, to or from another jurisdiction, to a hospital, doctor, dentist, or other medical facility, to court, or to attend a funeral or visit a seriously ill relative, and for other reasons. In all instances of transfer of persons in custody, deputies shall take care not to endanger themselves or the public while ensuring the prisoner's safety, thus limiting opportunities for escape.

II. PURPOSE

The purpose of this policy is to establish procedures to ensure that prisoners are transported safely.

III. PROCEDURES

A. General:

1. Unless no other type of vehicle is available, all prisoners shall be transported in secure, caged vehicles.
2. Where possible a juvenile known or believed to be under the age of 18 years should not be transported with adults suspected of or charged with criminal acts.

B. Searching the prisoner:

1. The transporting deputy shall always search a prisoner before placing him or her into the vehicle. Deputies must never assume that a prisoner does not possess a weapon or contraband or that someone else has already searched the prisoner. The transporting deputy shall conduct a search of the prisoner each time the prisoner enters custody of the deputy. See paragraph F, use of prisoner restraining devices.
2. When handling and searching prisoners, deputies shall remain mindful of the department's infectious diseases exposure control plan (see General Order 2-30) and shall use personal protective equipment when necessary.

C. Searching department vehicle:

The transporting deputy shall search the vehicle before each prisoner transport to ensure that no weapons or contraband are available to the prisoner. Further, after delivering the prisoner to his destination, deputies shall again search their vehicles to ensure that the prisoner did not hide contraband or other evidence.

D. Positioning of prisoners in the transport vehicle:

1. When a deputy transports a prisoner in a caged vehicle, they shall be positioned in the rear seat and secured with seat belts. Prisoners shall be handcuffed with their hands behind their backs, palms outward, except for pregnant, handicapped, or injured prisoners, as detailed in General Order 2-7.
2. When a deputy transports a prisoner in a non-caged vehicle, the prisoner shall be placed in the right front seat and secured with a seat belt. The prisoner shall be handcuffed with his or her hands behind the back, palms outward. A lone deputy shall never transport two or more suspects in a non-caged vehicle unless authorized by the on-duty supervisor.
3. If more than one deputy transports prisoners in a non-caged vehicle, the following procedures shall be observed.
 - a. One deputy shall position him- or herself in the rear of the transporting vehicle behind the passenger seat with the prisoner on the opposite side.
 - b. In a situation where more than one prisoner is transported by two deputies in the same vehicle, the prisoners shall be positioned on the rear seat and the assisting deputy should position himself in the front seat in order to see the prisoners at all times.

4. Deputies shall not transport prisoners who are restrained in a prone position. Doing so risks positional asphyxia, a form of suffocation for the restrained suspect that may cause death.

E. Control of prisoners while transporting:

1. Observation:

- a. During transportation, the deputy shall continually observe the prisoner, even when it becomes necessary to allow the prisoner the use of a toilet.
- b. In a situation where observation is not possible (woman prisoner needing toilet facilities and male transporting deputy or vice versa), the deputy shall exercise as much control of the situation as possible. The prisoner shall not be allowed in the facility with another person and the deputy shall ensure that there are no escape routes within the facility and no weapons available to the prisoner.
- c. A thorough search of the facilities will be conducted prior to the prisoner being allowed to use them. Restraining devices will not be removed.
- d. Each time a prisoner is placed in or removed from a vehicle, a check of the restraints will be done.
- e. If a prisoner appears lethargic, particularly after an active confrontation with deputies, or appears unresponsive, consider the possibility that immediate medical help may be necessary. Check the suspect for a response.

2. Meals:

If the transporting deputy must stop in route for a meal, he or she should choose an unfamiliar place. This minimizes any chance of an arranged plan for someone to try to aid in the escape of the prisoner.

3. Stopping to provide law enforcement services while transporting:

- a. When transporting a prisoner, the transporting deputy shall provide law enforcement services only when:
 - (1) a need exists for the transporting deputy to act immediately in order stop or prevent a violent act and prevent further

harm to a victim

- (2) a person has been injured and assistance is required immediately
- (3) a crime is in progress, thus creating an immediate need to apprehend the suspect.

- b. In all of the above situations, the transporting deputy shall ensure at all times that the prisoner is secured and protected.
- c. Under no circumstances shall a deputy transporting a prisoner engage in a pursuit.

4. Escape:

If a prisoner escapes while being transported, the transporting deputy shall observe the following procedures.

- a. Request assistance immediately from the jurisdiction the deputy is in at the time of the escape. The transporting deputy shall immediately provide dispatch with the following information:
 - (1) Location
 - (2) Direction and method of travel, and means of escape
 - (3) Name, physical description of escapee
 - (4) Possible weapons possessed by the escapee
 - (5) Pending charges.
- b. Try to recapture the escapee as soon as possible. *NMSA 29-1-4* authorizes a deputy to pursue and arrest, if in close pursuit, the escaped prisoner anywhere in New Mexico.
- c. The transporting deputy shall submit a written report to the Sheriff as soon as practicable explaining the circumstances of the escape.

5. Prisoner communication:

The transporting deputy shall not allow prisoners to communicate with

other people while in transit unless the situation requires it. The deputy shall use his or her judgment when deciding whether to allow a conversation to take place between the transported prisoner and another party.

6. Arrival at destination:

When transporting prisoners from one facility to another, the transporting deputy upon arriving at his or her destination shall observe the following procedures.

- a. Firearms shall be secured in the designated place at the facility being entered.
- b. Restraining devices shall be removed only when directed to do so by the receiving facility or when the deputy is sure that the prisoner is properly controlled and secure.
- c. The proper paperwork (jail committal, property form, etc.) shall be submitted to the proper person at the receiving facility and, in situations that require it, the deputy shall ensure that proper signatures are obtained on paperwork to be returned to the department.

F. Extradition by Commercial and Charter Air:

1. The Federal Aviation Administration permits use of restraints on prisoners while flying. However, most airlines have policies prohibiting use of restraints. Individual airlines should be contacted in regard to their respective policies.
2. A leg restraint, non-obtrusive, is mandatory on all extraditions. In the event a prisoner has the restraints removed, the prisoner will be instructed to stay with arms reach of department personnel.
3. All personnel flying armed will have received a standard block of instruction and be certified in carrying firearms on aircraft as FAA regulation #108-21 states.

G. Sick/injured prisoners and medical facilities:

1. At any time before, during, or after the arrest that the prisoner is injured or becomes sick, the deputy shall seek medical attention immediately. Medical attention shall be obtained before transporting the prisoner to the jail if the injury/sickness happens before arrival there.

2. The transporting deputy shall use discretion in using restraining devices on sick or injured prisoners. Obviously, if a prisoner is injured or sick enough to be incapacitated, restraining devices may not be appropriate. As a rule, do not remove a prisoner's handcuffs at the hospital unless ordered to do so by the attending physician.
3. If the prisoner refuses treatment, the prisoner shall be asked to sign an Against Medical Advice form. Have the attending physician or a nurse sign the form as witnesses. If the prisoner refuses to sign the form, two hospital staff must witness the refusal. The form must be given to the jail during booking.
4. If the prisoner must be admitted to the hospital, the deputy shall release the prisoner only after consulting the on-duty supervisor. The supervisor, in turn, shall consult the magistrate or the county's attorney. The supervisor shall observe the following procedures to ensure control of the prisoner.
 - a. If the prisoner is admitted, the supervisor shall arrange for guards.
 - b. The supervisor shall brief every deputy on the restrictions and duties of guard duty and shall ensure that guards have radios.
 - c. The supervisor shall ensure that guards are checked periodically and relieved as necessary.
 - d. If the prisoner has to remain in custody, the supervisor shall request the hospital to put the prisoner in as secure a private room as possible.
 - e. The prisoner shall be kept under observation at all times and, normally, restraining devices shall be used. Deputies shall consult with medical personnel concerning the use of restraining devices.

H. Special transport problems:

1. Transport of prisoner by deputy of different sex:
 - a. When transporting a prisoner of one sex by a deputy of another sex, an additional deputy/matron may be requested to accompany the transport. When conducting transports outside the county/state, there should be a female deputy/matron when transporting a female prisoner if possible.

- b. If using a second deputy is impractical, at a minimum the transporting deputy shall:
 - (1) contact the dispatcher by radio and request that the time and odometer mileage be logged
 - (2) go directly to the destination by using the shortest practical route
 - (3) upon arrival at the destination, contact the dispatcher by radio and request that the time and the odometer reading be logged.

2. Handicapped prisoner:

- a. When transporting a handicapped prisoner, the transporting deputy shall request help when needed to complete the transport promptly and comfortably, and safely for both the prisoner and the deputy. The deputy may request the dispatcher to contact the rescue squad for assistance. The transporting deputy shall take whatever special equipment or medicine is necessary for the prisoner.
- b. With a handicapped person in custody, the transporting deputy must use common sense. When the handicap is such that no danger of escape or injury to the prisoner or deputy exists, then the restraining devices may be inappropriate.
- c. Any wheelchairs, crutches, prosthetic devices, and medication shall be transported with, but not in the possession of, the prisoner.

3. Transport of dangerous/security risk prisoners from one facility to another:

- a. Transportation to court: When a prisoner is considered dangerous or a security hazard, the judge shall be notified before the transport takes place in order to plan how best to minimize any chance of escape, or injury to the prisoner or anyone else.
- b. General: When picking up a prisoner from any facility, the deputy shall verify the identity of the prisoner.
 - (1) The transporting deputy shall obtain from the custodian of the prisoner any paperwork, property, or medical records that should accompany the transfer of the prisoner.

- I. Restraining devices:
 1. See General Order 2-7 for guidance.
 2. When prisoners must be restrained during transport, the following procedures shall be followed in unless circumstances require an alternate method.
 - a. A single prisoner shall be handcuffed with both hands behind his or her back. See General Order 2-7.
 - b. In transporting more than one prisoner, each prisoner shall be handcuffed in back with each prisoner's arm intertwined with another prisoners.
 - c. Leg and waist belt restraints may also be used in order to minimize the risk of injury or escape.
 - d. Under no circumstances shall a prisoner be handcuffed to a part of the transport vehicle itself, such as the floor post, protective screen barrier, etc.
 - e. Deputies shall use ankle shackles or plastic handcuffs when transporting any prisoner(s) outside the county to another facility or if a prisoner might pose an escape risk.
 3. Mentally Disturbed or Violent Prisoners:
 - a. Although few of the mentally ill are dangerous or violent, there are situations involving those who are. Handling a violent person for transportation or extradition is difficult and sometimes dangerous work. The more informed deputies are about this area, the less at risk they will be. Specialized specific training may be obtained by experienced mental health, law enforcement and/or correctional professionals.
 - b. If the use of a strait jacket becomes necessary to transport a mentally disturbed prisoner, the deputy shall request the assistance of mental health or rescue unit personnel. At no time will a strait jacket be used to restrain prisoners who do not require it. Whenever a strait jacket is used, the prisoner must be evaluated by a medical/mental professional to determine if whether use of the straight jacket is medically acceptable.

J. Transport equipment:

1. Most marked vehicles are equipped with a metal screen separating the front and rear compartments. Normally, these vehicles will be used in all prisoner transports in order to prevent prisoner access to the driver's compartment.
2. Vehicles equipped with metal screen barriers and used in transporting prisoners should have the rear interior door and window handles removed in order to minimize the risk of escape by prisoners while transporting.

K. Documentation:

1. Prisoner identification:

When picking up a prisoner for transport at a detention facility, the transporting deputy shall ensure that he has the correct person. This can be accomplished by:

- a. the deputy's personal knowledge of the prisoner
- b. requesting verification by the jail custodian of the prisoner's identity.
- c. When transporting high risk prisoners from out facility to another institution outside the county, deputies shall have an Inmate Transportation Form that contains a picture and the identifying data of the prisoner, i.e. physical description, tattoos, criminal history, etc.

LUNA COUNTY SHERIFF		GENERAL ORDERS	
SUBJECT: Operation of Department Vehicles		NUMBER: 2-9	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

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I. POLICY

All personnel operating department vehicles shall exercise due regard for the safety of all persons: protection of life is the paramount goal of the department. No task, call, or incident justifies disregard of public safety. Further, the public expects its law enforcement officers to demonstrate exemplary driving behavior. All department personnel who operate department vehicles will comply with safe driving procedures outlined herein with particular attention to responding to calls for service or engaging in pursuits. Emergency warning devices shall be minimally used consistent with both legal requirements and the safety of the public and sworn personnel.

Pursuits represent a dangerous and difficult task that receives much public and legal scrutiny when accidents, injuries, or death results. To pursue, deputies must have probable cause that the occupants of the fleeing vehicle have committed or attempted to commit a violent felony (as defined below). The fact that the driver of a vehicle is fleeing does not, of itself, justify a pursuit. In any case, pursuing deputies and supervisors must justify their actions and, once they have decided to pursue, continuously evaluate the safety of their actions. Further, forcible measures to stop a fleeing driver, as detailed below, are prohibited except where deadly force is appropriate,

II. PURPOSE

This policy establishes procedures governing emergency operation of department vehicles, with special attention to emergencies and pursuits.

III. DEFINITIONS

- A. Boxing in: A deliberate tactic by two or more pursuit vehicles to force a pursued vehicle in a specific direction or to force it to reduce speed or stop by maneuvering the pursuit vehicles in front of, behind, or beside the pursued vehicle.
- B. Caravanning: Direct participation in a pursuit by department vehicles other than the primary and authorized support vehicles.
- C. Emergency driving: That driving in response to a life- threatening or other serious incident (based on available information) which requires emergency equipment in operation. Emergency responses shall be conducted only with activated emergency equipment.
- D. Emergency equipment: Flickering, blinking, rotating or alternating emergency lights and a siren, whistle or air horn designed to give intermittent signals automatically. (NMSA 66-1-4.1)
- E. Normal or routine driving: That driving which dictates vehicle speed consistent with the normal flow of traffic, obedience to vehicle laws and posted signs, adherence to commonly-understood "rules of the road," and courtesy.
- F. Primary pursuit vehicle: The department vehicle that begins the pursuit or the department vehicle closest to the fleeing vehicle.
- G. Pursuit driving: An active attempt by a deputy in an authorized emergency vehicle to apprehend a suspect who is fleeing or evading apprehension, provided the deputy reasonably believes that the suspect is refusing to stop, is willfully fleeing capture by high-speed driving or other evasive maneuvers and the deputy has

probable cause to believe that the fleeing suspect has committed a violent felony. Pursuits shall be conducted only with activated emergency equipment.

1. An attempt to stop a vehicle that is not fleeing, or attempts to stop a vehicle that is refusing to stop while still obeying traffic control devices and not exceeding the speed limit by more than ten miles per hour is not a pursuit.
- H. Risk: The degree of danger or hazard to the public or law enforcement personnel.
- I. Roadblock: Any method, restriction, or obstruction used to prevent free passage of vehicles on a roadway in order to stop a suspect.
- J. Support vehicles: The second or additional department vehicles, authorized by the field supervisor to participate in the pursuit, which follows the primary pursuit vehicle at a safe distance and helps the primary one once the suspect vehicle has stopped, or which can assume the primary role if circumstances dictate. If authorized, additional support vehicles may either follow the primary pursuit vehicle or remain stationed at strategic locations along the probable pursuit route. Except for the primary and secondary pursuit vehicles, other support vehicles shall not activate emergency equipment unless authorized by the field supervisor to do so.
- K. Violent felony: A felony involving violence or the threat of violence to another person, or the use or threat of physical force to another person. Examples: murder, robbery, rape, felonious assault, felonious sex offense, abduction, arson involving death or serious injury, any property crime coupled with life-threatening acts. For the purpose of this order, any crime involving the display or use of a firearm, including misdemeanors involving firearms, is a violent felony.

IV. GENERAL PROCEDURES FOR ALL RESPONSES

- A. General:
 1. All departmental vehicles shall be driven safely and properly in full compliance with all traffic laws and regulations. Department vehicles are conspicuous symbols of authority on the streets and the actions of department drivers are observed by many. Each driver must set an example of good driving behavior and habits.
 2. Under certain emergencies as defined below, New Mexico Statute authorizes disregard of traffic regulations; however, both the operator and the department are not released from civil liability for failure to use reasonable care in such operation. Improper driving can cost each driver,

personally, civil damages while inflicting harm or injury to the driver, other law enforcement personnel, other citizens or causing property damage, to the detriment of the image of the department and law enforcement generally.

B. Routine operation:

1. In case of accident or damage to any department vehicle, the driver shall immediately request the on-duty supervisor to conduct an investigation which shall be reported immediately on a state accident investigation form. The Sheriff shall review all such reports and take appropriate action, to include coordination with the town attorney.
2. Vehicles used in routine or general patrol service shall be conspicuously marked.
3. Unmarked cars shall not be used for pursuit but may be used for patrol. They may be used to stop vehicles provided they are equipped with grille-mounted emergency lights and headlight flashers and a siren.
4. Standard lighting equipment on marked vehicles includes hazardous warning lights, spotlights and alley (side) lights on the rooftop light bar. Hazardous warning lights shall be used at any time the department vehicle is parked where other moving vehicles may be endangered. Alley lights and spotlights may be used when the vehicle is stationary or moving at speeds not to exceed 15 miles per hour and shall not be used in a manner which will blind or interfere with the vision of operators of other approaching vehicles.
5. Seat belts and shoulder straps shall be worn by all department personnel or ride-alongs during vehicle operation. Prisoners shall be strapped in with seat belts whenever possible.

C. Inspection:

1. Deputies are daily responsible to check the cleanliness, fluid levels (oil, brake fluid, gas), and general operability of equipment of their assigned vehicles.
2. Deputies shall examine their vehicles at the beginning and end of their shifts for damage. Deputies shall report any damage immediately to the on-duty supervisor.

3. Deputies shall examine their vehicles at the beginning and end of their shifts to search for evidence, contraband, or property discarded by prisoners or others.
4. Deputies who discover a department vehicle in need of extensive repairs shall immediately inform the on- duty supervisor.
5. If, in the opinion of the Sheriff, vehicle damage resulted from abuse or neglect caused by a deputy, disciplinary action may result.

D. Driving rules:

1. Circumstances permitting, the driver must check the safety features of his vehicle before assuming duty. The check shall include (but not be limited to) all lights, brakes, siren, horn, and steering.
2. No driver shall modify, remove, de-activate, or otherwise tamper with the vehicle safety belts, emission control device, or any part of the vehicle which affects its operation.
3. During periods of inclement weather when department vehicles cannot be washed regularly, the driver must ensure that headlight and tail-light lenses are kept clean, insofar as circumstances permit.
4. No deputy or employee shall operate any department vehicle which he or she believes to be unsafe.
5. The driver shall carefully observe the surrounding conditions before turning or backing any vehicle.
6. A department vehicle shall not be left unattended with its engine in operation nor shall it be left unlocked when the deputy has left it to handle other business.
7. The driver must recognize the variable factors of weather, road surface conditions, road contour, and traffic congestion, all of which directly affect the safe operation of any motor vehicle, and shall govern the operation of the vehicle accordingly.
8. Deputies responding to certain crimes-in-progress sometimes discontinue the use of the siren upon approaching the location of the occurrence. Deputies shall understand that to do so means that, per New Mexico law, they are no longer operating an emergency vehicle and must therefore observe all posted speeds and traffic control devices.

9. Emergency driving to the scene of a motor vehicle accident is permissible only when an emergency exists, or when specific information indicates that conditions at the scene require an emergency response.
10. Upon approaching a controlled intersection or other location where there is great possibility of collision, the driver who is responding under emergency conditions shall reduce the speed of his vehicle and control it to avoid collision with another vehicle or pedestrian, stopping completely, if necessary, before entering and traversing the intersection. When faced with a red traffic signal, the deputy shall stop his vehicle and ensure by careful observation that the way is clear before proceeding through the intersection.
11. Regardless of the seriousness of the situation to which the deputy is responding, and excepting circumstances that are clearly beyond the deputy's control, he or she shall be held accountable for the manner in which he or she operates the vehicle.
12. At the scene of a crime, a motor vehicle crash, or other law enforcement incident, a department vehicle shall be parked in such a manner so as not to create an obstacle or hazard to other traffic. The emergency lights and four-way flashing lights shall always be used to warn other drivers approaching the location.
13. During emergency responses or pursuits, the driver shall lower one front door window far enough to hear other sirens and traffic warning signals.
14. Operators of department vehicles must bear in mind that traffic regulations requiring other vehicles to yield the right of way to any emergency vehicle do not relieve the emergency vehicle operator from the duty to drive with due regard for the safety of all persons using the highways, nor shall they protect the driver from the consequences of an arbitrary exercise of such right of way.

V. PROCEDURES FOR EMERGENCY DRIVING

A. General:

1. No fixed rule can apply to every circumstance that may arise governing emergency driving. Although a deputy may receive information that leads him/her to respond to a call with emergency lights and siren activated, in the majority of such cases a deputy discovers, upon arrival, that an

emergency response was not justified. The department, however, imposes on the deputy the restriction of driving no faster than 20 miles per hour above the posted speed limit in an emergency response (excluding pursuits).

2. *NMSA 66-7-6* states that the exemptions to driving laws granted to emergency vehicle operators “shall not, however, protect the operator of any vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property” and that the law does not “release the operator of any such vehicle for failure to use reasonable care in such operations.” Recognizing that protection of human life is paramount, the responding deputy must remember that his or her objective is to get to the location of the occurrence as soon as possible—safely—without danger to himself or to others.

A. Response codes:

1. Calls for service are classified as Code 1 or 2 depending on circumstances. Code 1 calls are authorized by the dispatcher, a field supervisor, or the patrol deputy, subject to the considerations discussed below. The codes are defined as follows:
 - a. Code 1: Code 1 responses are authorized for any emergency where the preservation of life is a consideration.
 - (1) Primary and support units responding to Code 1 calls shall proceed rapidly to the location of the emergency by the most direct means, using all emergency warning devices with a paramount consideration for the safety of the public and the assigned deputies.
 - b. Code 2: Code 2 responses are authorized for any other situation regardless of apparent urgency where the preservation of life is not a consideration.
 - (1) Units responding to Code 2 calls shall respond to the location without delay by the most direct route, complying with all traffic regulations and shall not use emergency warning devices.
2. Field supervisors shall monitor the response codes for calls for assistance and shall have the authority to upgrade or downgrade assigned response codes. Field supervisors shall closely monitor and may respond to all Code 1 calls.

C. Dispatcher assignments:

1. The dispatcher or field supervisor may assign Code 1 classification to those calls for law enforcement service which indicate a felony in progress or where the suspect is armed, and all other requests alleging an implied or immediate threat to the safety of a person. Examples of Code 1 calls (not all inclusive) include:
 - a. a deputy who needs urgent help
 - b. a burglary in progress
 - c. a robbery in progress;
 - d. a person with deadly weapon
 - e. a serious-injury accident
 - f. a riot or large disturbance with fighting or injuries or damages occurring.
2. Upon receipt of a request for law enforcement service which necessitates the dispatch of a deputy, the dispatcher receiving the request shall determine sufficient facts to set the priority of the response.
 - a. The dispatcher shall obtain information about:
 - (1) whether the perpetrator is still on the scene, or armed
 - (2) condition of the victim
 - (3) a hostage situation
 - (4) the direction and method of travel of any fleeing suspects a
 - (5) a description of any fleeing vehicles.
 - b. When sufficient information concerning a request for service has been obtained, the dispatcher shall assign the complaint a response code. Any doubt as to the character of the request shall be resolved in the presumption that an emergency exists and Code 1 assigned to the call.

D. Deputy's response to call:

1. Upon arrival at the scene of a call, the responding deputy shall rapidly evaluate the situation and determine whether additional units are still needed or whether other units responding Code 1 can be slowed or cancelled.
2. All units responding to robbery- and burglary-in-progress calls, before coming within hearing distance, shall discontinue the use of the siren and at that time fully comply with all traffic laws. Before coming within sight of the location, deputies shall discontinue the use of the emergency warning lights.
 - a. Deputies are reminded that upon deactivation of a siren or flashing lights, their response ceases to be an emergency one and they must comply with all posted speeds and traffic control devices.
3. In situations requiring a silent response, e.g., alarms and prowler calls, deputies shall respond as rapidly as possible, obeying all traffic laws and signs.
4. Deputy-initiated response.

When, in the opinion of the deputy, an emergency is imminent or exists, or that activation of emergency warning devices is necessary to protect life or render the necessary law enforcement service, the department authorizes an emergency response.

Examples include:

- a. Any incident where the use of emergency lights constitutes a necessary warning for the safety of life (such as scenes of fires, accidents or disasters).
- b. As a visual signal to attract the attention of motorists stopped for traffic violations, or to warn motorists of imminent dangers.
- c. Responding to a non-Code 1, where the deputy has previous or additional information which, had the dispatcher known it, would have resulted in the call being dispatched as Code 1.
- d. Where because of location, distance to be traveled, or traffic conditions, the deputy determines that emergency operating

conditions are essential in order to provide an appropriate law enforcement response.

e. In response to a deputy's emergency request for assistance.

f. For pursuit, see section VI.

E. Use of emergency warning devices in non-emergencies:

1. Deputies shall activate emergency equipment to notify drivers that they must stop and to provide a safe environment for the driver, deputy, and the public.
2. Deputies may activate emergency equipment in non-emergencies when expediency is required to eliminate a potential hazard to the public or other deputies, such as using emergency lights to protect disabled motorists or when department vehicles are used as protective barriers.

VI. PROCEDURES FOR PURSUITS

A. Primary deputy responsibilities:

1. Deputies shall only pursue persons on probable cause that the fleeing persons have committed a serious offense or is an ongoing serious threat to the public that existed prior to the pursuit. The deputy's primary responsibility in a pursuit is the safe operation of the vehicle. Only marked vehicles with emergency equipment shall pursue.

The deputy shall notify the dispatcher of the following:

- a. the location of the deputy and the suspect's vehicle
- b. the speed and direction of travel
- c. the license number (and state) of the suspect's vehicle
- d. the description of the suspect's vehicle
- e. the reason for the pursuit.

B. Supervisor's responsibilities:

1. The on-duty patrol supervisor shall monitor the pursuit and respond Code 2 to the location of the stopped suspect. The supervisor may end the pursuit at any time that he or she feels circumstances warrant.
2. The on-duty supervisor shall monitor the pursuit, ensuring compliance with department policy, directing deputies to join or abandon pursuit, re-designating the primary and support pursuing vehicles if necessary, approving or ordering pursuit tactics, and terminating the pursuit.
3. No more than two department vehicles may pursue a fleeing suspect without the specific authorization of the on-duty supervisor. In authorizing additional vehicles to pursue, the supervisor shall consider:
 - a. the nature of the offense
 - b. the number of suspects
 - c. the number of deputies currently participating as primary or support vehicles
 - d. any injuries or property damage already sustained as a result of the pursuit
 - e. any other clear, articulated facts that would justify the assignment of additional vehicles.
4. The supervisor shall critique the pursuit with all of the deputies involved and direct participants to submit reports.
5. The on-duty supervisor at the time the pursuit was begun will retain authority over the pursuing deputies of the department for the duration of the pursuit.
6. The supervisor may direct the use of tire-deflation devices, as appropriate. See paragraph C.2 below.

C. Supporting deputies' responsibilities:

1. Normally the first back-up unit to respond shall help the primary deputy in pursuing the suspect and making the arrest. The secondary pursuing deputy is responsible for broadcasting the progress of the pursuit and controlling the pursuit tactics. The primary deputy must also alert other deputies of the probable route of travel. By handling these

communications responsibilities, the primary deputy can focus attention on the pursuit driving.

2. Tire-deflation devices may be deemed appropriate to stop a pursuit and may be set up by supporting deputies. These devices shall be used only by deputies trained in their use and only under the direct authorization of the on-duty supervisor.

D. Justification for pursuit:

A deputy may pursue a vehicle only when he or she has probable cause to believe the suspect has committed or is attempting to commit a serious offense or is an ongoing serious threat to the public that existed prior to the pursuit.

Considerations in engaging in pursuit:

1. Deputies shall not operate a vehicle at a rate of speed that may cause loss of control. The department expects a deputy to end the pursuit whenever the risks to his or her own safety, or the safety of others, outweighs the danger to the community if the suspect is not apprehended.
2. The decision to begin, responsibility for continuing, and the choice of method of pursuit rests primarily, if not solely, with the individual deputy(s) involved. In deciding, he or she is faced with a dilemma because, although the law does not prevent the deputy from using emergency speeds while engaged in pursuit, it does hold him or her criminally and civilly responsible. Therefore, deputies must exercise sound judgment and carefully consider the seriousness of the offense, the possible consequences, and the safety of citizens. Such considerations include the following.
 - a. Does the seriousness of the crime warrant a chase at unsafe speed?
 - b. What is the possibility of apprehension?
 - c. Will the pursuit take place on residential streets, a business district or freeway?
 - d. When a deputy begins pursuit of a fleeing vehicle, he or she must remember that citizens using public highways do not expect their travel to be interrupted by a high-speed chase or to become involved

in an accident as a consequence. Children playing on the side of the street are likely to be drawn towards a law enforcement car with the siren and emergency light operating, rather than cautioned away from it.

- e. Street and traffic conditions.
 - f. The weather conditions.
 - g. Road conditions and lighting (visibility).
 - h. Time of day, day of week, and season.
 - i. Location (residential neighborhood, commercial, near schools).
 - j. Speeds involved.
 - k. Condition of the vehicles involved, including the pursuing vehicle.
 - l. The capabilities, limitations, mental state of the drivers involved.
3. Intersections are a particular source of danger. When approaching an intersection where signal lights or stop signs control the flow of traffic, deputies shall:
- a. decelerate and apply the brakes
 - b. enter the intersection only when safe, when all other vehicles are aware of the deputy's presence, and at a reduced speed
 - c. resume pursuit speed only when safe. When using emergency lights, siren, and headlamps, the deputy is requesting the right of way and does not absolutely have the right to run a red traffic light or stop sign.

E. Rules of pursuits:

- 1. Deputies shall not ram, bump, or collide with a fleeing vehicle nor shall deputies pull alongside such vehicles in an attempt to force them off the road or into an obstacle.
- 2. Boxing-in shall be performed only with the direct authorization of the on-duty supervisor and then only if the participating deputies have been trained in the technique.

3. Caravanning is prohibited.
4. Deputies shall not fire their weapons from a moving vehicle. Deputies may only fire weapons at a vehicle under conditions described in General Order 2-6, Paragraphs V. A.3 and VI.C.
5. Should the person(s) attempting to avoid apprehension stop the fleeing vehicle and proceed on foot, the deputy shall stop, give his or her location, and continue efforts to apprehend on foot. Support vehicles shall be dispatched in close proximity to offer assistance.
6. If the on-duty supervisor orders the pursuit to end, then the primary and supporting pursuing deputies shall cease immediately. Also, the pursuing deputy(s) shall end the pursuit if at any time during the course of the pursuit he or she loses sight of the fleeing vehicle for more than a few seconds.
7. The use of a stationary roadblock shall be authorized only by the Sheriff. In the absence of the Sheriff, the senior patrol supervisor must directly authorize this measure. The use of a roadblock constitutes the use of deadly force and General Order 2-6 applies. The decision to erect a roadblock must consider:
 - a. the safety of deputies
 - b. the risk of physical injury to the occupants of the pursued vehicle
 - c. the protection of citizens and their property.
8. A roadblock must be clearly visible at a distance sufficient to enable approaching vehicles to stop safely. The deputy in charge of the roadblock shall notify the dispatcher of its precise location. All participating deputies must be aware of the roadblock and have acknowledged this awareness before it is constructed. Further, no personnel shall remain in blocked vehicles, and an avenue of escape shall be provided.
9. Deputies, when accompanied by civilian passengers, shall not pursue. If a civilian is in the department vehicle at the beginning of a pursuit, that deputy shall turn the pursuit over to another deputy, or deposit the civilian at an appropriate, safe location.
10. When two vehicles are involved in pursuit, each unit shall maintain a safe distance especially when passing through intersections. Each unit

involved in the pursuit shall use a different siren-sound selection, if circumstances and safety permit. The use of different siren-sound combinations can help the primary and secondary vehicles hear one another and alert motorists and bystanders that two vehicles are operating under emergency conditions.

11. In case of pursuit, should the suspect drive in a direction opposite to the flow of traffic, the pursuing deputy shall not follow the suspect but instead transmit via radio detailed observations about the suspect vehicle's location, speed, and direction of travel.
12. Deputies involved in a pursuit shall not try to overtake or pass the suspect's vehicle.

F. Out-of-jurisdiction pursuits:

1. Pursuits beyond the local jurisdiction require the direct approval of the on-duty supervisor and, if approved, shall be conducted according to this order. The dispatcher shall notify the appropriate jurisdiction of the pursuit and request help.
2. Once the pursuit has entered another jurisdiction, if deputies from the jurisdiction enter the pursuit, department deputies shall cease their emergency driving, turn off emergency equipment, and follow the pursuit while observing all posted speed limits and traffic control devices.
3. If deputies from another jurisdiction pursue a suspect into our county, department deputies shall enter the pursuit only if the other agency specifically requests help and the pursuit is for a violent felony and the on-duty supervisor approves participation. Any non-pursuit assistance (including apprehension of a stopped suspect) may be provided as the circumstances dictate.
4. When the fleeing suspect is apprehended in another jurisdiction, the pursuing deputy shall notify the local authorities that the suspect has been apprehended.
5. When a fleeing suspect from another jurisdiction is apprehended within the county, the apprehending deputy shall take the arrested person before the magistrate serving Luna County. The on-duty supervisor shall confer with the other jurisdiction to determine which shall maintain custody of the suspect based upon the seriousness of the charges and the likelihood of release by respective magistrate.

VII. TERMINATING PURSUITS

- A. This general order has noted the necessity for a pursuing deputy to continuously evaluate the risks and goal of a pursuit. Under some conditions, abandoning a pursuit may prove the most intelligent decision the deputy can make.
 - 1. In continuously evaluating the pursuit, the pursuing deputies shall consider whether the suspect has been identified and can safely be apprehended at another time or under other circumstances, and the prevailing traffic, roadway, and environmental conditions. Deputies shall also consider their own mental and physical state and the mechanical condition of their pursuit vehicle.
 - 2. Discontinuing a pursuit does not mean that the deputy cannot follow the vehicle at a safe speed, or remain in the area ready to resume the pursuit if the opportunity presents and circumstances warrant. Deputies, when pursuing, shall resist the temptation to follow the suspect too closely and instead follow the violator and allow him or her to make the driving mistakes. No deputy can be disciplined for discontinuing a pursuit.
- B. Deputies shall discontinue a pursuit when:
 - 1. the on-duty supervisor orders it
 - 2. the pursuing vehicle experiences an equipment or mechanical failure that renders the vehicle unsafe for emergency driving
 - 3. the pursued vehicle has outdistanced the pursuing deputy such that its location is not known
 - 4. a person has been injured during the pursuit and no medical or department personnel are able to provide help
 - 5. the pursuing deputy perceives a clear, unreasonable danger to deputies, the fleeing suspect, or the public, and the danger created by continuing the pursuit outweighs the value of apprehending the suspect at the time.

VIII. FOLLOW-UP REQUIREMENTS; Post Incident Review

- A. The on-duty supervisor shall ensure that all participating deputies document their involvement in the pursuit.
 - 1. At the conclusion of the pursuit, the supervisor will:

- a. Fill out a Pursuit Post Incident Review form.
 - b. Forward the form, police report, any other relevant documents, and a copy of the pursuit radio transmissions to the Patrol Captain within 24 hours of the incident.
2. The Patrol Captain will review the pursuit to determine compliance with this policy and national standards.
 - a. The Patrol Captain will complete his/her review within 5 days of the incident and forward the report to the Sheriff.
3. The Sheriff will review the report and make a final determination within 10 days of the incident.
 - a. Annually, the Sheriff will analyze all pursuit determinations and take appropriate action.

IX. TRAINING AND REPORTING

- A. In-service training shall consist of at least four hours of pursuit instruction that conforms to the requirements set forth in NMSA § 29-20-3, NMAC 10.29.7.8 and by the New Mexico Law Enforcement Academy Board.
- B. The Sheriff will submit a copy of the department's pursuit policy to the Director of the New Mexico Law Enforcement Academy and the Traffic Safety Bureau of the State Highway and Transportation Department when the policy is adopted or when the policy is substantially modified as set forth in NMSA § 29-20-4.

VEHICLE PURSUIT- POST INCIDENT REVIEW

Appendix

*CONFIDENTIAL DOCUMENT
ATTORNEY/CLINENT PRIVILEGED WORK PRODUCT*

Route form through Supervisor to the Patrol Captain to the Sheriff.

Pursuit Date: _____

Time: _____ AM PM

Deputy initiating pursuit: _____

INCIDENT

Reason for initiating pursuit (traffic violation, reckless driving, suspected DWI, misdemeanor, felony, suspected felon, violent felony, other:

Explain: _____

Prior to initiating pursuit, did offender present a clear and immediate serious threat to the safety of the public or Deputy(s), or did offender commit/committing a violent felony:

YES NO

Explain: _____

If pursuit continued, did Deputies continually question whether the seriousness of the crime(s) reasonably warranted continuation of the pursuit?

YES NO

Explain: _____

Number of units involved in pursuit? _____ Units

SUPERVISOR

Was supervisor notified and understood justification for pursuit?

YES NO

Did supervisor terminate or authorize continuation of pursuit? Terminate Continuation

If terminated, did all Deputies terminate pursuit per supervisor and SOP?

YES NO

Explain: _____

CONSEQUENCES

Number of SO units damaged/wrecked as a result of pursuit: _____ Units

Number of other vehicle's damaged/wrecked as a result of pursuit: _____ Vehicle(s)

Did offender wreck during pursuit?

YES NO

List other property damaged as a result of pursuit: _____

Number of Deputies injured in pursuit or during apprehension: _____ Deputy(s)

Number of citizens injured as a result of pursuit: _____ Citizen(s)

Number of offender(s) injured in pursuit or during apprehension: _____ Offender(s)

DOCUMENTATION

CAD #: _____

Case #: _____

Tape and log included in packet?

YES NO

Report(s) included in packet?

YES NO

Accident report(s) included, if applicable?

YES NO

Injury report(s) included, if applicable?

YES NO

SUPERVISORY REVIEW

Supervisor's determination (was pursuit justified, e.g., authorized & within policy?)

YES NO

Supervisor's signature: _____

Date: _____

ADMINISTRATIVE REVIEW

Patrol Captain Determination (was pursuit justified, e.g., authorized & within SOP?)

YES NO

Patrol Captain Signature: _____

Date: _____

SHERIFF REVIEW/ACTION

Sheriff Review/Action:

- ☐ Pursuit authorized & in compliance with SOP
- ☐ Pursuit not in compliance with SOP
- ☐ Pursuit not in compliance with New Mexico Safe Pursuit Act
- ☐ SOP revisions
- ☐ Disciplinary action

Sheriff Signature: _____

Date: _____

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Missing Persons	NUMBER: 2-10
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 32A-14-3, 29-15-6, 29-15-7

INDEX WORDS

Dispatcher's responsibilities (re: missing persons)

Missing persons

Runaways

I. POLICY

People are reported missing for many reasons: some people leave home voluntarily for personal reasons; some missing person reports are unfounded; and some people may disappear for unexplained reasons but under suspicious circumstances. The role of the responding deputy, however, is critical in identifying the circumstances surrounding missing persons and in identifying persons at risk. Each deputy shall conduct thorough investigations of missing persons, with particular care in instances involving missing children and those who through mental or physical impairment cannot care for themselves. Each deputy, therefore, shall prepare necessary reports and request appropriate NCIC entries. Each dispatcher shall ensure that the missing/wanted entry contains accurate and complete information and shall avoid unnecessary delays.

II. PURPOSE

To establish guidelines which describe the investigation of missing persons and making appropriate entries into NCIC.

III. PROCEDURES

A. General:

1. No waiting period is required before taking a missing person's report. Further, the initial report may be taken in person or by telephone.
2. A person is considered missing when his or her whereabouts is unknown and knowledgeable persons regard the disappearance as unusual or

uncharacteristic.

3. The missing-person report may be deemed critical if the deputy taking the report has reason to suspect:
 - a. foul play or suspicious circumstances
 - b. the missing person may be unable to safeguard or look out for him- or herself, regardless of age
 - c. a risk of suicide
 - d. a risk of accident (while boating or swimming, for example)
 - e. the missing person is a mental patient who may endanger him- or herself or others
 - f. the missing person suffers from a physical or mental incapacity that may be life threatening if not under care.
4. A report of a missing juvenile should not be assumed to be a runaway unless investigation yields this finding.

B. Preliminary investigation:

The deputy or other report taker shall gather the following information for every missing-persons report:

1. Name, age, physical description of missing person,
2. Relationship of reporting party to the missing person.
3. Time and place of the missing person's last known location and the identity of anyone in the missing person's company.
4. Behavior of the missing person, including whether the person has gone missing before, and relevant habits or patterns.
5. Recent history of problems or trauma such as illness, domestic violence, substance abuse, history of mental illness, use of prescription drugs.
6. Extent of any search by the reporting party for the missing person.
7. Indications of missing money or belongings.

C. Follow-up investigation:

Following the preliminary missing-person report, the supervisor may direct a search, if necessary. A follow-up inquiry includes the following steps:

1. If the missing person is a child, with a parent's permission and under their supervision, search the child's home, as appropriate.
2. Obtain pictures, fingerprints and dental records.
3. Contact the medical examiner's office and local hospitals for injured or deceased persons meeting the description of the missing person.
4. Conduct interviews with persons who were in the area where the missing person was last seen, or who may work in or frequent the area.
5. Conduct interviews with co-workers, family, friends, schoolmates, teachers, counselors, social case workers, or others to help determine whether the missing person might have left voluntarily or was coerced into a kidnapping prostitution or is the victim of a kidnapping.
6. If abduction of a child by a stranger is suspected, contact the FBI.
7. Following receipt of the initial missing-person report, the dispatcher shall verify whether any of the following criteria is met. If so, information on the missing person shall be entered into NCIC. These criteria apply to persons of any age.
 - a. The missing person has a proven physical or mental disability and may subject him- or herself or others to danger.
 - b. The missing person is in the company of another under circumstances that indicates danger.
 - c. The missing person disappeared involuntarily under circumstances that suggest abduction or kidnapping.
 - d. The missing person is an un-emancipated juvenile.
 - e. The person has been missing subsequent to a disaster.

D. Case closure:

1. If a competent adult missing person is located, deputies shall advise the

person that he or she was the subject of a missing person investigation and

- a. ascertains if the person wishes his or her family or the reporting party notified of his or her whereabouts; and
 - b. arrange to notify the reporting party or family member, if permitted.
2. Deputies shall inform the reporting party of the well-being of the person who had been reported missing. Unless the law compels another course of action, the department shall comply with the located person's wishes not to make his or her whereabouts known.
3. Before closing a missing-person case, deputies shall question the located person to establish the circumstances and to ensure that no criminality was involved.
4. Reports:
 - a. A missing-person report is retained indefinitely until the complainant cancels or clears the record or until the missing person has been located.
 - b. If the missing person is a juvenile, the record shall be maintained until cleared, cancelled, the child has been located, or until the child reaches 18 years of age.

IV. CHILDREN

A. Preliminary:

1. If the missing person is a child, in addition to the questions outlined above, the deputy or report taker must ascertain if the child
 - a. may be with an adult who might harm him or her
 - b. may have been abducted by a parent
 - c. has previously run away, threatened to do so, or has had inexplicable absences
 - d. may be living under abusive or dysfunctional conditions.

2. A search for the child shall examine the local neighborhood with special reference to friends' houses, libraries, banks, local stores, or parks.
3. Within 30 days notify the state registrar.

B. Schools:

1. Ascertain the name and location of the school the child attends and identifying information on anyone who may be responsible for private transportation to and from the school.
2. With the permission of school authorities and in their presence, search the child's locker. *[Note: A warrantless search of a child's locker may be impermissible. Contact the District Attorney.]*

C. Case closure:

1. When a missing child has been located, deputies shall ensure that medical care is provided immediately, as appropriate.
2. Question the child about the circumstances of his or her disappearance and identify any persons who may be criminally responsible or whether an abusive or negligent home environment contributed to the child's disappearance.

D. Documentation requirements:

1. Deputies shall complete the departments missing person's report and forward such information to the DPS Clearinghouse.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Patrol	NUMBER: 2-11
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Checkpoints (high-crime)
 Childhood death
 Death investigations, preliminary
 Dispatcher's responsibilities (patrol)
 Emergency notifications
 Funeral escorts
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 Hazards
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 Residential security checks
 Shoplifting arrests
 Shoplifting evidence

I. POLICY

Patrol is the primary activity of law enforcement that includes much more than driving through neighborhoods looking for evidence of lawbreaking. On patrol, deputies engage in a wide variety of activities including enforcement of traffic and criminal laws, answering complaints, conducting investigations, community relations activities, transporting prisoners, and preventing crime. The department expects deputies to conduct patrol vigorously to prevent crime, improve community relations, and detect and apprehend offenders.

II. PURPOSE

To define and outline procedures for handling commonly encountered patrol situations.

III. DEFINITIONS

Patrol can be defined in terms of its component activities:

- A. Crime prevention
- B. Response to requested services
- C. Investigation of crime, offenses, incidents, and conditions, including arresting offenders
- D. Traffic direction and control
- E. Regulation of certain businesses or activities as required by law
- F. Maintenance of public order
- G. Provisions of emergency services
- H. Development of relationships between citizens and the department
- I. Reporting of information to appropriate entities.

IV. POCEDURES - General

A. Patrol coverage:

- 1. The department operates 24 hours a day, seven days per week to provide citizens with law enforcement services. The department will provide, generally, the same services at all hours of the day or night in relation to answering calls for service, emergencies, preventive patrol, or traffic enforcement.
- 2. The Patrol Division currently works 4 days a week, with 10 hour shifts. The dayshift works from 0600 hours to 1600 hours. The evening shift works from 1400 hours to 2400 hours. The graveyard shift works from 2100 hours to 0700 hours.

B. Patrol activities:

- 1. Response to some calls may require several deputies to deal effectively and safely with the situation. Circumstances requiring the response of at least two deputies include, but are not limited to:

- a. potential or actual assault on a deputy
 - b. possibility of or actual on-scene arrest for a felony or violent misdemeanor
 - c. potential or actual resistance to arrest
 - d. possibility of or actual use of force
 - e. crime in progress
 - f. fleeing suspect.
2. Dispatchers shall ensure the dispatch of two deputies to calls listed above. A deputy finding the circumstances listed above shall request back- up assistance. Two deputies assigned to such a call shall coordinate their simultaneous arrival, where possible.

C. Incidents requiring presence of a supervisor:

A supervisor shall be notified and shall assume command of the following incidents:

1. Serious injury to a deputy.
2. Accident involving a department vehicle.
3. Major crimes to include murder, bank robbery, jail escapes or a heinous crime or assault where death may occur.
4. Barricade/hostage situations.
5. Disasters, catastrophes, or severe weather producing emergency conditions.
6. Serious complaint or incident involving a deputy.
7. Serious accident, injury or incident involving county personnel or property.
8. Any other incident where a supervisor is requested.

D. Hazards:

A wide variety of hazardous situations such as bad road/weather conditions, unsafe structures, and potentially dangerous calls for service will normally be identified by patrol deputies or announced by local media. Information about any of these hazardous or potentially hazardous situations shall be reported, shared among deputies and other agencies that ought to know, and passed on to subsequent shifts.

E. Special notifications:

1. Emergency/next-of-kin messages.

- a. Subject to the availability of personnel, emergency messages of any legitimate type, as defined by the dispatch supervisor or on-duty patrol supervisor, may be delivered. Deputies shall deliver any message pertaining to a death, serious injury, or serious illness.
- b. Notifying next-of-kin where there is a death, serious injury or serious illness can place the deputy in a delicate and uncomfortable situation.

The following procedures shall be used whenever possible and practical:

- (1) Notification shall be made as promptly as possible.
 - (2) The presence of a minister or relative/close friend (if known) shall be obtained whenever possible before notification.
 - (3) If notification has to be made alone, the deputy shall offer assistance to the next-of-kin in contacting a relative, close friend or minister.
 - (4) Deputies delivering emergency notifications shall tell citizens the source of the information.
- c. When requested by another agency to make notification of next-of-kin, the dispatcher or deputy shall obtain whatever pertinent information about the situation is available in order to assist the relative receiving the message.

F. Highway maintenance/public utilities:

At any time when one of the below hazards exists, the deputy shall request the

dispatcher to notify the proper agency. Hazards may be grouped into two categories.

1. Hazards requiring immediate notification of the proper agency:
 - a. Essential traffic light in need of repair.
 - b. Large holes in road.
 - c. Electrical power lines down.
 - d. Large debris, etc.
 - e. Breaks in water, gas, or other utility mains.
 - f. Snow/ice on road.
 - g. Fire hazards needing immediate attention.
2. Hazards requiring notification at beginning of next business day:
 - a. Non-essential traffic lights in need of repair.
 - b. Small (non-hazardous) holes in road.
 - c. Street lights in need of repair.
 - d. Telephone/video cables down but not creating hazard.
 - e. Dead animals in road.
 - f. Potential fire hazards not requiring immediate attention.
 - g. Excessive growth of weeds, grass, etc.
3. Some hazardous situations may demand immediate notification of local radio stations in order to request public service announcements. Normally, the Sheriff or his/her designee shall contact local media for this purpose.

V. PROCEDURES - Conduct while on patrol

- A. Deputies shall acquaint themselves with traffic hazards, geography of their territory, and particularly the location of highways. Deputies shall also ascertain

the names and addresses of habitual criminals and law violators, First Aid stations, hospitals, ambulances, magistrates and district court judges, District Attorneys, medical examiners, public and private social service agencies, and any other public or private officials that prove helpful in the administration of their duties.

- B. Deputies shall employ the utmost care to protect themselves when stopping violators for infractions of laws. Consideration must also be given to stopping of vehicles from a safety standpoint, during inclement weather, on hills and curves, in dense traffic, or in any instance where life and property may be endangered. See General Order 2-16, traffic law enforcement.
- C. When a deputy observes a violation of the law, he or she shall either (1) warn, (2) arrest, or (3) issue a citation to the violator to appear before the court having jurisdiction.
 - 1. Any controversy incident to the warning, arrest, or summons shall be avoided; the deputy shall merely inform the offender:
 - a. of the nature of the offense.
 - b. why the offense was detrimental to the safety of the public, if this is appropriate.
 - c. the specific charge if a charge is made.
 - d. and the procedure the violator must follow in order to bring the matter to a conclusion.
- D. Without exception, deputies conducting transports shall notify the dispatcher of the transport. The notification shall include the point of origin, vehicle odometer reading, and the destination when transporting members of the opposite sex. Upon arriving, the deputy shall so notify the dispatcher and give the odometer reading. The communications operator shall log the information and record the time of each notification. See General Order 2-8, prisoner transportation.
- E. To the capabilities of their training and qualifications, deputies shall provide general and emergency assistance to motorists. Assistance includes providing information and directions, assisting stranded or disabled motorists, and obtaining medical and other emergency assistance. Deputies shall, within reason, ensure that the requested service is provided in a timely fashion. If, after arranging for assistance, the deputy is unable to remain with the motorists until help arrives, he/she shall take the necessary steps to provide safety to the motorists or arrange for transportation. If the need arises, deputies may transport a motorist to a place of safety.

VI. PROCEDURES - Specific patrol situations

A. Hospital response:

Deputies may respond to calls for assistance from the hospital, or they may take prisoners to medical facilities for treatment, or they may interview hospitalized subjects. Deputies must understand that they are not required to give up their firearms upon request by hospital personnel.

1. Mental patients:

- a. In the absence of a court order for mental commission, or criminal charges of any nature, deputies responding to any medical facility requesting their assistance in detaining a mental patient must not initiate such action. The responsibility for detaining such a patient rests with the hospital staff and security personnel. However, the deputy responding to the hospital shall provide assistance should the situation escalate to a confrontation where the safety of the staff or preservation of peace becomes a law enforcement problem.
- b. When a court order for mental commission is present, the deputies must take whatever action is necessary to enforce the court order.

2. Handcuffed prisoners:

Unless necessary to remove handcuffs in order for a prisoner to receive medical treatment, or at the request of the attending physician the handcuffs or restraints shall remain. Deputies should document any requests to remove restraints.

3. Interviews of patients/employees:

- a. Deputy(s) entering a hospital for the purpose of interviewing a patient in the emergency room shall notify hospital personnel on duty of their presence and the identity of the party to be interviewed.
- b. Deputy(s) entering a hospital for the purpose of interviewing a patient in the patient's room or ward shall notify hospital personnel on duty at the nurses' station responsible for the care of that patient of their presence and the identity of the party to be interviewed.
- c. Deputy(s) who must interview an employee of a hospital shall make every effort to conduct the interview away from the hospital

unless the purpose of the interview is in conjunction with the person's employment.

B. House watch checks:

The department shall honor requests from citizens to conduct security checks of their homes when the owners are on vacation. To that end, any deputy shall ask the citizen to complete the "Request for House watch" form found at the end of this General Order. Deputies shall advise citizens that occasional security checks cannot guarantee that their property will be safe from vandalism or burglary. Further, deputies shall advise citizens on proven crime-prevention techniques such as having a neighbor collect any mail or newspapers. If a neighbor has keys to the house and either plans to reside in it or check it often, then the request form must include the name, address, physical description, and telephone number of the neighbor.

C. Shoplifting arrests:

1. NMSA 30-16-29 through 30-16-23 concern detention of shoplifters and arrests without warrants. Deputies shall consult these statutes for guidance.

D. Detained suspects by store employees:

1. Special security deputies who work as store security may detain suspects for offenses in which apprehension is made within the scope of their employment. The security deputies must also complete an incident report (including the retail cost of the item stolen). They must present it and any property, if necessary, to law-enforcement personnel. In the event of a felony arrest, juvenile detention, or arrest for a misdemeanor, a deputy shall take charge and complete the paperwork.
 - a. Special/security deputies and their powers are discussed under NMSA 30-16-23.
 - b. When a security deputy has decided not to release a suspect, his or her decision shall not be overruled by the deputy without adequate justification.
2. Procedure for processing adult shoplifters arrested by store security personnel who are not special security deputies:
 - a. A deputy shall be dispatched to the shoplifting scene. Responding deputies shall exercise caution that a detained shoplifter may be

violent.

- b. The deputy shall discuss the offense with the merchant, or agent, to determine if an offense has actually occurred and if the merchant has established probable cause for the apprehension. Before these determinations, the deputy does not have the right to conduct a body search or a search for evidence of the offense but may upon reasonable fear for his or her safety conduct a pat down search of the subject's outer clothing for weapons. Any object thought to be a weapon and later found to be other evidence is admissible as to the offense. (See General Order 2-1, constitutional safeguards.)
- c. The knowledge of the merchant, agent, or security guard concerning the offense must be first-hand.
 - (1) Felony: If the offense is a felony, handle as a physical arrest according to the provisions of General Order 2-4.
 - (2) Misdemeanor: If the offense is a misdemeanor, the deputy may issue a citation unless the shoplifter:
 - (a) Refuses to give written promise to appear.
 - (b) Appears likely to disregard the summons.
 - (c) Is reasonably believed likely to cause harm to himself or another person.

3. Handling juveniles:

The deputy shall verify the age of the offender. If the offender contends that he or she is a juvenile, and verification cannot be made immediately, he must be treated as such until a determination to the contrary is made. Ascertaining an offender's age and identification shall be through whatever means are available to the deputy at the time, but caution shall be taken to assure that a juvenile is not processed as an adult offender. (See General Order 2-25, juvenile procedures.)

- a. Felony: If the offense is a felony:
 - (1) Obtain all available information on the offender, and provide that information to the complainant.
 - (2) Transport the juvenile to the Sheriff's Office. Contact a

parent to pick up the child. Advise the parent that a referral to Juvenile authorities is being sought.

b. Misdemeanor:

- (1) Every effort shall be made from the store to contact a parent or legal guardian. Request the parent to respond to the store for release of the juvenile.
- (2) If a parent responds, or if the deputy is assured of proper identification, the deputy may release the juvenile at the scene after advising the parent or juvenile that a juvenile referral shall be sought. Factors to be considered in this action are the same as those for the release of an adult on a misdemeanor citation.

4. Evidence: Special Considerations.

Rules of evidence allows for the introduction of a photograph of shoplifted property as competent evidence. The decision to use a photograph shall be made only after careful deliberation, not merely at the request of the merchant. Contact the District Attorney for assistance. Deputies shall consider:

- a. Is the item perishable?
- b. Would impounding the item represent an undue hardship to the merchant, or owner?
- c. Does the size or nature of the item make impounding impractical?

E. Funeral escorts:

1. Criteria: All funeral procession escorts must be approved by the Sheriff or his/her designee. All such requests must be made at least 24 hours before the escort.
 - a. Funeral homes are responsible for coordinating with other agencies if the procession passes into another jurisdiction.
 - b. Funeral homes must inform all procession participants of any requirements and provide all equipment necessary.
2. Deputy's responsibility.

- a. Deputies shall have the authority to refuse to start any escort which presents a hazard to the safety of either the deputy or the public or for an emergency or other pressing law enforcement necessity. If a deputy refuses to start a funeral escort for any reason, he or she shall contact the on-duty supervisor.
 - b. Deputies shall choose the route to be taken based upon resources available, weather, time of day, traffic flow, road hazards, and any permits issued.
 - c. In the event the procession is larger than anticipated, the deputy in charge of the procession shall consider:
 - (1) completing the escort as requested.
 - (2) waiting until additional assistance can arrive.
 - (3) escorting a manageable number of vehicles to include the family vehicle and funeral coach.
 - d. The requesting party may choose to proceed without benefit of an escort.
 - (1) Deputies shall inform the funeral director that they cannot wait beyond 30 minutes for the escort to begin. If deputies must abandon the escort because of a delay beyond thirty minutes, then they must notify the on-duty supervisor before leaving.
 - e. All processions which proceed on an interstate highway shall be advised that interstate traffic normally will not be stopped for the procession.
3. Vehicle requirements:
- a. Department
 - (1) A department vehicle escorting a funeral procession shall have emergency lights in operation at all times. Only marked vehicles may be so used.
 - (2) The siren shall be used as appropriate to warn other drivers that the procession is proceeding through the area.

b. Other

All vehicles participating in a funeral procession shall have their headlights illuminated.

F. Residential and vehicle lock-outs:

The department shall assist citizens who are locked out of their residence or vehicles only in an emergency.

1. Persons requesting assistance in gaining access to a vehicle or residence from which they are locked out shall be referred to private businesses unless one of the following circumstances exists:
 - a. medical emergency.
 - b. child or disabled citizen locked in the home.
 - c. child, disabled citizen or animal locked in the vehicle.
 - d. for a law enforcement related matter as authorized by a supervisor.
 - e. when the welfare of a person could otherwise be in jeopardy.
2. If no emergency (as described above) exists, deputies shall advise citizens:
 - a. that the department has neither the expertise nor the special equipment necessary to enter the locked vehicle or residence.
 - b. to call a locksmith or service station for assistance.
3. The above rules apply regardless of whether the request comes from a citizen, fire department, or animal control personnel.
4. When called to a lock-out, the deputy shall:
 - a. determines if an emergency exists.
 - b. obtains proper identification from the requesting party and make a reasonable inquiry to determine that the requesting party has a right to gain entry (except in life- threatening situations or emergencies where immediate action is necessary).
 - c. advises the requesting party that the city is not responsible for any

damage incurred by the assisting deputy.

- d. calls for assistance, when necessary, from the fire department or other appropriate agency.
- e. avoids forcible entry if possible.

G. Special populations:

1. Mentally ill/abnormal behavior.

2. Public inebriates: general

Deputies coming into contact with persons displaying drug or alcohol intoxication may;

- a. takes the subject into protective custody NMSA 43-2-8.
- b. follows agency procedures established through agreement with the Community Services for committal to a public or private treatment facility or court-approved detoxification center. *NMSA 43-2-8*

3. Public inebriates: procedures

- a. Before placing a person into protective custody for being intoxicated under NMSA 43-2-8 the deputy, in his or her discretion, may inform the offender that he or she may voluntarily choose to be transported to the detoxification center. If the offender refuses, then the deputy may take them into protective custody as provided by the detoxification Reform Act NMSA 1978§ 43-2-1 through 23. If the offender wishes the detoxification option, he or she is eligible for admittance unless he or she:

- (1) is intoxicated as a result of drugs.
- (2) exhibits violent or suicidal behavior.
- (3) needs immediate medical attention.
- (4) appears to suffer from a major disease such as diabetes or pancreatitis.
- (5) is unconscious or unable to walk.

- (6) is being detained on any other criminal charges.
- (7) is refused admission by a detox official because of past assaults or aggressive behavior while a patient at the detox facility.
- (8) ambulance/EMS personnel may be summoned to the scene to conduct a medical assessment of the person being taken into protective custody prior to transport.

H. Loud-party calls:

- 1. If available, two deputies shall respond to a loud- party call because of the criteria listed under IV.B above. Deputies shall try to record names and addresses of complaining witnesses as this may be important in justifying law enforcement action later.
- 2. Deputies shall advise the resident or person in control over the premises of the Disorderly Conduct statute and shall advise the violator that any subsequent call will result in issuance of a summons and closure of the party. Deputies may photograph or videotape the scene to show cars blocking entrances, hydrants, or other examples of illegal parking, litter, and people drinking outside of the residence where the party is taking place.
 - a. Identifying the law violator-presumably the person in control over the premises- may not be easy. Deputies shall try to gain entry by obtaining the permission of the owner or manager, resident, or, if the party is attended mainly by juveniles, a responsible adult. If no one can be found to give permission for entry, consider that exigent circumstances might exist for entry. (See General Order 2-1, constitutional safeguards, for a discussion of exigent circumstances.)
- 3. Under most circumstances, upon a second call, deputies shall end the party and may issue an appropriate summons. Before ending the party, the deputies shall notify the on-duty supervisor of the decision and request additional deputies, if necessary.
 - a. Based on the totality of evidence, deputies may decide that a search warrant is required to gain entry into the premises. Deputies shall summon a supervisor if a search warrant seems required under the circumstances.
- 4. If people at the party do not comply with the deputy's order to leave, then

the deputies at the scene shall use appropriate legal means of ending the party, particularly through the issuance of citations (sample offenses: disorderly conduct, violation of noise ordinance).

- a. Before allowing any partygoers to leave the scene, administer field sobriety tests or breath tests to any drivers where possible.
5. If deputies arrive and find or suspect that the party involves underage drinking, they shall take reasonable steps to identify and control juveniles whom they have observed consuming alcohol and shall further ensure that juveniles are safe and secure after closing the party and before leaving the scene. The provisions listed above for calling a supervisor, determining exigent circumstances, or obtaining a search warrant all apply.
6. If deputies develop probable cause that underage drinking is occurring at the party and have entered the premises pursuant to a search warrant, consent or permission, or exigent circumstances, deputies shall:
 - a. search the premises and locate all persons who are present.
 - b. seize any contraband in plain view (pursuit to General Order 2-1);
 - c. provide medical attention as needed and have incapacitated juveniles transported to a hospital and contact Child Protective Services.
 - d. continue photographing or videotaping the party;
 - e. have dispatch begin contacting responsible parents or guardians to call the juvenile probation officer concerning any juveniles referred to the court.

VII. PROCEDURES - Preliminary death investigations

A. Preliminary death investigations: general:

1. After arriving at the scene and until convinced to the contrary, all deputies shall consider every D.O.A. call as a possible homicide.
2. Deputies shall, as circumstances permit, check the victim's vital signs (breathing, pulse, muscle reflexes). Further, deputies shall ensure the safety of any other persons in the vicinity, as necessary, to prevent injury or death. Whenever feasible, deputies shall summon EMT personnel to

establish the fact of death. In the death report, deputies shall document the name of the EMT, his or her identification number, and arrival time.

B. Procedures:

1. Responsibilities of first deputy on scene. Before moving the corpse:
 - a. Preserve the scene and possible evidence.
 - b. Take photographs of the body and the immediate area. If the body is that of a child, carefully note the child's position and the presence of any toys or objects near the child.
 - c. Identify and interview witnesses.
 - d. Request a supervisor. Have dispatch contact the medical examiner (OMI).
2. If death appears to be the result of natural causes, contact the victim's physician and family (if possible) to determine medical history.
 - a. The death may be treated as natural without notification of the medical examiner if the victim's physician agrees to sign the death certificate, or the attending physician in a hospital or nursing home, or a registered nurse in a hospice.
 - b. All deaths must be pronounced by a physician or OMI, which may happen at the scene, at a hospital, or any other place designated by the medical examiner in medical examiner cases. The deputy shall include in his or her report the time of pronouncement, the name of the physician, or OMI, and where the body is to be taken.
3. Criminal Investigator's case.

If the circumstances of death fall into any of the following categories or if there is any doubt as to the death's inclusion in one of these classifications, the on-call Criminal Investigator shall be contacted as soon as possible.

Classifications

- a. By violence; that is, accident, trauma, fire, injury, poisoning, suicide, or homicide.
- b. Suddenly, when in apparent good health.

- c. When in jail or in custody.
 - d. By unusual, suspicious, or unnatural means.
 - e. Sudden death of an infant under eighteen months of age whose death is suspected to be attributable to Sudden Infant Death Syndrome.
4. Non-CID case.

For the purposes of this procedure, a non-CID case shall be defined as:

- a. a death resulting directly from a disease or illness which has been diagnosed and is actively being treated or attended to by a private physician, and;
 - b. the death is not within the classification of a medical examiner's case, as defined above.
5. Under no circumstances shall deputies transport dead bodies.

C. Childhood death procedures:

1. In the event that the death victim is a child, deputies shall obtain and document the following information in addition to the measures outlined above:
- a. List the other people who reside at the victim's residence (noting their age, sex, relationship, and state of health).
 - b. Conduct records checks on other family members.
 - c. Contact the Children Youth and Families Department and obtain any records on the child or his or her family.
 - d. Ascertain what prenatal care the mother received, the name/address of the delivering physician, and the name/address of the current physician.
 - e. Ascertain if the child had been taking medication and whether he or she had shown any symptoms before death.
 - f. Ascertain whether any other household members were recently ill or injured.

- g. Ascertain the child's diet and what and when the child last ate.
- h. Ascertain who last saw the child well, and whether death was observed.
- i. Does the household have any suspicious fumes or odors?
- j. If the child sleeps with another person, obtain as much background information about that person as possible.

D. Death notification:

Note that timeliness takes precedence over protocol when giving a death notification. The deputy shall notify, or cause to be notified, the next-of-kin as soon as possible. The notification should be done in person. If the next-of-kin is in another jurisdiction, call the presiding authority of that jurisdiction to assist in your notification.

VIII. PROCEDURES - Mobile Video/Audio Recording Policy

A. General guidelines:

The mobile video/audio taping equipment (MVE) found in patrol vehicles is intended to supplement reports and investigations and ultimately aid in prosecuting traffic and related offenses as well as to improve deputy performance through training. Aims of MVE include:

- 1. documentation of events, actions, or statements made during arrests and critical incidents to enhance report preparation and investigation.
- 2. assisting the agency in reviewing field practices, especially legal requirements of probable cause, arrest, and searches and seizures.

B. Operational guidelines:

- 1. Deputies assigned vehicles with MVE shall be responsible for operating it according to the manufacturer's recommendations. No deputy shall use MVE without having first completed the requisite training.
- 2. Before assuming duty, deputies shall test MVE to ensure that all equipment is working. Problems or discrepancies shall be reported immediately to the supervisor.

3. MVE automatically activates whenever the vehicle's emergency warning devices are in use. Deputies may manually activate MVE. Deputies may turn off MVE when performing non-enforcement activities (such as protecting accident scenes). Deputies shall document why they turned off the MVE.
4. Deputies shall activate their MVE to record interviews with suspects, field sobriety tests, or in any other instance the deputy deems useful for later judicial proceedings. Such instances may include crime and accident scenes, or the confiscation of evidence.
 - (a) When MVE is activated, deputies shall articulate reasonable suspicion or probable cause: this articulation shall continue through the entire taped interaction. On traffic stops, the deputy shall articulate the type of vehicle, location of stop, license number, number and description of occupants.
 - (b) Note that the deputy has no obligation to inform a suspect that he or she is being video or audio recorded.
5. Deputies shall not erase or reuse or in any way alter MVE tapes. Further, deputies shall take an adequate supply of videotapes for each tour of duty. Deputies shall maintain an MVE log to record each tape used, with relevant case numbers for any that have investigative use.
6. Before going off duty, deputies shall label each videotape. Deputies shall only use tapes provided by the agency.
7. Tapes to be used for investigative purposes shall be treated as evidence with all appropriate safeguards.

C. Supervisory responsibilities:

1. Supervisors shall ensure that deputies follow established procedures for handling MVE.
2. At least monthly, supervisors shall randomly review videotapes or audio recordings to assess deputy performance and to determine whether MVE equipment has been used properly.

IX. PROCEDURES - Checkpoints of high-crime areas

A. General guidelines:

Under some circumstances, the Sheriff may deem it necessary to operate a high-crime checkpoint. The checkpoint normally involves cordoning off several adjacent streets and screening all persons who try to drive in to ascertain their identity and their association with the neighborhood. Deputies shall not implement a checkpoint without direct authorization from the Sheriff. Checkpoints shall not be allowed unless the District Attorney approves of the written plan.

B. Procedures:

1. The Sheriff shall draft a statement of purpose for the checkpoint, supported by evidence that a serious community crime problem exists that can be reasonably resolved by the checkpoint. The statement and an accompanying set of procedures shall be submitted to the commonwealth's attorney who must approve the statement and accompanying procedures or plan for it to be carried out.
2. Once approved, the Sheriff shall issue instructions to deputies who must conduct the checkpoint. The instructions shall outline any seizures of property or any other actions that deputies may perform consistent strictly with the statement of purpose. Instructions may permit, for example, checking identification and determining association within the cordoned area. Instructions shall specify the dates and times of the checkpoint operation.
3. The Sheriff shall, through the written procedures, carefully describe the limits of discretion to be observed by checkpoint deputies, emphasizing that automatic searches are not permitted and that rules of reasonable suspicion apply to any detention beyond the initial brief stop and questioning of motorists.
4. The on-duty supervisor shall ensure that checkpoint signs are conspicuously posted or that other notice is given to approaching cars.
5. The on-duty supervisor shall ensure the free flow of traffic in the checkpoint vicinity.

**LUNA COUNTY SHERIFF
REQUEST FOR HOUSE WATCH**

Name _____ Date _____

Phone # & Address _____

Departure Date _____ Return Date _____

Destination _____

Residence# _____ Business# _____
SECURITY SYSTEM YES NO

AUTOMATIC LIGHTS YES NO

Location _____

Have keys been left with anyone? YES NO

If yes, Name/Number _____

Will anyone be working about or have access to premises during your absence?
YES NO

If yes, list Name(s) _____

Do you wish to be contacted if an incident occurs at your property? If yes, list contact name & #

I request a security check be made of my premises and agree to notify you of my return. I also understand that the Luna County Sheriff's Office, its employees, and the county are not responsible should a crime occur on or in your property.

Signed _____ Date _____

Dear Resident,

This security check service in no way guarantees that your property will be safe from vandalism or burglary, but merely provides the Luna County Sheriff's Office with information of your whereabouts and the pertinent facts if a crime should occur.

Have a safe journey and please call us upon your return.

-Over-

DEPUTIES SECURITY CHECK REPORT

[illegible]

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Investigations	NUMBER: 2-12
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

District Attorney; relationship with
Disposition of cases
Evidence collection
Information; sources of
Interviews/interrogations
Investigation; follow-up
Investigation; preliminary
Organized crime

I. POLICY

The primary purpose of a law enforcement investigation is to collect facts leading to the identification, arrest, and conviction of an offender and to organize and present the facts for a successful prosecution. The single most important criterion which determines a successful investigation is correctly obtaining and handling information supplied by a victim or witness after the crime. The department expects deputies to treat investigations as a skill developed through training and experience, a skill that demands intelligence, logic, and discipline.

II. PURPOSE

To establish guidelines for the general conduct of preliminary and follow-up investigations.

III. PROCEDURES - PRELIMINARY INVESTIGATIONS

A. General:

The preliminary investigation begins when the first deputy arrives at the scene of a crime (or a citizen requests help) and continues until an investigator intervenes.

B. Caution:

Deputies who first arrive at a possible crime scene must take care not to enter

hastily. The crime scene may pose a threat to the deputy: an armed suspect may still be at the scene; toxic chemicals or infectious materials may be present; or evidence may be destroyed if the deputy enters. When practicable, deputies shall first note the total environment of the scene including, for example, whether doors and windows are open or closed, lights on or off, presence of odors, and the condition and circumstances of the victim.

- C. After forming an impression of the entire scene and ensuring that no threat exists, the deputy shall proceed with the preliminary investigation which consists of, but is not limited to, the following activities:
1. Providing aid to the injured.
 2. Define the boundaries of and protect the crime scene to ensure that evidence is not lost or contaminated. Erect barricade tape, rope, or cordon off the immediate crime scene. Record any alterations to the crime scene because of emergency assistance, the immediate necessity to handle evidence, or the actions of witnesses, victims, or suspects at the scene.
 3. Determining if an offense has actually been committed and, if so, the exact nature of the offense.
 4. Determining the identity of the suspect or suspects and making an arrest if it can be accomplished either at the scene or through immediate pursuit.
 5. Furnishing other deputies with descriptions, method, and direction of flight of suspects, and other relevant information concerning wanted suspects or vehicles.
 6. Determining the identity of all witnesses.
 7. Collecting evidence. Unless exigent circumstances exist or a supervisory deputy so orders, deputies conducting a preliminary investigation shall not collect evidence at major crime scenes. When appropriate, deputies shall gather and document evidence, taking care to maintain the chain of custody.
 8. Obtaining written statements from the victim, witnesses, and suspects.
 9. Arranging for follow-up surveillance of the crime scene, if appropriate.
 10. Accurately and completely recording all pertinent information on the prescribed report forms.

D. Follow-up:

The initial stages of all preliminary investigations, including crime scene processing, shall be conducted by patrol deputies. In certain serious crimes, as defined in Section IV, investigators shall assume responsibility for completion of the investigation.

E. Supervisory responsibilities:

The on-duty supervisor shall ensure that an adequate and complete preliminary investigation has been made and shall review, screen, and approve the deputy's preliminary report. Screening shall include a review of facts to ensure that all essential information is included, along with legibility, clarity, and completeness. Supervisors shall review, approve, and sign offense/incident reports.

1. Supervisors shall limit access to crime scenes to those persons immediately and directly connected with the investigation. This rule applies to other deputies of the department, other agencies, or members of the community regardless of rank or position.
2. The supervisor shall authorize the call-out of a certified evidence technician, if available and appropriate.
3. The supervisor may enlarge the preliminary crime scene if necessary by assigning deputies to canvass the area for possible witnesses or suspects.

IV. PROCEDURES: FOLLOW-UP INVESTIGATIONS

- A. Homicides, rapes, and robberies, major disasters, hostage situations, bombings, sex crimes, child abuse/neglect, and kidnappings shall be followed up by the investigator. Deputies who conduct preliminary investigations of these offenses shall contact the investigator as soon as practicable.
- B. Occasionally, additional investigation will be required at the end of the tour of duty of the assigned deputy. In these cases, the on-duty supervisor shall determine whether the investigation should be discontinued until the assigned deputy's next tour of duty or assigned to the next available deputy or an investigator.
- C. Except where the investigation might be jeopardized by its temporary discontinuance, or a supervisor determines that circumstances justify assigning another deputy.

- D. A supplemental report must be prepared by each deputy who works on the case, but not necessarily for each occasion that he or she works on it. The investigator shall maintain a file to include supplemental reports.
- E. A follow-up investigation consists of, but is not limited to, the following activities:

FOR A NON-CRIMINAL CASE

- 1. Interviewing complainants and witnesses.
- 2. Locating missing persons.
- 3. Determining if information or suspicious activity relates to criminal activity.
- 4. Distributing information to the proper persons or agencies.
- 5. Locating lost property and returning same to the owner.
- 6. Investigating deaths, overdoses, suicides and injuries to determine if a crime was committed.
- 7. Making necessary notifications or conducting necessary inspections.
- 8. Recording information.

FOR A CRIMINAL CASE

- 9. Reviewing and analyzing reports of preliminary investigations.
- 10. Recording information.
- 11. Reviewing departmental records for investigative leads.
- 12. Seeking additional information (from other deputies, informants, contacts in community, other investigators/agencies).
- 13. Interviewing victims and witnesses.
- 14. Interrogating suspects.
- 15. Arranging for the dissemination of information as appropriate.

16. Planning, organizing, and conducting searches.
17. Collecting physical evidence.
18. Recovering stolen property.
19. Arranging for the analysis and evaluation of evidence.
20. Reviewing results from laboratory examinations.
21. Identifying and apprehending the offender.
22. Checking the suspect's criminal history.
23. Determining if the suspect has committed other crimes.
24. Consulting with the District Attorney in preparing cases for court presentation and assisting in the prosecution.
25. Notifying victims and witnesses when their presence is required in court.
26. Testifying in court.
27. Arrange for polygraph examinations, if necessary.

V. REPORT WRITING

A. Field notes:

All formal reports begin with field notes. Field notes are important for the following reasons:

1. To create a permanent record of events.
2. To aid the investigation.
3. To ensure accurate testimony in court.
4. To protect the deputy from false accusations.

B. Formal reports shall include the following information:

1. Date, time of arrival at the scene.

2. Relevant weather or situational conditions at the scene upon arrival (e.g., a fire, crowd).
3. Circumstances of how the crime was discovered and reported.
4. Identity of other deputies or emergency personnel at the scene.
5. Physical evidence present at the scene and the deputies responsible for its collection.
6. Names, addresses, telephone numbers of victims or witnesses.
7. Results of interviews with the complainant, victim, or witnesses to include the identity or description of suspects.
8. Diagrams, sketches, photographs, or videotape taken at the scene, and the identity of the photographer or artist.
9. Recommendations for further investigation.

VI. SOURCES OF INFORMATION

A. General:

Deputies must cultivate sources of information to draw in an investigation.

B. Informants:

Information is available from many sources, e.g., concerned citizens who wish to remain anonymous, criminals who have firsthand knowledge of illegal activity, and relatives or friends of those involved in crime. These sources shall be kept in mind when conducting investigations and interviews. Deputies are cautioned to determine the motivation of people who provide information in order to evaluate it.

C. Interviews and interrogation:

1. Field interviews:

Field interviews are a productive tool and source of information for the department. They shall be used only in the pursuit of legitimate enforcement goals and not to harass citizens. When used properly they can discourage criminal activity, identify suspects, and add intelligence information to the files of known criminals. Legal guidelines are

discussed under General Order 2-3.

2. Victim/witness interviews

- a. Deputies must recognize the trauma/stress to which the victim or witness has been subjected and shall conduct the interview in such a manner as to reduce stress.
- b. The age, physical limitations, and credibility of witnesses shall also be considered when evaluating their information.

3. Interrogation of suspects

- a. Interrogations to obtain investigative leads can be very useful, but all constitutional precautions must be taken and recorded if the interrogation is to be used in court later.
- b. Detailed notes or a recorded tape shall be made of the interrogation for court use giving time, date, location, deputies present, waiver of rights, and the time the interrogation ended. Statements obtained during an interrogation shall not be based on coercion, promises, delays in arraignment, or deprivation of counsel. See General Order 2-1 for further legal requirements. Juvenile victims, witnesses, and suspects shall be given the same constitutional protection as adults. The following additional safeguards shall be followed:
 - (1) Parents or guardians shall be notified whenever a juvenile is interrogated, taken into custody, or charged.
 - (2) The number of deputies engaged in the interrogation shall be kept to a minimum. The interrogation shall be as short as possible.

D. Collection, preservation, and use of physical evidence:

Physical evidence is of major importance in all cases, particularly those without witnesses. The successful prosecution of a case often hinges on the quality of the physical evidence collected and preserved.

- 1. All deputies are responsible for the preservation of evidence, and for

maintaining and documenting the chain of custody of all evidence that is in their charge. See General Orders 2-13 & 2-14 for further requirements.

VII. RELATIONSHIP WITH DISTRICT ATTORNEY

- A. All personnel shall make appointments with the District Attorney in advance, be on time, have the subject for discussion ready, and keep conversations brief.
- B. In every contested case, misdemeanor or felony, the deputy involved shall make an appointment with the District Attorney or his or her assistant to discuss the case before trial.
- C. During any investigation (or during planning for arrest or pretrial stages), any questions of law or criminal procedure shall be addressed to the District Attorney. Questions on law-enforcement procedures shall be addressed to the Sheriff.
- D. The District Attorney may advise the Sheriff of any cases where a decision was made not to prosecute or where the case was dismissed because of mishandling or error by a deputy.

VIII. ORGANIZED/VICE CRIMES AND INTELLIGENCE

INFORMATION AND COMPLAINTS

- A. Deputies may receive information on or complaints regarding organized crime, vice, or matters of law enforcement intelligence demanding investigation. Organized crime and vice activities and intelligence matters may include any of the following:
 - 1. Corruption, extortion, bribery.
 - 2. Illegal sale and distribution of liquor, tobacco, firearms, or controlled substances.
 - 3. Prostitution, pornography.
 - 4. Gambling.
 - 5. Theft/fencing rings.
 - 6. Loan sharking or labor racketeering.
 - 7. Terrorism, subversive activities, or civil disorders.

- B. Deputies receiving information under “A” above shall prepare an incident/information report which shall include the following information:
 - 1. Type of illegal/suspected activity, location, names and addresses of suspects involved and information concerning the activities.
 - 2. Name, address, and telephone number of the complainant, if any.
- C. Initially, the reporting deputy shall conduct no preliminary or follow-up investigation but shall first contact the on-duty supervisor concerning the reported information.
 - 1. The Sheriff shall confer with appropriate state, federal, or local law enforcement agencies.

IX. DISPOSITION OF CASES

- A. The investigator shall maintain files of all cases assigned to him or her. All case files shall be appropriately labeled with the date of incident, name of victim, or name of suspect or arrested person.
 - 1. The file shall contain the original incident report, any supplementary reports, statements, photographs, lab reports, reports of disposition of any property stolen, confiscated, recovered, or otherwise pertinent to the case, arrest reports, and anything else the investigator deems pertinent.
- B. When the investigation is complete, the investigator shall close the case under (and include in the file a statement giving) one of the following labels:
 - 1. Cleared - an arrest has been made in this case.
 - 2. Exceptional Clearance - the identity and address or exact location of the culprit is known and sufficient evidence to obtain a warrant exists. However, due to some reason outside the control of the department, no arrest will be made. Examples: Complainant will not prosecute; District Attorney will not prosecute; perpetrator is dead; subject arrested by another jurisdiction and no charges will be placed by the department.
 - 3. False Report - the reporting party lied in order to mislead the department concerning the incident. Do not confuse unfounded and false report. It is a violation of the law to deliberately make a false report. An unfounded report is usually made in the belief that the offense actually occurred, but, in fact, it did not.

4. Suspended - all leads have been exhausted. No further investigation is possible or practical until new leads develop.
5. Unfounded - the offense did not really occur in the first place, although at the time of the original report, it was believed to have occurred. If the investigation has exhausted all leads, yet the possibility remains that new facts may come to light given future inquiry, the case shall remain open.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Collection/Preservation of Evidence	NUMBER: 2-13
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Alcoholic beverages
 Chain of custody
 Crime scene
 Evidence
 Evidence custodian
 Exclusionary rule
 Photographs (crime scene)
 Preservation of evidence
 Property
 Weapons (as evidence)

I. POLICY

Proper documentation, collection, preservation, and submission of physical evidence to forensic laboratories may provide the key to a successful investigation and prosecution. Through evidence located at the scene, suspects are developed or eliminated, investigative leads are established, and theories concerning the crime are substantiated or disproved. It is imperative, therefore, that each deputy carefully process a crime scene not to overlook or contaminate or destroy evidence. Physical evidence appears in many shapes, sizes and forms, thereby necessitating various recovery, preservation, and submission techniques. The deputy or investigator shall be prepared to collect, identify, and package the evidence so that it will not be changed in form and value when it reaches the laboratory. The deputy collecting the evidence shall maintain a chain of custody of that evidence in order to ensure that it is presented to the court professionally and in compliance with the law.

II. PURPOSE

To establish responsibilities for deputies/investigators in processing crime scenes and to establish guidelines for the proper documentation, collection, packaging, and submission of physical evidence to the forensic laboratory.

III. DEFINITIONS

A. Chain of custody:

The chain of custody is the series of documented links between the time the evidence was obtained until presented in court. The links are deputies who handled the evidence, and where and when they did so.

B. Exclusionary rule:

The exclusionary rule requires that evidence seized or discovered in violation of the suspect's Fourth, Fifth, and Sixth Amendment rights cannot be admitted in court.

C. Evidence:

Any substance or material found or recovered in connection with a criminal investigation.

D. Evidence custodian:

The evidence custodian is the employee designated by the Sheriff to have administrative oversight over all found or confiscated property which comes into departmental possession.

IV. PROCEDURES - General crime scene processing

A. Responsibilities of the first deputy at a crime scene:

The deputy responding to a crime scene shall:

1. arrive at the scene promptly and safely.
2. protect the scene to prevent the destruction or contamination of evidence.
3. prepare the original offense report.
4. locate evidence, collect, preserve, and package evidence.
5. locate witnesses.
6. photograph and sketch the scene when appropriate.
7. submit evidence to the forensic lab for analysis. (See General Order 2-12

for a discussion of preliminary and investigative procedures at crime scenes.)

B. Crime scene processing by an investigator:

Certain serious offenses of the type listed in General Order 2-12 require that an investigator or a crime-scene technician to process the crime scene.

C. Crime scene processing equipment:

1. The deputy/investigator responding to a crime scene shall make a determination of equipment needed for processing. The department maintains a complete evidence collection kit to include a camera, film, sketching equipment, fingerprint recovery tools, blood recovery materials, tweezers, scissors, boxes, bags, envelopes, tape, marking tools, evidence tags, and materials for lifting impressions (footprints, tire tracks).
2. Use of property and evidence form:
 - a. The property and evidence form shall be used for all property coming into custody of the department.
 - b. When handling property that may be lost/found and not evidence, give the citizen who turns the property over to the department a copy of the form.
3. Record the case number on the property and evidence form and, on all supplements, or continuation sheets.

D. Crime scene sketch:

Before moving objects at major crime scenes (except where necessary to help a victim, apply first aid, or handle a suspect) deputies shall prepare a sketch of the scene. Minimum detail to be contained in the sketch includes the following:

1. Time and date of preparation.
2. Location of offense.
3. Location of items of evidence in the scene and their relationships to one another, including any items which appear displaced or damaged.
4. Location and names of victims, witnesses, and suspects.

5. Relationship of the crime scene to other rooms, buildings, or roads.
6. Name of person preparing the sketch.
7. Direction of north.
8. Scale.
9. Location of lights and whether they are on/off.
10. Location of windows and whether they are open/shut.
11. Location of radio/television and whether they are on or off.

E. Photographing the scene – general:

At the end of the preliminary scene survey, overall photographs of the scene shall be taken from several vantage points. Use a wide-angle lens to obtain an overall establishing view, followed by medium shots and close-ups as appropriate.

F. Information to be recorded on photographs:

The deputy shall record the following information about each photo:

1. Type of camera used.
2. Type of lighting used (existing light or flash).
3. Date and time of exposure
4. Person taking photos.
5. A brief description of subject in photos;
6. Kind of film used.
7. Case number.

G. Midrange photography:

Midrange photography is used to orient the viewer to the exact location of items of evidence in the scene.

1. If possible, the deputy shall include two items of evidence within the field of view. If this is not possible, then a common item (desk, bed, table, etc.) should be included in all the midrange photos.
2. Midrange photos shall always be taken with a standard lens to prevent distortion.

H. Close-up photography:

Before any item of evidence is moved, a close-up photograph shall be taken according to the following requirements:

1. Fill the field of vision with the item.
2. Take one close-up shot of the item with a scale. A ruler in the evidence collection kit can be used for this purpose.
3. Place a strip of masking tape across the face of the ruler, making sure not to cover the measuring increments. Record the following information on the tape:
 - a. Item number.
 - b. Case number.
 - c. Date.
 - d. Deputy's initials.

I. Location of evidence – measurements:

Before collecting any item of evidence, take measurements using triangulation or the coordinate method.

J. Latent fingerprinting:

Fingerprints shall be identified and lifted where possible. If transporting evidence may damage or destroy the latent prints on it, then the evidence shall be processed for prints at the scene.

K. Overall measurements:

Obtaining wall, room, and building measurements is one of the last operations to

be performed in processing the crime scene. The overall measurements are vital in the production of the final crime scene sketch but must be obtained last so as not to damage or destroy items of evidence.

L. Final organized search:

Conduct a final, thorough search of the crime scene in case evidence may have been overlooked. Wherever possible, use a fresh deputy on a final search.

M. Documentation:

1. The deputy/investigator processing a crime/incident scene shall prepare a report giving an accurate account of events. This information shall be placed in the offense/incident report and shall include the following:
 - a. Date and time the deputy arrived at the scene.
 - b. The location of the crime.
 - c. The name of the victim, if any.
 - d. The name of the suspects, if any.
 - e. The deputy's actions at the scene.
 - f. The case number.
2. All evidence shall be properly and prominently tagged or identified. In addition to the property report, the recovering deputy shall complete a property card for the evidence custodian.

N. Legal requirements:

Deputies shall observe legal principles regarding the legal use of physical evidence. Deputies shall rigorously maintain the chain of custody of all evidence and shall always remain mindful of constitutional safeguards. If deputies are not scrupulous in observing these safeguards, then the exclusionary rule may prohibit key evidence from being introduced at trial and the case may be lost or dismissed.

V. PROCEDURES - Evidence and property control

A. Collection of evidence:

1. When collecting evidence, the deputy shall use tongs or tweezers where possible. The deputy shall avoid touching the evidence with his hands or anything that might contaminate the item.
2. In collecting evidence, deputies shall remain mindful about the possibility of contagion if the crime scene contains bodily fluids. Refer to General Order 2-30, communicable diseases. Further, some evidence may consist of hazardous chemicals or waste products, explosives, or highly combustible materials. The evidence custodian in consultation with an evidence technician shall decide the best disposition of such items.
3. If a firearm is present at the crime scene, do not unload it if an investigator should be contacted, if the case is a major crime. The investigator will unload the weapon: the investigator must examine the weapon in its exact condition as at the time it was discovered. Upon packaging the weapon tag in red or visibly the weapon is loaded.
4. Proper order of collection
 - a. Collect perishable evidence first. Perishable evidence such as fresh blood, blood-stained objects, physiological stains and tissue, or biological material shall be collected only by a trained deputy/investigator who shall arrange to submit the material to a lab.
 - b. If destruction of evidence is not a concern, work through the scene systematically, collecting in a logical sequence, trying to avoid disrupting other items of evidence.
5. Collection of samples: The forensic laboratory can only compare known items with those showing similar characteristics. Sufficient specimens or controls must be submitted for comparisons of such items of hairs, fibers, paint, glass, soil, and tool marks.
6. Documentation of each item collected: The deputy processing the crime scene shall list each item collected on the evidence recovery log. Note the following information for each item.
 - a. A complete description of the item (including make, model, and serial numbers, if any).
 - b. The source (from whom or location from which the item was obtained).

- c. The name of the person collecting the item.

B. Marking evidence:

1. In many instances, marking and labeling evidence may represent a single process. In instances where the evidence is large, complete identifying data may be recorded directly on the evidence to include the deputy's name, date, time, location of recovery, item number, and case number.
2. In other instances, the small size or nature of the item collected will not permit complete information to be noted directly on the item. In these instances, the container or attached tag shall be marked with appropriate information.
3. The crime scene search deputy shall mark similar items in the same place to save time and embarrassment in looking for the identifying marks when asked to identify the evidence in court.
4. Instruments which may be used for marking physical evidence include permanent markers (felt tip pens), scribes (diamond tip or awl), or where labels are used, ballpoint pens.
5. The deputy who collects the evidence shall mark it.
6. Each deputy or investigator shall develop his own identifying mark, normally his or her initials.

C. Packaging items of evidence:

1. The collecting deputy shall choose a container suitable to the type of evidence for packaging. Considerations in choosing the proper container include:
 - a. The size and weight of the item.
 - b. Whether the item is moist or wet (which could rot or deteriorate if packaged in plastic or an airtight container for an extended time).
2. Avoid any contamination of evidence by packaging all items separately.
3. Pack the item to minimize interior movement within the package.
4. Seal the package with tape and initial or sign across the seal.

5. Label the exterior of the package before placing the evidence within it.

D. Special circumstances:

1. Weapons
 - a. No deputy shall, under any circumstances, personally retain custody of any found or confiscated weapon.
 - b. Deputies bringing weapons into custody shall inspect them to ensure their safe storage. All firearms shall be unloaded before storage.
 - c. The recovering deputy or investigator shall check all confiscated or found weapons against NCIC files.
2. Drugs and narcotics (see General Order 2-14, Drug/narcotics enforcement)
3. Alcohol
 - a. All containers of alcoholic beverages shall be sealed or contained to avoid any chance of leakage.
 - b. The only alcoholic beverages that are considered contraband are those seized from underage persons whose possession is in itself illegal, violations of the Beverage Control Act, DWI offenses and Open container violations. Consider the appropriateness of collecting alcoholic beverages for evidence, and whether photographs are more appropriate. (Contact the District Attorney's Office for any question on this subject) Contraband alcoholic beverages shall be destroyed upon conclusion of legal proceedings.
 - c. Alcoholic beverages seized or recovered which are not contraband or evidence shall be returned to the owner.

E. Preservation and submission of evidence to the forensic laboratory:

1. Under normal circumstances, the deputy or investigator who processed the crime scene is responsible for submitting evidence to the forensic laboratory.
2. Where more than one deputy processed the scene, the on-duty supervisor shall choose a deputy to take custody of all collected evidence and submit it to the laboratory for analysis.

3. Preservation of perishable or deteriorating items:
 - a. When a rapidly deteriorating item of evidence has been collected (for example, a liquid sample of semen, a blood-soaked shirt), it shall be transported to the forensic laboratory the same day, if at all possible.
 - b. Any time a deputy transports a perishable item to the laboratory for analysis, the laboratory shall be called first, so they will be ready to receive it.
 - c. In cases where immediate transport to the forensic lab is not possible, observe the following procedures.
 - (1) Refrigerate the evidence for not longer than one week and then transport to the lab.
 - (2) Air dry (no more than one week) and transport to lab.
 - (3) Where appropriate, submit known specimens of evidence so that comparisons can be made. The investigating deputy shall be responsible for obtaining any required known specimens and submitting them, along with the items of evidence, to the forensic lab for analysis and comparison.

F. Administration of property and evidence:

1. The processing deputy, investigator, or property custodian shall, when possible, check all property against NCIC or NMCIC records.
2. For property that may be lawfully released to the owner, the recovering deputy, investigator, or property custodian shall immediately attempt to notify the owner (by telephone or letter) that the department is holding their property and to make arrangements to retrieve the property.
3. The investigator shall check the files monthly for property and evidence that is unclaimed or of no further evidentiary value, and to obtain from the recovering deputy a signed release for disposal. Deputies shall then make arrangements for returning property to the owner.
4. The investigator shall ensure that final disposition of found, recovered, and evidentiary property is accomplished within sixty days after legal requirements have been satisfied, unless title to the evidence or property

has been awarded to the department by court order. The evidence custodian shall report any exceptions to the Sheriff.

5. The investigator shall obtain the prosecutor's authorizing signature on the property form for release of any evidence on a case pending appeal. The investigator shall ascertain from the prosecutor when contraband may be destroyed and, upon approval, arrange for witnessed destruction or another disposal as soon as possible.

VI. EVIDENCE CUSTODIAN

- A. The evidence custodian shall have administrative control over all found or confiscated property that enters the property storage room and shall ensure that all stored confiscated or found property has been documented appropriately.
- B. The evidence custodian shall ensure that the property storage room is clean, orderly, and secure, and shall take necessary steps to ensure that all found or confiscated property is protected from damage, deterioration, or theft.
- C. The evidence custodian shall restrict access to the property storage room to the Sheriff or his designee. Access by other persons is prohibited as a general rule. Exceptions will be granted by the Sheriff. The evidence custodian shall maintain a log of all persons who enter the evidence storage room.
- D. The evidence custodian shall maintain a safe within the storage room for money, jewelry, weapons, precious metals, or narcotics.
 1. The evidence custodian shall count currency and separate it by denomination. Another employee will re-count the currency. The evidence custodian shall place the currency in an envelope, seal it, and both the custodian and the witness shall sign the envelope and date it.
- E. The evidence custodian shall maintain a refrigerator for the storage of perishable items.
- F. The evidence custodian shall maintain records on found or confiscated property which document the chain of custody. The evidence custodian shall maintain a master inventory of all found or confiscated property, whether stored in the authorized room or elsewhere.
- G. The evidence custodian shall release property only to authorized persons and may demand proof (such as a *subpoena duces tecum*) of legal necessity to take property.

- H. An annual inventory of evidence shall be conducted by the Sheriff or his designee, a person not routinely connected with evidence control. The evidence custodian shall facilitate the inspection.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Drugs/Narcotics Enforcement	NUMBER: 2-14
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 29-1-14

INDEX WORDS

Confidential funds
Drugs
Informants
Narcotics

Searches
Specialized equipment
Task force operations

I. POLICY

The department's interest in stemming the flow of illegal narcotics reflects the general attitude of the community and the assumption that illegal drugs contribute to a wide range of illicit activities. The department will investigate and enforce narcotics and dangerous drug violations at all levels. Vigorous enforcement enriches the quality of life in our community by reducing drug trafficking and related crime through a cooperative effort with our citizens. This order broadly outlines the responsibilities of all deputies in enforcing drug/narcotics laws and offers specific guidance on handling criminal investigations and narcotics evidence.

II. PURPOSE

To provide investigative guidelines regarding narcotics and dangerous drug cases.

III. PATROL PROCEDURES

A. General:

Patrol deputies are more likely to become involved in possession and street-dealing cases than large-scale sales and distribution incidents. Deputies shall be especially mindful of the relationship between offenses commonly observed during patrol activities (such as DWI cases) and narcotics violations. A person who violates narcotics and drug laws in all likelihood commits other kinds of criminal acts.

B. Elements of successful investigations:

Although specific rules on the handling of all cases are not possible, successful prosecutions involve the following elements:

1. A thorough incident report not only for cases involving illegal narcotics/dangerous drugs, but also those involving the seizure of contraband without an arrest being made.
2. Specific offenders are targeted, their habits, associates, vehicles, property thoroughly investigated with surveillance as necessary.
3. Direct communication with the District Attorney's Office; relaying articulate facts of the case, suspect(s), violations, and evidence seized.

C. Directed patrol:

The department practices directed patrol as the primary narcotics-control strategy. Directed patrol is distinguished from normal enforcement efforts by its focus on specific problems.

D. Vehicle check points:

Checkpoints may be used in areas identified as having a heavy flow of narcotics-related vehicular traffic. DWI enforcement and routine license and registration checks are commonly used rationales for checkpoints. See General Order 2-16 for guidance on constructing checkpoints. Checkpoints for narcotics-detection purposes shall conform to legal guidelines and are only conducted under direct authorization of the Sheriff and according to a written plan.

E. Intelligence gathering:

The cornerstone of vigorous anti-drug efforts by patrol personnel is the development of intelligence. Intelligence is gathered chiefly by observing and communicating with apprehended suspects, concerned citizens, and anonymous tips. Deputies shall diligently record the presence of suspicious persons, vehicles, and residences by completing field interview cards.

1. Informants

The cultivation and handling of informants is a complicated but essential part of patrol work and is particularly important in narcotics enforcement.

2. Schools

Substance-abuse problems exist among both juveniles and adults. Arrests of juveniles, in fact, constitute a large portion of all arrests for narcotics offenses. School liaison programs are normally a function of specialized units such as D.A.R.E., however, patrol deputies are expected to work

closely with school officials on a wide variety of safety and security issues, including narcotics violations. Deputies shall develop contacts with local public-school administrators to obtain intelligence on the nature and extent of drug problems within schools.

F. Surveillance and arrest:

The department encourages surveillance of locations where narcotics trafficking has been severe, particularly where open-air transactions are conducted. Controlling trafficking may mean making arrests for even minor misdemeanors committed in the deputy's presence (such as littering) in order to disperse possible criminal activities and to learn identities of people.

G. Profiling:

Frequently, stops of citizens based on reasonable suspicion that criminality may be occurring lead to seizures of narcotics and arrests. Refer to General Order 2-3 for a discussion of investigative detention. Profiles, sometimes called "drug courier profiles," refer to a cluster of characteristics that, when taken together, suggest criminality. These characteristics are used to pick a suspect so that he or she can be watched or approached. The department expects deputies to detect criminality by deploying all legal investigative strategies, but deputies are cautioned not to borrow a third-hand profile of a drug courier to substitute for good judgment. Reasonable suspicion that criminality has occurred or is occurring depends on facts known to the deputy at the time of the stop or arrest. A legitimate profile, sanctioned by the department, consists of several attributes that are very specific and only valid for a limited time and under limited circumstances. These attributes or characteristics can only be established based on considerable expertise about drug trafficking. In any event, deputies shall not consider race or national origin in determining whether or not to stop a person for a field interview.

H. Street strategies:

The department encourages all legal means of reducing drug trafficking. A number of strategies have proven successful in obtaining important information leading to criminal investigations. Deputies shall remain mindful of the following strategies during patrol.

1. Use non-coercive conversations with possible suspects to create investigative opportunities. Without a show of authority or application of force, no constitutional issues arise that require the use of Miranda rights or search warrants.

2. Employ consent searches where and when appropriate. See General Order 2-1 for a further discussion of the legal requirements.
3. With the considerations outlined under G above, deputies may develop profiles of sellers and buyers appropriate for specific locations within deputies' patrol areas. Profiles must be based on the deputy's observations and knowledge of his or her patrol beat, not on generalized third-hand information. A well-constructed profile can yield reasonable suspicion for a stop.
4. Always bear in mind the requirements for reaching reasonable suspicion and the legal avenues that can be explored with reasonable suspicion as the basis (see General Order 2-1 & 2-3). A reasonable suspicion that drug trafficking has taken or is taking place may include flight or panic at the sight of law enforcement personnel, lying while being questioned, or a display of extreme or unusual nervousness in the presence of the officer.
 - a. In formulating reasonable suspicion, rely on observations of people and circumstances that are exposed to public view or are in public places.
5. Employ drug-sniffing dogs to establish probable cause.
6. Inspect property abandoned by the suspect: no warrant requirements exist for this kind of search.
7. Exercise pat-downs or frisks if the deputy suspects that the suspect may be armed. See General Order 2-1 & 2-3. Absent a suspicion of danger, the deputy may still ask for consent to frisk.
8. Use traffic stops to gather intelligence and develop reasonable suspicion or probable cause. Traffic stops, however, must be based on the observation of a motor vehicle violation.

IV. INVESTIGATIONS

A. General:

The department has two full-time narcotics investigators assigned to the Border Drug Task Force. Narcotic seizures information and intelligence should be forwarded to these narcotic agents for case follow up investigations. Seizures made by patrol deputies may turn the case over to the narcotic agents assigned to the Border Drug Task Force at the patrol deputy's discretion.

B. Anti-drug task force:

The department participates as a member of the Region VII Border Task Force. The department will not participate in any task force where the efforts of our assigned deputy do not directly benefit our city/county. The task force exists to provide law enforcement agencies within Region VII Border Task Force to combine and coordinate resources to address a regional drug problem and to provide the ability to conduct cross-jurisdictional investigations through a regional network of information and intelligence on all narcotic criminal activity.

1. Deputies assigned to the regional task force shall work under the immediate supervision of the commanding deputy of the Region VII Border Task Force.
2. For purposes of indemnification of all personnel assigned to the task force and their respective agencies against losses, damages, or liabilities arising out of the activities of the task force, the personnel assigned by any jurisdiction shall be deemed to be continuing under the employment of that jurisdiction and its law enforcement agency.
3. Any sworn deputy, while assigned to the task force and working under its commanding officer, shall have the same powers, duties, privileges, and immunities as are conferred upon him or her as any law enforcement personnel in his own jurisdiction and in any participating jurisdiction. Contact of the district attorney is required to verify jurisdiction exists before taking any actions or participating in an investigation.
4. In any asset forfeiture cases, the memorandum of understanding signed by all participants to the task force outlines how assets shall be shared.

C. Informant buys:

Arranging purchases of illegal narcotics through informants is a key investigative strategy. Investigators using this method shall ensure that the informant vetted as credible. The informant must be searched before the controlled buy, given marked currency, and searched a second time after the buy to ensure that the subject is not concealing a portion of the illegal substance or monies which was utilized to purchase the narcotics. Investigators shall thoroughly debrief the informant after every narcotic purchase to determine all circumstances that might affect the safety of deputies during the execution of a search warrant and to obtain additional details useful for prosecution. Investigators shall maintain files on all informants in a locked secured location approved and managed by a supervisor.

D. Confidential funds:

1. All confidential funds shall be disbursed according to county fiscal management guidelines.
2. The Sheriff shall designate a confidential funds custodian (who may be an investigator) to maintain records and audit reports. The confidential funds custodian shall
 - a. maintains the fund according to local policies and all appropriate laws.
 - b. properly disburses and deposit funds and maintain appropriate bookkeeping and banking practices.
 - c. maintains a secure file of all transactions (with restricted access) and purge records as legally required.
 - d. coordinates a semi-annual audit by a third party.
3. An independent accounting authority shall conduct an annual audit of the confidential fund.
4. The confidential funds custodian shall only disburse funds for the following purposes:
 - a. Payments to confidential informants.
 - b. Purchase of illegal drugs, contraband, or other evidence to advance an investigation.
 - c. Expenditures for authorized undercover operations.
 - d. Flash money.
 - e. Purchases of food and beverages for a confidential informant.
 - f. Payments for intelligence which leads to seizures and arrests.
5. Documentation.
 - a. Deputies shall prepare a written request for confidential funds.
 - b. Deputies who receive confidential funds shall prepare an expense report to account for all money withdrawn from the account.

Receipts shall be obtained whenever possible. The report shall include:

- (1) Informant control number for which funds were expended.
 - (2) Date and place of the expenditure.
 - (3) Copies of receipts.
 - (4) Type of investigation.
 - (5) Case number.
- c. The deputy holding confidential funds shall prepare the expense report as soon as practicable and submit it to the supervisor. When practicable, the informant shall initial receipt of funds on the expense report.
 - d. Unexpended funds shall be returned to the custodian who shall issue the deputy a receipt.

E. Undercover operations:

The nature of undercover operations requires deputies to maintain professionalism and integrity while operating in a compromising environment. The Sheriff shall assign deputies to undercover work based on the needs of the department.

1. Use of alcohol/drugs while on assignment

Undercover deputies may find themselves in situations where drinking alcoholic beverages may be necessary. Deputies shall keep alcoholic assumption to a minimum and must remain mindful that department policy forbids the carrying of a firearm when the deputy consumes alcoholic beverages (see General Order 2-6). Under no circumstances will a deputy consume drugs in any way.

2. Luna County Drug and Alcohol policy provides for drug testing of personnel during pre-employment physical examinations, regular physical examinations after employment or upon reasonable suspicion. Deputies working undercover assignments are subject to this policy.

F. Special equipment:

Narcotics investigations often require special surveillance and recording

enforcement equipment. The supervisor of investigations holds the responsibility for determining equipment needs, inventorying and monitoring the use of specialized equipment, ensuring the timely reporting of damage or loss, and ensuring that all specialized equipment is in working order.

G. Intelligence and crime analysis:

Intelligence gathering, and crime analysis perform mutually supportive roles in narcotics investigations. Patrol personnel and investigators shall diligently document the intelligence they have gathered, investigations undertaken, informants developed, and any other information of relevance. This information is crucial to crime analysis which determines the selection of targets and supports planning. When compiling intelligence files, deputies shall at least record the following information:

1. The frequency of occurrence by type of crime.
2. Geographic factors.
3. When targeted activities occur.
4. Descriptions of targets, their associates, and their methods of operation.
5. Descriptions of vehicles.

H. Raids:

Raids shall be conducted only upon the authorization of the Sheriff. The supervisor of investigations shall confer with the Sheriff to plan the raid. Raid planning includes outlining procedures for warrant procurement, tactical team use, deployment of personnel, deputy safety, and collection of evidence. Special planning must be done for raids involving suspected drug- producing laboratories because of the dangers posed by hazardous chemicals. Raid planning may include participation by other governmental agencies such as fire and health authorities.

V. EVIDENCE PROCESSING

A. Refer to General Order 2-13 for general guidelines on the collection and processing of evidence. Procedures specific to narcotics cases are listed below.

B. Seizures and forfeitures:

All seizures and forfeiture actions shall be conducted in accordance with either

federal or state guidelines per department policy.

C. Handling drug/narcotics evidence:

1. To the extent practicable, all drugs/narcotics shall be stored in clear plastic bags, bottles, or other containers to allow the contraband to be visible, thus reducing the need to break seals to examine or verify the evidence and thereby damage the chain of custody. The original containers of drugs/narcotics (such as film containers, prescription bottles) shall be packaged separately.
2. For all recovered drugs, the recovering deputy shall obtain a gross weight (content and package) for quantity and quality control.
 - a. Scales for weighing are provided in the Patrol office area. Before using the scales, deputies shall check to ensure that the scale reads a zero balance and is correctly set.
 - b. The gross weight shall be witnessed by another deputy.
 - c. If the drug is a tablet or capsule, a count may be substituted for gross weight. This exception is permissible when the drug is sealed in tamper-proof protective packages.
3. All drug evidence shall be submitted to the laboratory for examination within five days of receipt. Complete a Request for Laboratory Examination forms as required. It is the case agent's responsibility to make sure this evidence is tested in a timely manner.
4. Each time narcotics property is removed, the package or container shall be inspected for tampering and weighed.

D. Destruction of narcotics/drugs:

1. Contraband drugs shall be destroyed according to this order.
2. The Sheriff shall designate an investigator to monitor the destruction of drugs and they should be destroyed as outlined in NMSA 29-1-14.
3. The destruction monitor shall:
 - a. selects a random sample of the items designated for destruction, before the scheduled destruction date.

- b. arranges for the items to be inventoried and verified with original documentation.
- c. compares items with those of prior agency inventories.
- d. notifies the Sheriff if any discrepancies are found whereupon the Sheriff may order an internal investigation.
- e. monitors the loading and moving of items to be destroyed, and observe the destruction.
- f. after destruction, complete a report giving the date/time/location of destruction, and inventory of items destroyed, a list of witnesses, and the result of the random tests made before and after the destruction. Attach the report to the court destruction order and submit for filing with case reports.

LUNA COUNTY SHERIFF		GENERAL ORDERS	
SUBJECT: Disposal of Lost, Found or Unclaimed Property		NUMBER: 2-15	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA 29-1-13, 29-1-14, 29-1-15	

INDEX WORDS

Alcohol; disposal of

Narcotics

Property; found

Property; lost, unclaimed

Weapons; disposal of

I. POLICY

All lost, found, and unclaimed property of non-evidentiary value shall be disposed of according to federal and state statutes. Personal property coming into departmental possession as evidence may be disposed of only after approval by the District Attorney. Under no circumstances shall property turned in or seized become property of a department employee.

II. PURPOSE

To establish guidelines for the disposal of lost, found, and unclaimed property of non-evidentiary value.

III. PROCEDURES

A. Responsibilities:

Each deputy is responsible for the safe storage of evidence, found property, and contraband. Deputies are equally responsible for proper record keeping of all property. Deputies shall maintain appropriate logs of all incoming and outgoing property, plus documents concerning auctions or destruction of contraband. The Sheriff shall ensure correct accountability of all property.

B. Release of non-evidentiary and lost/found property:

1. Non-evidentiary and lost/found property shall be released to the true owner or his agent when claimed.
2. Satisfactory proof of ownership (e.g., serial number, receipts, sales slip, invoice) must be presented. In lieu of proof listed above, when an owner can describe a property item in great detail as to color, style, brand, scratches, marks, and condition (characteristics which only the owner would know), property may be released.
3. Any other person seeking release of property, particularly when a dispute exists about ownership, shall be advised that the property can only be released to them as a result of:
 - a. a valid court order.
 - b. written consent from the town attorney or commonwealth's attorney.

C. Disposal of lost, found, and non-evidentiary property:

1. The investigator or evidence custodian shall prepare a quarterly list of non-evidentiary items that have remained unclaimed in the proper locker for a period of time as specified by law, following which disposal is required.
2. The investigator shall present the quarterly property list to the Sheriff.
3. The Sheriff shall ensure disposal of these items in accordance with procedures specified by NMSA 29-1-14(e.g., advertisement, public sale, deposit of proceeds), and will provide a certificate of disposal, properly witnessed by disinterested persons, for files. The Sheriff may delegate this responsibility.

D. Weapons:

1. Following all criminal proceedings, legally possessed weapons not ordered confiscated by the court shall be returned to the owner or the owner's agent.
2. Proof of ownership (e.g., serial number, receipts, sales slips or detailed descriptions) shall be required before release.
3. Disposal of contraband weapons and those ordered confiscated by the

court shall be disposed of according to court orders as directed in NMSA 29-1-14.

E. Drugs/narcotics:

1. Large seizures of controlled substances or marijuana shall be disposed of according to NMSA 29-1-14.
2. Controlled substances and marijuana of no evidentiary value shall be disposed of according to NMSA 29-1-14.
3. Property seized in connection with the illegal manufacture, sale, or distribution of controlled substances shall be handled according to NMSA 29-1-14.

F. Alcohol:

1. Alcoholic beverages which are not contraband and have no evidentiary value shall not be seized and shall be retained by the owner.
2. Contraband alcoholic beverages (those possess by underage drinkers) and alcoholic beverages confiscated for evidence after 90 days may be destroyed per NMSA 29-1-14G.

LUNA COUNTY SHERIFF		GENERAL ORDERS	
SUBJECT: Traffic Law Enforcement		NUMBER: 2-16	
EFFECTIVE DATE: Jan. 1, 2020		REVIEW DATE:	
AMENDS/SUPERSEDES:		APPROVED: Sheriff Kelly Gannaway	
		NMSA	

INDEX WORDS

DWI

Enforcement; traffic

Juveniles; traffic violations

Radar

Traffic

Traffic stops - felony

Traffic stops - routine

New Mexico Uniform

Traffic Citations

I. POLICY

Traffic law enforcement involves all activities or operations which relate to observing, detecting, and preventing traffic law violations and taking appropriate action under the circumstances. Enforcement not only involves arrests and citations but includes warnings to drivers and pedestrians which help prevent them from committing minor violations. Traffic enforcement may react to observed violations, at accidents, or in response to community concerns, or may be proactive to prevent traffic violations. However, overzealous enforcement without considering whether the violator is familiar with the legal requirements or without regard for the circumstances surrounding the violation causes disrespect for the law and poor relations between the department and the community. The emphasis of a deputy's traffic enforcement is placed on violations that contribute to accidents and that prevent hazards to vehicular and pedestrian traffic.

II. PURPOSE

The purpose of this order is to prescribe procedures for traffic law enforcement, preventive patrol, proactive enforcement, and relationships with motorists, pedestrians, and the courts.

III. PROCEDURES

A. Types of enforcement actions:

1. Warnings:

Deputies may issue warnings to a violator whenever a minor traffic infraction is committed in areas where traffic accidents are minimal, or

when the act may be due to ignorance of a local ordinance which may be a unique violation or a violation of which the driver may not be aware. A properly administered warning can be more effective than any other type of enforcement. For minor traffic violations, professional courtesy may be extended to other law enforcement personnel by issuing oral or written warnings.

2. New Mexico Uniform Citations:

A citation should be issued to a violator who jeopardizes the safe and efficient flow of vehicular and pedestrian traffic, including hazardous moving violations or operating unsafe and improperly equipped vehicles.

3. Physical arrest (Immediate appearance before a magistrate):

Deputies shall make a physical arrest, in compliance with NMSA 66-8-122 in the following circumstances:

- a. person requests immediate appearance.
- b. violations of traffic laws pertaining to driving under the influence of alcohol or other intoxicants.
- c. whenever a felony has been committed involving a vehicle.
- d. when the operator refuses to sign the promise to appear on the traffic summons.
- e. person is charged with driving when his privilege to do so was suspended or revoked pursuant to NMSA 66-8-111.
- f. a person is charged with reckless driving. (not mandatory)
- g. a person is charged with failure to stop in an event of an accident causing death, personnel injury or damage to property.

B. Handling special categories of violators:

1. Non-residents:

Deputies shall consider use of warnings for non- residents who commit minor, non-hazardous violations. If appropriate, given the type of violation, deputies may arrest non-residents by issuance of a citation,

provided the violator's home state is a reciprocal one. If the non- resident desires to post a cash bond or collateral with a magistrate, he may do so. If non-residents are from non-reciprocal state, they must be taken directly to a magistrate.

2. Juveniles:

Juvenile traffic offenders are prosecuted in Municipal or Magistrate Court. Deputies issuing a traffic summons to a juvenile offender shall advise them as to their options regarding prepayment or court appearance and that a parent or guardian may accompany them when they appear before the court. (NMSA 32A-2-29)

3. Foreign/diplomats/families/servants, and other consular officials:

a. Diplomatic immunity is granted by the United States Government under provisions of the Vienna Convention on Diplomatic Relations. Generally, these provisions apply to two classes of immunity:

- (1) Diplomats and members of their families enjoy full immunity.
- (2) Employees of diplomatic missions and with respect to acts performed in the course of their official duties.

b. The burden is on the diplomat to claim immunity and show valid credentials.

4. Military personnel:

Military personnel who are first passing through the county may be treated as non-residents or, if from this area, as residents.

5. Members of Congress:

a. Members of Congress may not be detained for the issuance of a summons while they are in transit to or from the Congress of the United States.

b. If a member of Congress is stopped for a traffic infraction, he shall, upon presentation of valid credentials, be immediately released. The deputy may then obtain a summons for the member of Congress covering the observed violation and make arrangements

to serve the summons at a time when the member of Congress is not in transit to or from Congress, or on official business.

C. Information regarding traffic citations:

The New Mexico Uniform Traffic Citations shall be completed whenever a motorist is to be charged with a motor vehicle violation NMSA 66-8-128. Deputies shall advise drivers of the following information:

1. court appearance schedule.
2. whether court appearance by the motorist is mandatory.
3. whether the motorist may be allowed to prepay the fine before court and enter a guilty plea.
4. any other information necessary before release of the motorist.

IV. UNIFORM ENFORCEMENT POLICIES FOR TRAFFIC LAW VIOLATIONS

A. Speed violations:

Deputies shall clearly testify to the violator's speed in court. Appropriate speed may depend on location of violation (congested area, downtown, school zone, etc.).

B. Other hazardous violations:

Consider the degree of hazard, place, previous accident history of location, current directed patrol emphasis.

C. Equipment violations:

With no annual inspections now required of vehicles, consider a warning or issuance of citation for any essential equipment defects.

D. Public carrier/commercial vehicle violations:

Consider congestion, lack of parking, and carrier needs for delivery access. Repetitive violators shall be cited.

E. Other non-hazardous violations:

Consider a warning unless repetitive or flagrant.

F. Multiple violations:

May cite all if deemed necessary, but normally pick the most serious violation and warn on others. This is at the deputy's discretion.

G. Newly-enacted laws and/or regulations:

Normally, a grace period is established during which only warnings shall be given. Thereafter, deputies shall use discretion. Deputies may allow a reasonable period of time, normally:

1. One month before issuing a citation for:
 - a. a violation of a newly enacted traffic law.
 - b. speeding violations in an area which the speed limit has been reduced.
2. One week after expiration before issuing a citation for:
 - a. expired state license tags.
 - b. expired state inspection stickers.

H. DWI:

See VI. of this General Order.

V. TRAFFIC LAW ENFORCEMENT PRACTICES GENERAL

- A. Normal traffic enforcement involves patrol by deputies who observe and handle traffic violations during the performance of their normal duties.
1. Area patrol involves traffic enforcement within the deputy's assigned area of responsibility.
 2. Line patrol involves traffic enforcement with concentration on a particular section of roadway.
 3. Directed patrol instructions can specify enforcement in an area, on a line patrol, or at a specific location, depending on the nature of the hazard/violation.
 4. Stationary observation, either covert or overt, may be used as a technique

to make observations about the flow of traffic at a particular location. Deputies are encouraged, when completing reports or doing other activities which will keep them out of service for a short while, to park their patrol vehicles in a conspicuous location where the mere presence of the vehicle will serve to remind the other drivers of the need for compliance with traffic laws.

B. Objectives of traffic stops:

There are two major objectives of a traffic stop. The attainment of these two objectives depends upon the deputy's ability to evaluate the violator's mental and physical condition, post stop, and facts concerning the violation. This requires a thorough understanding of human relations and demands flexibility on the part of the deputy. Enforcement procedures shall minimize conflict which may develop between the deputy and violator and assist in achieving the two major objectives, which are:

1. to take proper and appropriate enforcement action.
2. to favorably alter the violator's future driving behavior.

C. Traffic violator/deputy relations:

1. Followed in all traffic stops:
 - a. Be alert at all items for the unexpected.
 - b. Be absolutely certain the observations of the traffic violation were accurate.
 - c. Present a professional image in dress, grooming, language, bearing, and emotional stability.
 - d. Be prepared for the contact by having the necessary equipment and forms, if they are to be used, immediately available.
 - e. Decide on the appropriate enforcement action based upon the violator's driving behavior, not attitude. In most cases, decide on the formal enforcement action before contacting the violator. Exceptions include stopping an out-of-state driver committing a violation that would not be a violation in his jurisdiction, such as right turn on red light. The deputy may then decide to issue a warning rather than a citation.

2. Before making a vehicle stop:
 - a. Maintain a reasonable distance between the vehicle and the unit.
 - b. Locate a safe spot to stop the vehicle.
 - c. Activate the emergency red lights and, when necessary, siren to signal the vehicle to stop.
 - d. Advise the dispatcher of the intention to stop the particular vehicle, giving:
 - (1) location of the stop.
 - (2) vehicle's license tag number and/or other description when necessary.
 - e. Deputy shall position the vehicle approximately one-half to one car length behind the violator's vehicle. The vehicle shall be positioned so that it will offer the deputy some protection from oncoming traffic. This position shall be two feet outside and to the left of the violator's vehicle. This position provides maximum safety to the other traffic, violator, the deputy, and all.
3. Additionally, when stopping a vehicle in which the occupant(s) is (are) deemed to present a hazard to the deputy's safety:
 - a. requests a backup unit and calculate the stop so that the backup unit is in the immediate area before making the actual stop;
 - b. trains the unit's auxiliary lights (spotlight and alley lights) on the occupant(s) of the vehicle when applicable;
 - c. when necessary use the unit's public address system to give the occupant(s) of the vehicle instructions.
4. Hazards:
 - a. On multi-lane roadways, the deputy shall insure the safety of the violator during the lane changes by gradually changing from lane to lane with the violator until the right side of the roadway is reached.

- b. Should the violator stop abruptly in the wrong lane or in another undesirable location, the deputy shall direct him to move to a safer location. Deputies shall use the public address system to instruct violators to move to a safer location.

5. Approaching the violator:

The following steps in stopping and approaching a traffic violator are intended to provide maximum safety for the deputy, the violator, and other users of the roadway. Varying conditions regarding the engineering of the particular traffic way, the urgency to stop the violator (drinking driver), and the existing volume of traffic may require adjusting or altering the recommended procedure. Under ideal conditions, follow these procedures if possible:

- a. The deputy shall leave the patrol vehicle and be continuously alert for any suspicious movement or actions on the part of the violator or other occupants in the violator's vehicle.
- b. The deputy shall approach from the rear of the violator's car, looking into its rear seat and stop behind the trailing edge of the front door (passenger side approach has been proven to be a safer place for the deputy). This position shall be maintained if there are only occupants in the front seat of the vehicle. From this position, the deputy can communicate with the violator, keeping him in a slightly awkward position and at the same time keep all occupants of the vehicle in view.
- c. In cases where the violator's car has occupants in both the front and rear seats, the deputy shall approach to the leading edge of the front door, alert for any unusual actions on the part of the occupants and choosing a path so the door cannot be used as a weapon against the deputy. From this position, the deputy can communicate with the violator and keep all occupants in view.
- d. In traffic stops made by two-man patrol vehicles, the passenger deputy shall handle all radio communications, write all notes and messages relayed from the communications center, and during the traffic stop shall leave the vehicle and act as an observer and cover for his fellow deputy.
- e. At night, deputies shall exercise caution in selecting an appropriate place for the traffic stop, signaling the violator (the spotlight shall not be used except in what deputies perceive as dangerous

situations) and positioning the vehicle. After the stop, the head lights shall be on low beam for the safety of oncoming traffic, and emergency bar lights and emergency flashers in use on the patrol vehicle (as well as during the day).

6. Communicating with the violator.

In transacting his business with the violator, the deputy shall observe the following rules.

- a. Greet the violator courteously with an appropriate title.
- b. Inform the violator what traffic law he has violated and the intended enforcement action (the violator shall not be kept in suspense).
- c. Ask for the violator's driver license and vehicle registration and accept only these forms. Verify the registration and insurance is valid and leave these with the driver. Take only the license back to your vehicle, to reduce the risk of losing documents. If the driver offers money, the deputy shall refuse the money and advise the driver of the illegality of the offer.
- d. If the driver has no driver's license, obtain another document of identification.
- e. Allow the driver to discuss the violation. Do not argue, berate, belittle, or otherwise orally abuse the violator.
- f. Complete the forms required for the enforcement action taken or exercise an oral warning, if appropriate.
- g. Explain to the violator exactly what he is supposed to do in response to the action taken and how this action will affect him.
- h. If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. Explain any alternatives to the violator, but do not predict the actions of the court.
- i. Be alert to any emotional stress exhibited by the driver. If stress is present, the instructions may have to be repeated or the violator may need to calm down before resuming driving.

7. Conducting the transaction:
 - a. Return the violator's driver's license and a copy of the citation, of one is being issued.
 - b. Release the defendant after he:
 - (1) signs the citation.
 - (2) receives a copy of the summons.
 - c. Assist the violator in safely re-entering the traffic flow. Do not follow the violator.

D. Stopping a known or suspected felon:

Special procedures shall be used in vehicle stops when the occupants are known to be armed and dangerous. When a vehicle driven by a known or suspected felon is located by a deputy, he or she shall notify the dispatcher immediately of his location and give a thorough description of the vehicle and its occupants. The deputy shall keep the suspect vehicle in view and request sufficient assistance in making the stop. The deputy shall keep support units informed of the location and direction of travel to aid their approach with minimal use of emergency equipment. The suspect vehicle shall not be stopped unless absolutely necessary until adequate support is available and in position.

Circumstances may, however, dictate a one-deputy felony vehicle stop.

The following procedures shall be used in effecting the stop:

1. The deputy shall plan to stop the suspect vehicle in a location which presents minimal danger to other citizens.
2. When conditions are appropriate and support units available, the deputy shall move into position to the rear of the suspect vehicle.
3. The deputy shall signal the violator to stop, using all emergency equipment to warn other traffic.
4. The violator shall be stopped on the extreme right side of the road.
5. If the violator is known to be armed and dangerous, the deputy shall have his weapon in hand and ready for immediate use.

6. When the suspect vehicle begins to stop, the deputy shall turn off the siren and turn on the public address system.
7. The deputy shall park the vehicle so that it provides maximum protection and cover.
8. At night, the deputy shall focus all lights on the interior of the suspect vehicle.
9. The deputy shall leave the vehicle quickly but remain behind the door and accessible to the public address system microphone.
10. The deputy making the stop is in command and shall direct each occupant, using the public address system, to get out of the vehicle and into the appropriate search position. First, once suspects are stopped, the deputy shall order the driver to shut off the motor and drop the keys on the ground outside his door. Next, the deputy shall order occupants to place their hands, palms up, on the ceiling of the vehicle. Deputies shall then order occupants to exit the vehicle on the driver's side only, one at a time. Occupants shall then be ordered to lie face down on the ground.
11. If a public address system is not available, the deputy shall give voice commands if they can be heard.
12. To reduce confusion, the deputy shall instruct support deputies, as appropriate, and shall be the only deputy to direct the suspects.
13. The support deputies shall cover the arresting deputy and remain on the curb side of the vehicle until all occupants are in the search position.
14. Deputies shall exercise extreme caution not to get within each other's line of fire.
15. When all occupants have been removed from the vehicle, the support deputies shall move to cover the arresting deputy while the persons are searched.
16. Arrestees shall be searched and handcuffed before transportation.

E. Persons charged with revoked/suspended operator's license:

1. The New Mexico traffic citation may be issued when a deputy has stopped a vehicle and identified the driver as driving with a revoked or suspended

operator's license. The deputy may also take the driver into custody as stated in NMSA 66-8-122.

2. A deputy who sees a person driving who is known to be under suspension or revocation may swear out a warrant if not able to stop the violator.

F. Speed enforcement:

Excessive speed is the second greatest cause of death and injury on the American highways. A deputy shall uniformly enforce speed laws within Luna County. Procedures for the enforcement of laws applying to speed will vary in accordance with the type of equipment used.

1. Pacing:

The deputy shall follow the vehicle being paced at a constant interval for a distance adequate, normally two or more city blocks, to obtain a speedometer reading. Deputies should be trained on this procedure before utilizing it.

2. Radar:

Radar shall be applied where vehicle speed is a hazard to other motorists or pedestrians. The following guidelines govern the use of radar, which shall always be operated in compliance with manufacturer's instructions. All departmental radar units meet current NHTSA standards.

- a. The radar unit must be properly installed in the vehicle and connected to the appropriate power supply.
- b. Operators must thoroughly understand the effective range of the radar unit so observations can support the speed meter readings.
- c. The radar unit shall be properly calibrated to insure accuracy in checking speed. The operator must follow the manufacturer's recommended specific methods of checking calibration without exception. Any problems with the operation of radar units or apparent malfunction shall be promptly reported to the Sheriff.
- d. In court, deputies must establish the following elements of radar speed:

- (1) the time, place, and location of the vehicle, the identity of the operator, the speed of the vehicle, and the visual and radar speed check;
 - (2) deputy qualifications and training in use of radar.
 - (3) proper operating of radar unit.
 - (4) that the unit was tested for accuracy before use and after use by an approved method.
 - (5) identification of the vehicle.
 - (6) speed limit in the zone in which deputy was operating and where the signs were posted.
- d. The Sheriff or his designee is responsible for the proper care and upkeep, maintenance, and calibration of radar units, maintenance of records, and that appropriate certificates are filed with the clerks of District and Juvenile Courts.

VI. DWI ENFORCEMENT PROCEDURES

A. General:

1. Various courts have interpreted driving under the influence to mean that the ability to operate a motor vehicle is reduced or impaired by the consumption of alcoholic beverages or other drugs. The operator of a motor vehicle is impaired, as a result of drinking liquor, was less able to the slightest degree, either mentally or physically, or both, to exercise the clear judgement and steady hand necessary to operate a vehicle with safety to the person and the public. Driving under the influence of intoxicants is an offense generally associated with leisure-time activity. Consequently, most arrests are made during the evening hours or in the early morning hours after liquor establishments close or social gatherings end. Although the intoxicated driver may be observed any day of the week, weekends and holidays reflect an increase of offenses and arrests.

B. Laws:

1. It is unlawful for a person who is under the influence of intoxicating liquor to drive a vehicle within this state.
2. It is unlawful for a person who is under the influence of any drug to a degree

that renders him incapable of safely driving a vehicle to drive a vehicle within this state.

3. It is unlawful for:

- a. a person who has an alcohol concentration of eight one hundredths or more in his blood or breath to drive a vehicle within this state; or
- b. a person who has an alcohol concentration of four one hundredths or more in his blood or breath to drive a commercial motor vehicle within this state.

The term "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails; but for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment".

C. Responsibilities:

Each deputy shall be alert for suspected DWI offenders, both on patrol and in selective enforcement areas. He/she shall use standardized roadside sobriety tests.

D. Breathalyzer:

1. The security, care, and maintenance of the breathalyzer and all physical evidence obtained from DWI is the key operator's responsibility.
2. The regulations of the New Mexico State Scientific Laboratory Services state: "The breath test device must be stored in a clean, dry location which is accessible to certified deputies for the purpose of actually administering a breath test, preventative maintenance check, or other official uses."
3. The term certified shall mean a person holding a valid certificate from the New Mexico Scientific Laboratory.
4. The breathalyzer is located in the booking room.

E. Sobriety tests:

1. Deputies shall administer standardized field sobriety tests from the following list. The list names the most commonly administered tests.
 - a. Horizontal gaze nystagmus (to maintain proficiency).

- b. Walk and turn.
- c. One-leg stand.
- d. Reciting of alphabet.
- e. Finger dexterity.

Deputies may employ additional tests, but they must be performed in the same order and manner every time.

- 2. If a deputy suspects that the vehicle operator was driving under the influence of both alcohol or drugs, or drugs alone, he may ask the operator to have a blood test performed in addition to testing for alcohol. Blood samples shall be analyzed by the New Mexico Scientific Laboratory for evidence of alcohol and for various illegal, prescription, and over-the-counter drugs.
- 3. The deputy shall make a full written report of the circumstances of the DWI arrest, formation of probable cause, and witnesses' observations.

F. Arrest:

The arresting deputy shall:

- 1. Advise the arrestee that any person, whether or not licensed by New Mexico, who operates a motor vehicle in this state gives implied consent to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of this blood or for the presence of drugs if such person is arrested for violation of NMSA 66-8-102.
- 2. Advise the arrestee that he may elect to have either a breath or blood sample taken, when available, but not both, unless the deputy suspects the presence of drugs. It is not a matter of defense that either test is not available.
- 3. If the arrestee refuses the available test, advise him that unreasonable refusal of the test constitutes grounds for the revocation of the privilege of operating a motor vehicle in New Mexico.

G. Blood test procedure:

- 1. Take the arrested person to a physician, registered professional nurse, laboratory technician or other technician designated by order of the District Court acting upon recommendation of a licensed physician, who shall withdraw blood for the purpose of determining its alcoholic content and drugs.

2. The arresting deputy shall also witness the doctor or technician taking the blood sample and ensure that an alcohol solvent is not used to cleanse the withdrawal location. The deputy shall initial the vial labels (on two vials) before the doctor or technician seals the vials in their containers. The initial shall be placed on the label where it shall not interfere with the date written by the doctor or technician who took the blood sample.
 - a. The medical person taking the sample shall place the name of the medical person taking the sample and the name of the accused on the label of each vial with the date and time the blood was taken.
 - b. The arresting deputy shall take possession of the two vials and seal them in two containers designed to hold them. The deputy shall, before the end of the tour of duty, place the vials into evidence or mail them to the Scientific Laboratory.

The arresting deputy shall further:

- (1) Place the name of the arrested person, deputy's name, date and time of arrest on the vials,
 - (2) Mail second sample to a private laboratory selected by the accused, if the accused so directs.
3. Search Warrant for Blood – Because of the intrusive nature of a blood test, unless the arrestee gives consent for a blood draw, a search warrant will be required for any felony DUI charges. Search warrants for blood will not be available for misdemeanor charges. Also, a defendant cannot be charged criminally for refusing to have blood sampled.

H. Breath analysis:

1. Chemical analysis of a person's breath may be performed by anyone possessing a valid certification, issued by the New Mexico Scientific Laboratory. This may include the arresting deputy or anyone participating in the arrest. In the event the breathalyzer machine is inoperable, or a licensed operator is not available, this test is deemed not available.
2. The type of equipment and the methods used to perform breath analysis shall be in accordance with the regulations of the New Mexico Scientific Laboratory.
3. The certificate of breath alcohol analysis shall be handled as follows:

- a. White copy, original, shall be filed with the case report and kept on file for prosecution of the case in court.
- b. The second copy shall be given to the arrested person.

I. Accident investigation:

Deputies shall also undertake:

1. Identification of a witness who saw the suspect operating a motor vehicle.
2. Questioning the witness as to the suspect's condition, actions, and statements immediately after the accident.
3. Establishing a time lapse from the time of the accident of the time of arrest.
4. Questioning the witnesses and the suspect as to what, if anything, the suspect ingested between the time of the accident and the deputy's arrival.

VII. SPECIAL TRAFFIC PROBLEMS

A. Identification and referral of driver recommended for reexamination to the Division of Motor Vehicles:

During routine traffic law enforcement activities, deputies frequently encounter persons whom they suspect of being incompetent, physically or mentally disabled, or having other conditions that might prevent the person from exercising reasonable and ordinary care over a motor vehicle. In all such cases, in addition to whatever enforcement he or she may take, the deputy shall notify the New Mexico Division of Motor Vehicles of these findings or suspicions, giving the violator's full name, date of birth, operator license number, and a brief description for the disability noted. A driver deficiency report may be used for this purpose.

B. Pedestrian and bicycle safety:

1. The Sheriff shall review the traffic accident records at least annually to determine what enforcement actions are needed to provide a proactive pedestrian/bicycle safety enforcement program. The Sheriff may recommend to deputy's enforcement measures including steps to:
 - a. reduces or eliminate human environmental factors leading to accidents;
 - b. reduces or eliminate the behavior, decisions and events that lead to the accidents.

C. Off-road vehicles (including dirt bikes, snowmobiles and mopeds):

1. Accidents involving off road vehicles that do not occur on a public highway do not require a traffic accident report. If the responding deputy finds it convenient, he or she may complete an accident report, State Form FR 300 P, and attach it to the offense report.
2. Any deputy observing an unlicensed off-road vehicle on the highways that cannot be operated legally on public highways shall order it removed and enforce appropriate laws.
3. Deputies shall enforce compliance with vehicle registration laws as they pertain to off-road vehicles.
4. Deputies shall enforce laws, rules, and regulations concerning the operation of off-road vehicles on public-owned trails, parks, or property.
5. Deputies shall enforce traffic crossing rules and regulations.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Accident Investigation	NUMBER: 2-17
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Accident

Department involved accident

Traffic accident

I. POLICY

An objective of the department is the reduction of motor vehicle accidents. To accomplish this, the department performs a variety of functions such as providing emergency service to the injured, protecting the accident scene, conducting accident investigations and follow-ups, preparing reports and taking proper enforcement action. The purpose of accident investigation is to determine the cause of an automobile crash and use the information to develop enforcement that will reduce accidents. Accident reports are used by the Division of Motor Vehicles, the State Police and the Highway Department at the state level and by the county locally to study the frequency of crashes at a given location and time, the causes, and the road conditions that existed at the time. The reports are also used to develop selective enforcement programs, engineering studies, and to promote street and highway safety.

II. PURPOSE

The purpose of this policy is to establish guidelines for the proper handling of traffic accidents and for the collection and use of data that will reduce automobile accidents resulting in property damage, injury or death.

III. PROCEDURES - General

A. Accident report and investigation, general:

1. New Mexico requirements concerning the reporting of traffic accidents include:

- a. NMSA 66-7-109: The driver of any vehicle involved in an accident

resulting in death or injury shall stop and immediately notify police.

- b. NMSA 66-7-206 and 66-7-207: The driver of any vehicle involved in an accident resulting in injury or death or total property damage to an apparent amount of (\$500) five hundred dollars or more shall, immediately notify police and within five days, make a written report of it to DMV.
 - c. NMSA 66-7-207: Police officers who investigate an accident for which a report must be made, either at the time of and at the scene of the accident, or thereafter and elsewhere, by interviewing participants or witnesses, shall within 24 hours after completing the investigation forward a written report of the accident.
- 2. The terminology used in the above laws requires "reports of accidents." For departmental purposes, a report is made by a deputy who has investigated an accident at the scene or elsewhere, the length, duration and depth of investigative effort proportionate to the seriousness or harm done.
 - 3. A deputy shall respond to and prepare a report of accident involving any of the following:
 - a. death or injury.
 - b. property damage in excess of \$500.00.
 - c. hit and run.
 - d. impairment due to alcohol and drugs.
 - e. hazardous materials.
 - f. any accident involving county property, vehicles, equipment or facilities.
 - 4. Deputies shall also be assigned to respond to any accident involving disturbances between parties or which create major traffic congestion as a result of the accident or where vehicles are damaged to the extent that towing is required. Department vehicles may be assigned to any other accident, not listed above, to assist persons involved with information exchange. Time permitting, deputies may investigate and report such accidents for departmental use.

- B. Accident scene responsibilities of the first deputy at the scene include:
1. administering emergency medical care (basic life support measures) pending arrival of rescue squad.
 2. summoning additional help as required (deputies, rescue, tow truck, etc.).
 3. protecting the accident scene.
 4. preserving short-lived evidence (broken parts, skid marks, etc.).
 5. establishing a safe traffic pattern around the scene.
 6. locating witnesses and recording key accident information (license numbers, observation of damage only accidents, where possible, getting vehicles off roadway immediately to get traffic moving).
 7. expediting removal from roadway of vehicles, persons, and debris (in property-damage-only accidents, when possible, get vehicles off roadway immediately to get traffic moving).
- C. The deputy assigned to an accident shall have the responsibility and authority to request assistance from any other deputies as needed. He or she becomes the primary investigating deputy in charge at the scene, unless the supervisor deems it more appropriate to assign another deputy these responsibilities.
- D. In case of accidents that occur on private property, accident reports need not be filled out if property damage does not exceed \$500.00.
- E. In case of extremely inclement weather where an accident involves only property damage, the dispatcher or deputy may, with the supervisor's approval:
1. Obtain information over the phone to complete the Uniform Traffic Accident Report and request that the involved parties come to the department and file a report in person within 48 hours of the incident. The employee taking the telephone report shall record the name, address, operator license number, and telephone number of all involved drivers and shall forward them to the Sheriff (or his designee) who will confirm the filing of the required reports.

IV. PROCEDURES - Accident scene

- A. Accident scene information collection:

1. At the scene of the accident, the investigating deputy must gather information concerning the accident for subsequent use in completing necessary report forms. Information to be collected at the scene may include, but is not limited to:
 - a. interviewing principals and witnesses and securing necessary identity/address information;
 - b. examining/recording vehicle damage;
 - c. examining/recording effects of the accident on the roadway or off the roadway on other property/structures, etc.
 - d. taking measurements as appropriate.
 - e. taking photographs as appropriate.
 - f. collecting/processing evidence.
 - g. exchanging information among principals.

B. Accident investigation follow-up activities:

1. Follow-up activities which may be necessary include:
 - a. collecting of scene data.
 - b. obtaining/recording formal statements from witnesses.
 - c. reconstructing accidents.
 - d. submitting evidentiary materials for laboratory examination.
 - e. preparing accident or offense reports to support criminal charges arising from the accident.
2. In a particularly serious accident involving severe injuries, fatalities, multiple vehicles, etc., it may be necessary to summon expert or technical assistance from photographers, surveyors, mechanics, physicians, accident crash team specialists, or other specialists. Such expert assistance shall be requested through the Sheriff.
 - a. At the scene of the accident, the deputy may take immediate enforcement action and issue a New Mexico Uniform Traffic

Citation.

- b. If a deputy at the scene concludes the DWI and the defendant is still there, the DWI arrest shall be made before transport.
- c. If the driver is transported to hospital before arrival of a deputy, and the deputy later concludes DWI, an arrest warrant shall be obtained.
- d. In other traffic-related investigations, when the deputy leaves the scene of the offense and follows up and later identifies an offender or offense, arrest warrants shall be obtained.

C. Accident scene procedures:

- 1. Upon the receipt of a report of a motor vehicle accident that requires the services of a deputy, the deputy assigned shall proceed Code 2 or Code 1 depending on injuries (see General Order 2-9). The vehicle shall not be parked at the scene in a manner that will endanger other pedestrians, motorists, or citizens. The deputy shall consider using the vehicle as a shield to protect the scene as well as himself. The deputy shall leave his vehicle emergency lights on.
- 2. During periods of reduced visibility or darkness, the deputy shall put on a reflector safety vest before leaving the vehicle. Flares are available in each vehicle for use in creating an illuminated warning pattern to alert other drivers.
- 3. In case of danger of fire from leaking or ruptured gas tanks or where there is any major crash of two or more vehicles with any sign of hazardous materials having been transported, the fire department shall be called out.
- 4. All department vehicles are equipped with a copy of the current emergency response guidebook which permits both rapid identification of DOT vehicles and contains placards for hazardous materials giving information concerning the nature of the hazard, emergency procedures, and evacuation disasters. Any deputy arriving at the scene of such an accident and seeing hazardous materials placards shall immediately request the fire department. The fire chief will assume control of any scene involving hazardous materials and all deputies shall provide support as required. Any investigation of the accident shall occur after approval by the fire chief.
- 5. Any property belonging to accident victims shall be protected from theft

or pilferage and, if owners are not present, it shall be brought to the department, properly tagged, and held for the victims.

6. New Mexico Statutes require any person clearing a wrecked or damaged vehicle from a highway to remove any glass or other injurious substance dropped upon the highway. Where the quantity of accident debris is too great for the wrecker operator to do this, the town public works services shall be requested. The fire department shall assist in washing down combustible substances.

D. Uniform Accident report:

1. NMSA 66-7-207 states "Every law enforcement officer who, in the course of duty, investigates a motor vehicle accident, or in which a report must be made either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses, within 24 hours after completing the investigation, forward a written report of the accident to the Division of Motor Vehicles."
2. An accident report shall be filed on all accidents that occur on public property within the county. Public property is defined, for the purpose of accident reports, as any highway, roadway, street or public parking lot maintained by the state, county, or city.
3. In the event of an accident that occurs on private property, an accident report shall be filed if it meets any of the normal reporting criteria (death, personal injury, property damage in excess of \$500, or involves government-operated vehicles). The reports filed on any other type of an accident on private property shall be for departmental use only and not forwarded to the Division of Motor Vehicles.

E. Disabled vehicles:

1. Deputies shall not push nor pull any vehicle with a department vehicle.
2. Deputies may use jumper cables to use a department vehicle to start a disabled one. Deputies shall take care not to cross cable polarity.

F. Accidents involving department vehicles:

1. Department vehicles involved in accidents, no matter how minor, shall be recorded on the State of New Mexico Uniform Accident Report Form.
2. Copies of all accident/incident reports involving department vehicles will

be forwarded to the Sheriff and Safety Director as soon as completed. This is necessary to expedite repair of the damaged vehicles and ensure that the accident is reviewed by the County's Safety Committee or Fleet Accident Review Committee.

3. Duties of personnel involved:
 - a. Render aid to the injured.
 - b. Secure the scene from further damage and preserve evidence.
 - c. Request another deputy or agency for the investigation and call an on-duty supervisor to the scene of the accident.
4. Investigating Deputy duties:
 - a. Inform the supervisor of the facts surrounding the accident.
 - b. Complete the accident report form, including a sketch or diagram.
 - c. Attempt to obtain written statements from drivers, passengers, and witnesses on accidents involving injuries.
5. Duties of the on-scene supervisor:
 - a. Respond to the scene of the accident when called.
 - b. Determine if the accident involves serious personal injury, death, or substantial damage to the claimant, or county vehicle, before the scene of the accident is cleared.
 - 1) Call the Sheriff and Safety Director and advise them of the facts surrounding the accident.
 - c. Examine damage to vehicles and physical evidence present to ensure consistency with reported circumstances.
 - d. Determine if the vehicle is safe to remain in service or should be transported to the office or shop. In all cases involving alleged mechanical defect, the county vehicle will be transported to a shop for inspection and confirmation.
 - e. Determine, based on damage and extent of injuries whether an out-

side agency should conduct the accident investigation. If it's determined that an outside agency should conduct the investigation, notify the Sheriff as soon as practicable.

6. All vehicle accidents will be reviewed by the County's Safety Committee or Fleet Accident Review Board for a preventability determination.
 - a. Drivers involved in preventable accidents may be subject to disciplinary action up to and including termination.

G. Accidents involving department vehicles outside of county limits:

1. Employees involved in an accident outside the county limits shall:
 - a. Render aid to the injured.
 - b. Secure the scene from further damage and preserve evidence.
 - c. Request the appropriate agency for the investigation.
 - d. Notify the on-duty supervisor of the accident as soon as practicable.

H. Post-accident testing requirements:

1. All deputies will adhere to the Luna County Drug and Alcohol Policy, Section Five for post-accident testing requirements.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Traffic Control	NUMBER: 2-18
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Traffic control

I. POLICY

The department performs traffic functions such as point traffic control, parking control, school crossing guard supervision, emergency assistance, provides motorist information, identifies and reports hazards, checks abandoned vehicles, recovers stolen vehicles, and provides traffic safety information and recommendations. The general public relies upon law enforcement for assistance and advice when faced with the many routine and emergency traffic situations which can and do develop in an urban society. Often there is no other private or public agency available to provide such services. Therefore, the department regularly responds to traffic related incidents where an arrest probably will not be made or where unlawful activity is not involved. Traffic control and services are such cases. The department expects deputies to perform these services diligently and responsibly, mindful of the expectations of the community.

II. PURPOSE

The purpose of this general order is to establish uniform procedures for the provision of traffic direction and control, traffic engineering, and ancillary traffic services.

III. PROCEDURES

A. Methods of manual direction of traffic:

1. When a deputy is directing traffic, he or she knows and uses standardized, appropriate gestures and audible signals to stop, start, and turn traffic.
2. To indicate that the deputy is present for the purpose of directing traffic, he or she shall:
 - a. turn the signal light (if there is one) to blink or flashing;

- b. position self to be seen clearly by all, usually in the center of the intersection or street;
 - c. stand straight with weight equally distributed on both feet;
 - d. all hands and arms at his sides except when gesturing;
 - e. stand facing or with back to traffic which has stopped and with sides to traffic he or she has directed to move.
3. How to stop oncoming traffic:
- a. To stop traffic, the deputy shall first extend an arm and index finger toward and look directly at the person to be stopped until he or she is aware of the deputy's gesture.
 - b. The pointing hand is raised at the wrist so that its palm is toward the person to be stopped, and the palm is held in this position until the person is observed to stop. To stop traffic from both directions on a two-way street, the procedures are then repeated for traffic coming from the other direction while continuing to maintain the raised arm and palm toward the traffic previously stopped.
4. How to start traffic:
- a. The deputy shall first stand with shoulder and side towards the traffic to be started, extend the arm and index finger toward and look directly at the appropriate driver until he or she is aware of the deputy's gesture.
 - b. With the palm up, the pointing arm is swung from the elbow only, through a vertical semi- circle until the hand is adjacent to the chin. If necessary, this gesture is repeated until traffic begins to move. To start traffic from both directions on a two-way street, the procedure is then repeated for traffic coming from the other direction.

B. Signaling aids:

- 1. The whistle is used to get the attention of the drivers and pedestrians. It is used as follows:
 - a. One long blast with a STOP signal.
 - b. Two short blasts with the GO signal.

- c. Several short blasts to get the attention of a driver or pedestrian who does not respond to a given signal.
- 2. The voice is seldom used in directing traffic. Arm gestures and the whistle are usually sufficient. Oral orders are not easy to give or understand and often lead to misinterpretations which are dangerous. An order which is shouted can antagonize the motorist. Occasionally a driver or pedestrian will not understand the deputy's directions. When this happens, the deputy shall move reasonably close to the person and politely and briefly explain his directions.
- 3. Use of flashlight with illuminated cone or baton:
 - a. To stop a driver with the baton, the deputy shall face the oncoming traffic, hold the baton in the right hand, bend the right elbow, hold the baton vertically, then swing the baton from left to right through an arc of approximately 45 degrees.
 - b. The GO and LEFT TURN direction are the same gestures as those previously described except that the baton acts as an extension of the hand and index fingers. Signals and directions given with the aid of the baton shall be exaggerated and often need to be repeated because of poor visibility.
- 4. A flashlight alone can also be used to halt traffic, but less effectively and safely than with cone attachment. To stop traffic, slowly swing the beam of the light across the path of oncoming traffic. The beam from the flashlight strikes the pavement as an elongated spot of light. After the driver has stopped, arm signals may be given in the usual manner, the vehicle's headlight providing illumination.

C. Manual operation of traffic control devices:

On occasion, deputies must manually operate traffic control signal lights, normally either to attempt to recycle a signal light or to place the signal lights on flash or blink. Deputies shall manually control traffic control devices only in the following situations:

- 1. when traffic lights malfunction.
- 2. to facilitate movement at traffic accidents or other emergencies.
- 3. to provide a thoroughfare for a motorcade or funeral procession.

4. to alleviate congestion resulting from use of automatic controls particularly during planned, special events.

D. Special event traffic control:

For any other special event, the Sheriff shall ensure the preparation/implementation of a special traffic plan which addresses: ingress and egress of vehicles and pedestrians; provisions for parking, spectator control; public transportation; assignment of point control duties and reliefs; alternate traffic routing; temporary traffic controls and parking prohibitions; emergency vehicle access; and appropriate media coverage of such plans.

E. Traffic control at fire scenes:

Deputies responding to the scene of a fire call shall observe the following rules regarding traffic control:

1. No vehicles shall be allowed to drive into the block where fire apparatus is parked and operating.
2. No vehicles shall be allowed to cross fire hoses without the approval of the fire chief.
3. In cases of fires at a facility such as the hospital or prison, no vehicles, including those of volunteer firemen, shall be allowed on the grounds.
4. The exception to the rules above shall be life- saving vehicles on actual calls for services.
5. Parked vehicles which interfere with fire operations may be towed as needed.

F. Traffic control during adverse road and weather conditions:

1. The Sheriff shall notify the local radio stations, public works, and the fire department of adverse road conditions that affect the motoring public.
2. The Sheriff may close a street if, in his opinion, the surface conditions and terrain are unusually hazardous. He shall request public works assistance in alleviating the problem and request public service radio announcements be made concerning the closure.
3. The Sheriff shall request dispatchers to notify the proper utility company and assign deputies to direct traffic and safeguard movement at the scene of all downed power lines, broken gas or water mains or at construction

sites, when the situation endangers the safe movement of traffic.

G. Escorts: See General Order 2-11.

H. Roadblocks: See General Order 2-9.

I. Traffic ancillary services:

1. Stranded or disabled motorists:

- a. Deputies shall provide reasonable assistance to motorists. This may include requesting the dispatcher to call wreckers or obtaining other services as needed. Time and duty permitting, the deputies may assist stranded and disabled motorists to obtain fuel and repairs, but deputies are not required to perform the repairs personally.
- b. Under normal circumstances, department vehicles shall not be used to jump start or push non- government-owned vehicles.
- c. Deputies shall be aware of possible dangers to motorists who are stranded in isolated areas and hazardous locations on the highway and shall take steps to reduce these threats by transporting motorists to safer locations or setting out flares to warn other motorists.
- d. If the deputy must leave the scene before the arrival of requested assistance, he shall request that another unit check the area and provide assistance or protection.
- e. Deputies shall be familiar with the area and be able to provide directions to various locations within the county.

2. Highway emergencies:

Deputies arriving at the scene of any highway emergency shall request the dispatcher to obtain necessary services and then provide emergency First Aid, fire suppression, and obtain additional assistance as the situation requires, pending arrival of appropriate emergency services.

3. Emergency escorts:

- a. Deputies shall not provide escort to other emergency vehicles.

Deputies may direct traffic at intersections to expedite the movement of other emergency vehicles.

- b. Emergency escorts shall be given only to private vehicles in route to hospitals when the patient's life would be endangered in moving him or her from a private to an emergency vehicle. In cases where escorts are provided, the deputy shall:
 - (1) drive at a speed not to exceed the posted speed limit by more than 10 miles per hour. The deputy must remember that the driver of the escorted car may not be as skillful a driver as him- or herself and may also be emotionally upset;
 - (2) notify the sergeant or supervisor;
 - (3) ensure that the escorted vehicle has its headlights on and the department vehicle has its emergency flashers operating;
 - (4) obey all traffic lights, proceeding through them only after it is safe for two vehicles to do so.

4. Procedures for reporting road hazards and debris:

- a. A deputy locating hazardous debris in the roadway shall remove it or request the dispatcher to notify public works to have it removed from the road to a safe location.
- b. Deputies shall report all highway defects to the dispatchers and, in turn, dispatchers shall contact the Department of Public Works as soon as the situation dictates.
- c. Requests or suggestions for additional or new highway safety features shall be forwarded through the chain of command to the Sheriff, who will forward the request to the appropriate department or agency, if the situation warrants. These requests shall specify the services or actions requested and the location.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Unusual Occurrences	NUMBER: 2-19
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Special operations
Unusual occurrences

I. POLICY

Unusual occurrences include emergencies resulting from natural or man-made disasters or civil disturbances such as riots, disorders, violence or labor disputes. Special operations include barricade/hostage situations, bomb threats/disposal, VIP protection, special events, and civil defense. While such occurrences are uncommon, the department expects its personnel to respond to them in a manner consistent with its professional image.

II. PURPOSE

The department must respond effectively to any unusual/special events. The many variables involved prevent precise development of plans for specific situations; however, basic planning can help to guide deputies.

The department must be prepared to participate in the County emergency operations plan which covers disasters, civil defense, and civil disorder.

III. PROCEDURES

A. Administration:

1. The Sheriff is responsible for overall planning of law enforcement response to unusual occurrences and special operations and for department participation in the County emergency operation plan.
2. All deputies and supervisors shall familiarize themselves with all such

plans in order that they may readily perform assigned responsibilities.

3. The following General Orders provide unusual occurrences and special operations planning, guidelines, and procedures:
 - a. General Order 2-20, Hostage/Barricade Situations.
 - b. General Order 2-21, Hazardous Materials Incidents.
 - c. General Order 2-23, Civil Disturbances.
 - d. General Order 2-24, Disasters.
4. The Sheriff is responsible for coordinating all law enforcement plans with the municipal, county, or state official charged with emergency activities.

B. Operations:

1. A variety of maps and photomaps are available to serve in plotting operational commitments including:
 - a. the communications center console map showing all key utility sites and public buildings and areas.
 - b. a photomap of the town in briefing room.
 - c. portable map boards in Sheriff's office.
 - d. maps of parking lots and housing park areas.

C. Special operations:

1. Supervisors must know the abilities of assigned personnel and shall use this information in assigning or calling out deputies for use in special operations. They shall use deputies they know by skill qualification, training, physical fitness and agility, psychological stability, and interpersonal communication skills which are best suited for special operations such as hostage/barricade, decoy/surveillance, etc.
2. Deputies selected for special operations shall be under the authority of the commander directing the special operation until properly relieved.
3. Bomb disposal operations must be conducted by either the EOD Detachment at the nearest military base or by New Mexico State Police

personnel. Telephone numbers are available at Central Dispatch.

D. Special events:

Special event plans shall include, at a minimum:

1. special personnel qualification requirements, if any.
2. command and control.
3. written estimates of traffic, crowd, or crime problems anticipated.
4. logistics requirements.
5. coordination inside and outside the department.

E. Mobilization/call-back:

1. In any emergency or special operation where, additional law enforcement resources are required, the Sheriff may:
 - a. hold over the shift due to go off so that personnel of two shifts are available, or
 - b. call back additional personnel.
2. Some special operations are planned weeks in advance and, where possible, additional personnel required will be given advance notification of time, place, uniform, duties, etc. For other operations such as raids, security considerations may limit advance notification to minutes.
3. The Sheriff shall assign personnel called back as required, using the skills, knowledge, and abilities of recalled deputies where appropriate.
4. Call-back time is paid time and will be strictly controlled and accounted for, minimizing expenditure where feasible.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Hostages	NUMBER: 2-20
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Barricade

Supervisor responsibilities re: hostage

I. POLICY

Hostage and barricade situations present special problems to deputies and citizens because of their danger. Each hostage/barricade situation is different, but a basic plan may provide deputies with guidelines to help defuse the situation safely. Whatever happens, the department expects its deputies to react logically and sensibly. Above all, deputies shall not fuel a hostage taker's stress but should strive to contain or limit the situation.

II. PURPOSE

The purpose of this general order is to establish procedures to follow should a hostage/barricade situation arise.

III. PROCEDURE

A. General:

The first 10-20 minutes of a hostage/barricade situation are the most emotionally - charged and, therefore, offer the greatest danger. Stress is high both among law enforcement personnel and citizens involved. Normal- there is no need to rush to a solution: time may reduce stress and allow communication to begin. Time is also needed to assess the situation and to secure the surrounding.

B. Responsibilities of first deputy and supervisor on scene:

The duties and responsibilities of the first deputy on the scene include the following.

1. Assess whether a hostage/barricaded situation exists.
2. Inform dispatch and request the supervisor's presence and additional back-up.
3. Attempt to contain the situation at its present location.
4. Safely remove all innocent persons from the danger area. Those persons who cannot be removed immediately shall be instructed to seek protection where they are if gunfire is taking place.
5. Inform the on-duty supervisor of all pertinent facts upon his arrival.
6. Assist the on-duty supervisor in gathering as much information as possible about the situation, including the following.
 - a. Suspects:
 - (1) Location: floor, room, roof, basement?
 - (2) What types of weapons does he possess (handguns, rifles, hand grenades, dynamite, etc.)?
 - (3) Who is he, a criminal suspect (burglar, rapist), mentally ill, militant? Complete physical description? Mental and physical condition?
 - (4) What is his purpose?
 - (5) What crime has he committed?
 - b. Hostage: physical description (age, height, weight, sex, hair, etc.)? Physical and mental condition?
 - c. Location:
 - (1) Interior and exterior descriptions.
 - (2) Identify all possible escape routes.
 - (3) Determine locations of service (water and electricity connections).

- (4) Determine in which rooms telephones are located.
- (5) Determine if a police scanner is in the building.

C. Supervisor's responsibilities:

Upon arrival at the scene, the supervisor shall assume command of all department personnel and make all appropriate decisions until he is relieved by higher authority. Duties and responsibilities of the supervisor include the following.

- 1. Notify appropriate personnel within department and support agencies.
 - a. The supervisor shall notify the Sheriff.
 - b. After determining the danger of the situation, the supervisor or his designee shall make the appropriate notifications, which may include call-backs.
 - c. Call back of department personnel: see General Order 2-19, Unusual Occurrences.
 - d. Rescue squad shall be asked to stand by in general area.
 - e. Hospital emergency room shall be asked to maintain an alert to possible injuries.
 - f. Fire department shall be asked to stand by in general area.
 - g. State Police can provide specialized services such as the K-9 unit and the helicopter.
 - h. News media shall be asked to inform public to stay out of area. See Rules & Regulations 1-8.
- 2. Establish an inside and outside perimeter to ensure a safe area in which to operate.
- 3. Establish a command post in a safe area while maintaining observation of the scene.
- 4. Arrange for the evacuation of any injured persons.
- 5. Arrange for and supervise the evacuation of any bystander in the danger area. If bystanders cannot be evacuated, they shall be instructed to seek

protection where they are.

6. Establish communications with the suspects or suspects to determine their demands or intentions. Some guidelines to be followed in establishing communications include the following steps.
 - a. Attempt to locate relatives, friends, or neighbors.
 - b. The telephone company will assist if a telephone number is needed.
 - c. If unable to contact the suspect telephonically, use public address system or the bull horn.
 - d. Have a relative or friend converse with the suspect, but do not allow that person to go inside the building.
 - e. Make every effort to persuade the suspect to surrender voluntarily before using force.

E. Special equipment:

Hostage/barricade incidents may require the use of specialized equipment on the scene.

1. All deputies assigned to the immediate area of danger shall wear protective vests.

F. Use of force/chemical agents:

The on-duty supervisor, following consultation with the Sheriff, shall authorize the use of force or chemical agents. See 2-6, Use of Force.

G. Negotiating with barricaded persons/hostage taker:

Negotiation involves establishing trust between the hostage taker, requiring "give and take" on both parts. Of primary importance is establishing a dialog are the following points.

1. In negotiating, practically all demands are negotiable except:
 - a. supplying the hostage with weapons;

- b. additional hostages or exchange of hostages.

H. Chase/surveillance vehicle/control of travel route:

The on-duty supervisor shall ensure that, should the hostage taker get a vehicle, all possible routes of travel are covered by units. Additionally, surveillance vehicles may be assigned in order to observe the activities of the hostage taker.

I. De-escalation:

Once the hostage taker has been captured, the following actions shall be performed:

1. The suspect shall be removed from the scene immediately in a screened unit. His rights shall be read to him and he shall be searched by the deputy assigned to investigate the case. He shall be taken directly to headquarters.
2. Hostages shall be removed immediately upon capture of the suspect.
 - a. The on-scene supervisor shall alert all participants by radio that the hostages are coming out.
 - b. Medical treatment shall be provided, if needed.
 - c. Find a quiet area so that hostages may be united with their families.
 - d. The on-duty supervisor shall assign the investigator to interview each hostage to obtain statements.
3. The crime scene shall be preserved until processed for evidence by deputies assigned.
 - a. The area will remain cordoned off until the on-duty supervisor declares it open.
 - b. Units that are no longer needed shall be cleared for normal assignments by the on-duty supervisor.
 - c. Investigations shall be made into any surrounding property damage, e.g., bullet holes in neighboring building or destroyed lawns and gardens. Investigations shall include pictures.

J. After action reports:

The on-duty supervisor shall submit a comprehensive report to the Sheriff on all hostage/ barricade incidents containing all facts.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Hazardous Materials	NUMBER: 2-21
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 74-4B-5

INDEX WORDS

Accidents
Contamination
Evacuations
Hazardous materials

I. POLICY

Hazardous materials are occasionally transported through the agency's jurisdiction. The possibility, therefore, of an accident involving a vehicle carrying hazardous substances is a reality. The extent of damage from an accident involving toxic or otherwise dangerous substances depends on the response of emergency personnel and their ability to correctly identify and handle such incidents. The agency expects deputies to be competent in basic skills and abilities necessary to identify the presence of hazardous materials and perform "first responder" services. The agency does not expect deputies to exercise duties or responsibilities beyond the first-responder stage.

II. PURPOSE

To establish procedures for the initial response and investigation of accidents involving vehicles carrying hazardous materials.

III. DEFINITIONS

- A. Contamination: The direct or indirect contact between deputies and a hazardous substance. Deputies shall consider contamination to be an injury which could result in illness or death.
- B. Exposure: The concurrent presence of law enforcement deputies and hazardous materials under uncontrolled circumstances. Exposure may result in injury, illness or death.
 1. Deputies shall treat exposure as contamination even though no symptoms are evident. Known contamination requires medical attention and monitoring.

- C. Hazardous material: Any solid, liquid, or gas which by its nature can cause injury, illness, death, property damage, or environmental degradation. Radiological material meets this definition except that it contains radioactive elements.

IV. PROCEDURES

A. General:

Because of the hazard which might exist or may develop through an accident, especially a derailment or overturned vehicle transporting hazardous materials, deputies must exercise extreme caution. Therefore, deputies shall take the following actions.

1. At the scene of any incident or accident where hazardous materials may have been exposed, deputies shall request dispatch to summon the New Mexico State Police Emergency Response Officer on duty, and then the local fire department. The NMSP ERO (thru unified command) shall assume authority and responsibility for emergency procedures.
 - a. Deputies shall advise dispatch as soon as possible of the exact location of the hazardous materials incident and safe approach routes for emergency vehicles.
 - b. Deputies shall rescue injured persons at the hazardous materials site only if they are properly equipped. Deputies shall not unduly risk contamination.
2. If deputies discover any evidence of leaking liquid or vapor, they shall assume that an exposure has occurred with possible contamination of people or facilities and shall:
 - a. Seal off the area until positive identification can be made by the fire department.
 - b. Summon back-up units to establish a perimeter, setting up roadblocks or barricades as appropriate.
 - c. Evacuate the area and detain people as necessary.
 - (1) If the nature of the hazardous materials does not permit approaching the scene, keep at least 300 feet away and keep bystanders at least 1500 feet away.

- (2) If the hazardous materials incident involves radiological materials, keep at least 2000 feet away.
3. Supervisors shall summon back-up units to establish a perimeter, as necessary, or order evacuation or detention of people. Supervisors shall instruct personnel to avoid any contact with liquids or fumes, to eliminate any sources of ignition, and not to eat nor drink near the scene. The on-scene supervisor shall construct a command post, if appropriate. The on-scene supervisor shall advise dispatch to notify appropriate command, county/city and state personnel, as necessary. The dispatcher shall contact key agencies, as specified in the county/city emergency plan, relaying the following information:
 - a. Location of incident or accident.
 - b. Nature and type of hazardous material involved.
 - c. Shipper (if known) of hazardous material.
 - d. Nature of environment (business district, rural area, etc.).
 - e. Size of container and estimated amount of material discharged or leaked.
 - f. Location of hazardous material car (if a train), counted from the head of the train, car number, and description.
 - g. The serial number of any aircraft, if involved.
4. Approach the accident scene upwind if possible. If radiological materials are involved, do not approach. Await fire department personnel or HAZMAT teams who have special monitoring equipment.
 - a. Note that communicable disease protective equipment, leather gloves, or chemical agent gas masks provide no protection from hazardous materials.
 - b. Note that personnel may not be able to recognize hazardous materials immediately, although they are present. Some hazardous gasses are invisible and odorless.
5. The Sheriff shall notify immediately the county manager of the situation and shall keep him advised of any changes.

6. Normal accident investigation procedures shall be suspended until the on-scene authority has given appropriate clearance whereupon the accident shall be investigated and reported as provided in General Order 2-20.

B. Identification of hazardous materials:

Identification of hazardous material by the carrier may be accomplished by the following.

1. Placards:

Placards are displayed at the front, rear, and on both sides of all vehicles (including rail cars) hauling hazardous materials; however, experience has shown that placards are sometimes either not displayed or have misidentified the cargo. Some placards are made of paper which may have burned before the deputy's arrival. When on duty, each patrol deputy shall carry a departmental brochure identifying placards in use.

- a. Red placards indicate flammable materials.
- b. Rust placards indicate explosive materials.
- c. White placards indicate poisonous materials.
- d. White/black placards indicate corrosive materials.

2. Driver:

When the accident involves a truck, the driver may be able to supply information about the load transported; however, the driver is not required to know a great deal about cargo or emergency measures for handling it except for explosives. In case of explosives, the driver is required to have in possession and be familiar with documents containing procedures to be followed in the event of accident or delay.

3. Shipping papers:

- a. Where the hazardous material is transported by truck, the driver is required to have a copy of the shipping papers which show the name of the materials, classification, and quantity. By using these papers and the Emergency Response Guide, the deputy can identify the hazard associated with the material and ways of handling it. Deputies shall record the name of the materials, classification information, and quantity.

- a. Where the hazardous material is transported by rail, the shipping papers will be located in the caboose and will have attached to them instructions for handling all hazardous materials on the train. Additionally, a manifest is located in the engine listing each car on the train in order from the engine back to the caboose, and the contents of each car.

If the conductor is not available or incapacitated when emergency personnel arrive, deputies shall obtain the manifest from the engine compartment.

4. Chem-cards:

To supplement the placarding system, many shippers of chemicals provide the drivers with Chem-cards which provide emergency information. Although Chem-cards are subject only to voluntary use, the deputy shall ask the driver for them.

5. Each deputy's vehicle is furnished with a copy of the U.S. Department of Transportation guidebook on hazardous materials which contains identifying information on chemical products, first-responder hazards, and specific countermeasures.

C. Evacuation:

1. When the possibility of an evacuation of all residents or inhabitants of part or the entire county exists, the Sheriff shall consider:
 - a. manpower requirements;
 - b. the method of notifying persons to be evacuated (i.e., door to door, PA system, use of local radio stations, Tip soft/social media, etc.).
 - c. the size of area and number of people living there to be evacuated.
 - d. area maps.
 - e. use of mass transportation to move evacuated persons.
 - f. housing of evacuated persons, where possible, (County buildings, churches or public schools).
 - g. security of evacuated areas to prevent looting, and premature return (the NMSP ERO /fire chief shall make the decision when it

is appropriate for people to return home).

2. The on-duty supervisor shall consult with the HAZMAT coordinator on any decision to evacuate an area. The supervisor shall affect the evacuation upon order of the HAZMAT coordinator. In the event of evacuation, the supervisor shall establish a command post, ensuring that the following tasks are undertaken.
 - a. Establish an emergency communications link with appropriate authorities.
 - b. Evaluate the size of the area and number of people to be evacuated.
 - c. Assign personnel to notify people through use of a PA system or door-to-door contact.
 - d. Notify the news media.
 - e. Arrange for mass transportation.
 - f. Arrange for temporary housing of evacuees.
 - g. Arrange for security of evacuated areas.

D. Key contact agency information requirements:

The key contact agencies and persons are available for evaluation and assistance in the handling of hazardous material incidents and evacuation. Every effort shall be made to obtain the following information before contacting these agencies:

1. location of the accident.
2. hazardous material involved and shipper, if known.
3. the color and number of any labels on the carrier or cargo.
4. type of environment (residential, rural, business, etc.).
5. size of the container and amount of product leaking.
6. if rail, location of hazardous material car from the head of the train, car number, and description of car (i.e., tank car, box car, etc.).

7. the initial and number of aircraft, if any.

E. Key agencies:

Depending on the hazardous materials involved, one or more of the following agencies shall be contacted:

1. Chemical Transportation Emergency Center (CHEMTREC), 800-424-9300.
2. Environmental Protection Agency's National Response Center, 800-424-8802.
3. State Police Emergency Response Center, 505-827- 9600, 505-476-9600. (Use this number for radiological emergencies, toxic substances.)
4. Etiological (disease-causing agents) agents: Department of Health, Office of Epidemiology, 505- 827-0006 Santa Fe.

[Confirm agency names and telephone numbers, they change frequently.]

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Bomb Threats	NUMBER: 2-22
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE: Mar. 2015
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Bombs
Explosions
Searches (for bombs)

I. POLICY

Bomb threats and actual bomb emergencies present a serious threat to deputies, the public, and to property. Recently, more actual bombings of public and private buildings have occurred than at any time this century. Law enforcement must be able to respond effectively to all bomb threats, assess them, and handle each efficiently to provide for the safety of the general public. Additionally, deputies must be able to properly investigate bomb threat/bomb emergencies in order to apprehend those responsible.

II. PURPOSE

The purpose of this general order is to establish procedures for handling bomb threats and actual bomb emergencies.

III. PROCEDURES

A. Administration:

1. The on-scene supervisor shall have the authority to implement this plan and shall assume command of the operation until relieved by the Sheriff.
2. In accordance with General Order 2-12, Investigations, bomb threats normally shall be investigated by deputies, while actual bombings require the assignment of investigators. The on-scene supervisor may decide it appropriate to call out the investigator if the threat involves extortion or terrorism.
3. The FBI must be notified of any actual bombings. Bomb blasts in schools or at federal installations shall be investigated by the FBI.

B. Duties and responsibilities of the on-duty supervisor:

Upon notification by the dispatcher, the supervisor shall immediately respond to the scene. Radios shall be turned off. Additionally, the supervisor shall:

1. Assess the situation; make a determination to notify command personnel, investigative personnel or other emergency response Agencies.
 - a. If a call back of additional deputies is necessary, the dispatcher shall be instructed to do so in accordance with General Order 2-19, Unusual Occurrences.
 - b. Determine what outside agencies shall be notified or assistance requested such as fire, rescue, bomb disposal hospitals, the FBI, and New Mexico State Police.
 - c. If a bomb is found, have the dispatcher contact the State Arson Investigator's Office.
2. Interview the person who received the original call. All details, such as the caller's voice, mannerisms, background noises, and the time shall be noted. The time the call was received is most important since most bombs are activated by a watch or clock which restricts the "bomber" to a 12-hour period or less. Play back the tape recording of the bomb call, if one was made.
3. Instruct deputies about traffic control in the general area.
4. Establish a security perimeter around the scene.
5. Coordinate with outside agencies that have been called, as they arrive.

C. Duties and responsibilities of investigating deputy:

Upon arrival at the scene, the investigating deputy shall assume responsibility for the completion of the preliminary investigation and begin a follow-up in accordance with General Order 2-12, Investigations. If an actual explosion has occurred, detailed investigation and crime scene processing should await the arrival of the investigator.

D. Evacuation:

1. The final decision to evacuate a building must be left up to its management. The role of law enforcement is to provide information and recommendations which the management officials may use in making the evacuation decision.

2. If the decision is made to evacuate the building, deputies may assist in the process.

E. Searching the premises:

1. The decision to search a building is also a management decision, with deputies providing recommendations. Since building employees are most familiar with the building and the space therein, part of the building management responsibility includes providing assistance to law enforcement/fire building search teams.
2. When the decision to search has been made, the on- scene supervisor shall designate search team(s) as needed, depending on the size of the area to be searched.
3. Deputies shall coordinate the search to avoid repetition. Care should be exercised, however, to impress upon the searchers the importance of not disturbing any suspected bomb that may be located. A floor plan of the building shall be obtained and made available for immediate reference.
4. All areas open to the public shall be given special attention: restrooms, trash receptacles, stair wells, elevator shafts, etc. Custodians shall be directed by their own supervisors, on law enforcement orders, to check their closets and storage areas for any unusual objects and supervisors shall ask their subordinates to check their work areas for unusual objects.
5. Nothing shall be done to change the environment of the area searched, such as cutting on light switches or thermostats until the area has been searched thoroughly using flashlights. DO NOT USE RADIOS when approaching or searching the area. DO NOT SMOKE.
6. Never tell management personnel that everything is all clear. Tell them that the search revealed nothing but let them make any decisions concerning re-occupation of the building area.
7. If a search reveals an unusual device or bomb, deputies shall not attempt to disarm or move it in any manner. The explosive may contain an anti-disturbance device and should be approached only by explosive experts. The main concern is to safeguard lives by isolating the area. If a suspected bomb is found, the dispatcher shall contact the State Police Bomb Disposal Unit. A disposal team shall respond to handle the device and has all necessary equipment to handle bomb disposal operations.

F. Communications:

Due to the danger of possible bomb detonation from radio transmissions all department radios at the scene shall be turned off. Communications between the supervisor and dispatch shall be by telephone or a deputy can be sent several blocks away to transmit messages using the department radio.

H. Scene protection/evidence collection:

If an explosive device has been detonated, the scene shall remain protected until the investigator or outside agency arrives to begin scene processing.
Deputies/investigators shall give any assistance requested by the outside agency.

I. After-action report:

Offense reports shall be completed on each bomb threat/bomb emergency.
Additionally, an after-action report shall be completed by the supervisor to the Sheriff relating all facts of the incident and recommendations, if appropriate.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Civil Disturbances	NUMBER: 2-23
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Civil disturbances

News media; notification re: civil disturbances

I. POLICY

Civil disturbances may take various forms and vary in size and amount of danger of the public. Civil disturbances include riots, disorders, and violence arising from dissident gatherings, rock concerts, political conventions, and labor disputes. Of primary importance in any civil disturbance is defusing the situation and restoring order. Deputies must be able to respond to any civil disturbance, isolate it from the remainder of the community, protect life and property, and maintain control.

II. PURPOSE

The purpose of this general order is to establish procedures for the department's response to and handling of civil disturbances.

III. PROCEDURES

A. Authority for plan implementation:

1. On-duty supervisors are authorized to implement this plan. Appropriate notification of implementation shall be made to the Sheriff.
 - a. The Sheriff shall immediately notify the county manager of the situation and shall keep him advised of any changes.
2. The on-duty supervisor shall be responsible for implementing the plan until relieved by the Sheriff.

B. Departmental resources:

The supervisor implementing this plan shall determine what, if any, additional departmental resources are required.

1. Additional personnel may be called back in accordance with General Order 2-19, Unusual Occurrences.
2. For additional equipment needs beyond that readily available, the supervisor shall contact the Sheriff immediately.

C. Duties of first deputy(ies) on the scene:

The duties of the first deputy(ies) arriving at the scene of a disturbance include the following steps.

1. Observe the situation from a safe distance and determine if crowd is peaceful or potentially violent.
2. Notify the dispatcher concerning the seriousness of the situation and request the supervisor and additional back-up to respond.
3. Try to identify, by observation, the leader of the group.

D. Duties of the on-scene supervisor:

Upon arrival at the scene, the supervisor shall assume command until relieved by higher authority. His or her duties and responsibilities shall include:

1. assessing the situation for seriousness and danger (if the situation is minor, it may be handled with existing resources).
2. maintaining communications with the dispatcher providing such information as:
 - a. estimated size of the crowd and area involved.
 - b. gauging the mood of the crowd.
 - c. weapons, if any, involved.

- d. any destroyed property involved.
- 3. establishing a command post from his vehicle, using department radio for communication.
- 4. deciding on number of personnel/equipment needed. If a call back is begun, the supervisor shall determine the assembly point and equipment to be worn.
- 5. instructing dispatch to make proper notifications, to include:
 - a. fire department-to stand by in area.
 - b. rescue squad-request stand by in area.
 - c. hospital emergency rooms.
 - d. neighboring jurisdictions;
 - e. State Police.
 - f. ethnic/civic group leaders.
 - g. news media to provide public information.
 - h. District Attorney to provide legal advice on arrest/confinement.
 - i. District/juvenile court judges and magistrates for arrest/confinement.
 - j. National Guard.
 - k. Sheriff's Office Public Information Officer.
- 6. instructing deputies about traffic control in disturbance area.

E. Operations:

Once appropriate and adequate personnel are in place, the supervisor shall:

- 1. approach the crowd and inform the leader or leaders that the assembly is unlawful, and they have to disperse. If the crowd is violent, this may be accomplished by using the P. A. system in department vehicles or the bull horn.

2. A time limit for dispersal should be established and no extensions allowed.
3. If the crowd fails to disperse and continues its activity, the supervisor shall, after consultation with the Sheriff:
 - a. authorize the use of tear gas/force;
 - b. order the formation of police lines and move into the crowd for control.

F. Transportation:

All departmental vehicles shall be available for transportation of deputies and equipment to the scene, and for prisoner transport from the scene. If additional transportation is required, the director of public works shall be contacted for additional vehicles.

G. Public facility security:

Attempts shall be made to provide security to all public facilities threatened by any crowd to include:

1. town water supply.
2. fire/rescue/hospital buildings and access to them.
3. city hall.
4. schools.

H. Public information/rumor control:

The Sheriff, or Public Information Officer, shall respond to appropriate news media requests in order to keep the public informed and to dispel rumors.

I. De-escalation procedures:

Once the disturbance has been brought under control and the situation has returned to normal, the supervisor shall begin de-escalation procedures to include the following steps.

1. Disengage deputies as appropriate.
 - a. On duty deputies shall return to normal patrol operation.

- b. Called-back deputies shall return issued equipment to the command post.
2. Assign deputies to remain in area of disturbance to protect from any recurrence of trouble.
3. Discontinue the command post.
4. Ensure that departmental equipment is collected.

J. Post-occurrence duties/after-action reports:

The supervisor, upon returning to the office, shall perform the following duties.

1. Prepare a detailed report, providing all factual information about the incident to the Sheriff, along with any appropriate recommendations.
2. Provide factual information to the news media.
3. Arrange for evidence collection at the scene.

K. Mass arrest procedures:

During the course of a civil disturbance, mass arrests may become a reality and must be handled quickly and efficiently providing for transportation to jail, release on summons, arrestee rights, etc.

Arrested persons shall be removed from the point of disturbance by the arresting deputy and brought to where initial booking shall take place. The supervisor shall establish an arrest team to handle prisoners. Arrest team duties shall include the following steps.

1. Photograph the arrested person with the arresting deputy using a Polaroid camera. Arrest/identification information shall be recorded on the back of the photo.
2. Prisoners shall then be transported to the detention center where formal charging/booking shall take place.
3. Arrested persons shall be allowed the opportunity to contact legal counsel at the conclusion of booking.
4. Arrested persons who are injured shall be given medical treatment before any booking begins.

5. The District Attorney or their assistant shall provide legal advice to the supervisor as appropriate.
6. Juveniles involved in arrests shall be treated according to procedures set forth in General Order 2-25, Juvenile Procedures.

L. Use of force:

Deputies shall use the minimum amount of force necessary to effect an arrest or control the disturbance.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Disasters	NUMBER: 2-24
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Disasters

Emergencies

POLICY

The following plan for handling disasters is a rough outline of duties and responsibilities that generally apply.

II. PURPOSE

To establish procedures for responding to a natural or man- made disaster.

III. PROCEDURES

A. Definitions:

1. Natural disaster: Any hurricane, tornado, storm, flood, high water, wind-driven water, earthquake, drought, blizzard, ice storm, fire or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life.
2. Man-made disaster: Any industrial or transportation accident, explosion, conflagration, major power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contamination's which threaten or cause damage to property, human suffering, hardship or loss of life.

B. Authority for placing plan into operation:

1. On-duty supervisors are authorized to place this plan into operation. Appropriate notification of situations requiring plan implementation must

be made to Sheriff. The Sheriff shall immediately notify the county manager of the situation and will keep him advised of any changes. The supervisor shall be responsible to implement the plan until relieved by the Sheriff.

C. Departmental resources:

1. Supervisors implementing this plan may determine that additional departmental resources are required.
2. Additional personnel may be called back.
3. For equipment needs beyond that readily available to the supervisor, he shall immediately contact the Sheriff.

D. Disaster operations:

1. The exact nature of the disaster, buildings or area affected, location, and potential danger will determine the response. The supervisor shall give consideration to the following:
 - a. All department units at the scene of a disaster must provide information concerning conditions found, so that the supervisor can evaluate the magnitude of the required response. Dispatch shall also obtain information for the supervisor from other emergency service and utilities as available.
 - b. Depending on the nature of the disaster, a field command post may be established in the vicinity of the disaster. The command post shall be the department vehicle of the ranking deputy present at the scene. In any major disaster, the command post shall be located at the office.
 - c. The supervisor must communicate necessary information to emergency services, utilities, county departments, and to media agencies. Under some circumstances, it may also be necessary to loan radios to emergency service/utility crews with whom essential contact must be maintained.
 - d. In any situation involving casualties, provision of casualty information shall be the responsibility of the hospital and public inquiries shall be so directed.
 - e. The Sheriff shall have area media agencies notified and establish a

media briefing point either in the vicinity of a small-scale disaster or at the office in case of an area-wide disaster. Regularly, information shall be provided directly to media representatives present. All media agencies shall be advised that no telephone inquiries will be responded to in order to reduce the burden on dispatchers and telephone lines.

- f. The supervisor or Sheriff shall advise the New Mexico State Police office and area agencies of any disaster and may, subsequently, request additional law enforcement support as required.
- g. The involvement of one or more buildings, public or private, can generate a requirement for security to prevent looting, theft, or trespass.
- h. It may be necessary to block roads and reroute traffic away from the affected area. Emergency service units shall be so advised, and announcements made over local radio stations.
- i. Necessary public works and utilities companies shall be notified of road clearance needs, broken mains, and downed lines.
- j. The supervisor or Sheriff shall ensure an orderly de-escalation of controls and personnel as the disaster is reduced.
- k. Any special transportation needs may be requested from appropriate town departments or other emergency services.

Supervisors involved shall prepare after- action reports concerning all department activities during a disaster as well as recommendations concerning the handling of any future problems. A complete after-action report shall be provided to the city manager by the Sheriff. After-action reports shall include any budgetary impact, commitments, and obligations.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Juvenile Procedures	NUMBER: 2-25
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Confinement of juveniles
 Custody; of juveniles
 Fingerprints; of juveniles
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 handling of (formal)
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 Status procedures for handling
 crimes committed by
 Questioning; see Interrogations
 Runaways; see Status offenses
 Status offenses
 Summonses; of juveniles
 Transportation (of juveniles)
 Truant; see Status offense

I. POLICY

The department's interests concerning juvenile offenders reflect those of the community: to prevent and control juvenile delinquency. The department expects deputies to handle juveniles consistent with common sense and the dictates of state law. The department's policy includes the identification, apprehension, and conviction of juveniles charged with delinquent acts (crimes). The best interests of juveniles and the community, however, dictate a limited application of our arrest powers against juveniles who are charged with status offenses. Accordingly, deputies may handle errant juveniles informally, particularly status offenders, those in need of protection, and those suspected of committing minor criminal offenses. The authority to carry out the provisions of this order derive from the Children's Code NMSA 32A-1-1 through 32A-2-33. In case of minor or status offenses, deputies may divert juveniles from the formal criminal justice process, and instead choose a community referral program or other resource.

II. PURPOSE

To establish guidelines and procedures for handling juveniles who are in need of protection, in violation of status offenses and those charged with delinquent acts (criminal offenses).

III. DEFINITIONS

- A. Child- Juvenile- Minor: A person who is less than eighteen years of age.
- B. Delinquent Acts: Acts designated as a violation of a law of New Mexico or an ordinance of any city, county, town or federal law, but not to include status offenses. NMSA 32A-2-3A
- C. Delinquent Child: A child who has committed a delinquent act or an adult who had committed a delinquent act prior to his/her 18th birthday.
- D. Probation Officer: A juvenile probation officer is designated by law as having the quasi-judicial authority to divert or petition the court and provide a detention or shelter care order. NMSA 32A-2-5
- E. Juvenile Court: The name by which the District Court is often called. This court is responsible for the judicial processing of juvenile offenders, and the determination of abuse and neglect cases. As a result, the judge of this court decides the propriety and legality of law enforcement handling of juveniles.

All juvenile offenses occurring in Luna County are heard in the 6th Judicial District Court, located at 855 S. Platinum Avenue.

Deputies shall appear to prosecute their cases when requested.

- F. Guardian: A relative over the age of eighteen, or any adult appointed by the court willing to accept the responsibility for the juvenile.
- G. Status Offender: A juvenile who commits an act which is unlawful only if committed by a juvenile, i.e., (1) a juvenile who is subject to compulsory school attendance but is habitually absent without justification (truant);

(2) a juvenile who is habitually disobedient to the lawful commands of parents or other responsible persons (incorrigible); (3) a juvenile who remains away from or who habitually deserts or abandons the family (runaway).

IV. PROCEDURES - GENERAL

A. Overview:

1. All members of the department shall cooperate with juvenile justice and support activities. Department policies regarding juvenile operations shall be provided to local juvenile court personnel for their review and comments and suggestions as to ways our procedures can be improved.
2. All department personnel must thoroughly understand and practice the provisions of this order.

B. Handling of juvenile offenders – general:

1. A juvenile offender shall be handled with firmness and respect: this sets the tone for the entire processing of the juvenile's case. The contact a juvenile has with law enforcement is his or her first impression of society's enforcement system. The deputy's proper handling may prevent the recurrence of anti-social behavior. A deputy's warning is often all that is required to keep the juvenile from having to appear in juvenile court. Improper handling often creates the mistaken but lasting impression that all deputies and other government officials are unfair, untrustworthy, and inflexible, and may result in the juvenile's complete rejection of lawful authority.
2. The juvenile justice system and laws are designed to give the child a chance to mature without bearing the stigma of a criminal record. The juvenile justice system emphasizes confidentiality of records and the privacy of an adjudicatory hearing. Terms such as "take into custody" and "not innocent" substitute for "arrest" and "guilty" to avoid giving the juvenile's behavior a criminal label. Where appropriate, deputies shall reasonably try to keep juveniles out of the criminal justice system,
3. The deputy may handle a juvenile either informally or formally. Informal handling is managing a situation by releasing the juvenile under warning to a parent or guardian. This requires either the parent picking up the child or the deputy taking the child home and informing the parents of the alleged offense. Formal handling occurs when the juvenile is brought before the juvenile court or an intake deputy for further processing and deciding the proper disposition.
 - a. Deputies shall complete all required paperwork with comprehensive information on the child, parents, complainant, and witnesses.
4. In making the decision to handle either informally or formally, the deputy

shall consider the following:

- a. seriousness of offenses.
- b. prior record of child.
- c. age of youth.
- d. cooperation and attitude of all parties (child, parent, victim) and the possibility of the offense being repeated.
- e. degree of wrongful intent, violence, premeditation, knowledge of violation.
- f. likelihood that the child or parent can be successfully referred to a helping agency.

5. Supervisory responsibilities. The supervisor shall:

- a. review and approve all paperwork by the arresting deputy;
- b. immediately contacts the intake deputy (if the arresting deputy or the supervisor determines that the juvenile in custody is innocent), relate the facts of the case, and request a decision whether to release or detain if charges are pending.

C. Informal handling:

- 1. Informal handling includes the deputy's use of the following measures.
 - a. Warning and releasing to a parent or guardian.
 - b. Requiring the parents to pick up the juvenile.
 - c. Taking the youth home and informing the parents of the reasons for his being picked up.
 - d. Referring the family to a community social service agency.
 - e. When handling the juvenile informally, the deputy must ensure that the parents are notified.
- 2. Guidelines for informal handling:

- a. When handling informally, the deputy shall complete a juvenile citation. This provides the department and juvenile probation with a means of documenting the juvenile's behaviors.
- b. Respect a juvenile's right of privacy. Information gained should be provided to others only on a "need to know" basis.
- c. When the deputy encounters a victim/complainant who demands to bring a child before the juvenile court, and the deputy wishes the matter handled informally, the deputy shall contact the intake officer for assistance.
- d. Even when he or she is being handled informally, the juvenile has all the constitutional rights that an adult would have in the same situation. Deputies shall decide without delay whether formal or informal handling is in order, then apply the appropriate guidelines of this order.
- e. Deputies who release juveniles after issuance of a warning shall complete an incident report.

3. Sample offenses for informal handling:

Generally, first instances of the following types of offenses shall be handled informally; however, the list is not complete, and deputies' good judgment is important.

- a. Annoying telephone calls.
- b. Cursing and abuse.
- c. Drunkenness.
- d. Disorderly conduct.
- e. Curfew violation and other status offenses (more specific discussion of status offenses follows).

D. Formal handling:

- 1. Formal handling occurs when the juvenile is taken before or referred to the juvenile probation officer for their decision on the proper disposition.
- 2. Generally, the following situations require formal handling of the juvenile.

- a. Delinquent acts that if committed by an adult would be felonies.
- b. Delinquent acts involving weapons.
- c. Delinquent acts involving aggravated assaults and batteries.
- d. When deputies arrive at the scene of domestic violence and discover a child at risk.
- e. DWI.

E. Taking juveniles into custody:

No juvenile may be taken into immediate custody except, in accordance with NMSA 32A-2-9.

- 1. pursuant to the lawful order of the court because a parent, guardian or custodian fails when requested to bring the child before the court after having promised to do so when the child was delivered upon release from custody,
- 2. when the child is alleged to have committed a delinquent act, and
- 3. as authorized by a juvenile probation and parole officer proceeding pursuant to the provisions of NMSA 32A-2-5.

F. General guidelines for taking juvenile into custody:

- 1. Do not take custody of a juvenile or assume an overly authoritative position when the purpose can be accomplished by asking appropriate, permissible questions at the location of contact.
- 2. When stopping them on the street, detain juveniles for the briefest time that will permit the purpose of the stop to be accomplished. The decision of either formal or informal handling shall be made in a reasonable time.
- 3. If it is necessary to take the juvenile into custody, do so with the least possible embarrassment to the juvenile and his or her family. Unless there is special justification for doing otherwise, don't remove the juvenile from his or her home.
- 4. Regardless of the disposition of the juvenile in custody, deputies shall make every reasonable attempt to notify parents or guardians and inform them of the circumstances.

G. Transportation of juveniles:

1. No juvenile under 18 shall be transported in the same vehicle with adults suspected of or charged with criminal acts.

H. Legal aspects of confinement of juveniles:

1. *NMSA 32A-2-11 and 32A-2-12* puts certain restrictions on the place of confinement. No person known or alleged to be under the age of 18 shall be confined in any jail or other facility with adults except under certain circumstances as detailed in the statute.

I. Questioning juveniles:

1. When questioning a juvenile in custody, the same rules and procedures used for an adult must be followed. Under no circumstances shall the child, any more than an adult, be compelled to answer questions either by physical force or psychological pressure or deceptions. Consult General Order 2-1 for legal guidelines. NMSA 32A-2-14
2. No juvenile can be compelled to answer any questions which may tend to incriminate him or her. Juveniles are entitled to the full Miranda warnings and these rights must be explained in the presence of parents, circumstances permitting, guardian or counsel.
3. When questioning a juvenile, deputies shall not prolong the interview beyond what is needed in order to complete their investigation. Also, the interrogation shall be handled by one deputy if at all possible in order to lessen the chance of the juvenile feeling intimidated or pressured.
4. Deputies are reminded that the rules governing searches, frisks or pat-downs, reasonable suspicion, and probable cause all apply to juveniles.

J. Written citations/summonses:

A deputy may use the New Mexico Uniform Traffic Citation form, just as for an adult, in the following situations:

1. Violation of the traffic laws directed to Magistrate or Municipal court as stated in NMSA 32A-2-29,

K. Fingerprints and photographs of children:

Statutes provide that fingerprints and photographs may be taken and filed under the following circumstances:

1. May be taken of any child fourteen or older who is charged with a delinquent act,
2. Shall not be taken of any child thirteen years or younger without obtaining a court order.

L. Dissemination/retention of fingerprints and photographs:

1. The Sheriff is responsible for the department's compliance with New Mexico Statutes requirements on dissemination and retention of juvenile records, including fingerprints and photographs.

M. Confidentiality of records/release of information:

1. NMSA 32A-2-32 requires that all law enforcement agencies take special precautions to ensure that law enforcement records concerning a child are protected against disclosure to any unauthorized person.
2. Deputies may release, upon request to one another and to other local state or federal law enforcement deputies, current information on juvenile arrests limited to name, address, physical description, date of arrest, and charge. This information may only be used for current investigations.
3. For release of juvenile information to the media, see Rules & Regulations 1-13, Media Relations.
4. The Sheriff shall ensure that noncriminal records of juveniles are destroyed annually.

V. PROCEDURES - CHILD PROTECTION

- A. When probable cause exists that a juvenile is in need of protective custody and under circumstances that exist the deputy concludes that a clear and substantial danger to the juvenile's welfare exists, the deputy shall:
1. take the child into immediate custody.
 2. call CYFD Statewide Central Intake (SCI) and request child protective services respond to your location.
 3. The deputy shall complete an offense/incident report on the matter.

VI. STATUS OFFENSES

A. Runaways shall be investigated as follows:

Deputies taking a report of a runaway child shall:

1. have the parent and/or guardian review the original report for its accuracy, particularly for verification that the birth date and physical description of the child are as they stated.
2. complete an incident report on the matter.
3. broadcast a lookout for the runaway juvenile.
4. contact the local runaway shelter (if any) to locate the child.
5. The supervisor shall review the report, complete a Missing Children Information Clearinghouse Report and ensure entry of appropriate information in NMCIC and NCIC. The supervisor shall ascertain if the juvenile (if 12 years of age or younger) is endangered and, if so, notify the appropriate authority.

B. Taking runaway into custody:

When probable cause exists that a juvenile has run away from home, the deputy shall:

1. Local
 - a. take the child into custody; and
 - b. verify runaway youth status; and
 - c. notify the probation officer of the action taken, who will then determine whether to:
 - (1) place the child in a youth shelter.
 - (2) refer to CYFD.
 - (3) release the juvenile to a parent, guardian, legal custodian or other person acting for a parent.
 - (4) release the juvenile.
 - (5) complete a New Mexico Missing Children Information

Clearinghouse Report. In any event, deputies shall complete incident reports for any runways taken into custody.

2. Out-of-town

- a. Take the child into custody and verify runaway status with the teletype from the other jurisdiction. If a detention order is on file, follow the instructions for serving a detention order as discussed below and;
- b. notify the probation officer of the action taken; the probation officer will then determine what the next step will be. The deputy shall:
 - (1) follow the probation officer's instructions for detention or child placement.
 - (2) notify parents that the child is in custody and if the child is to be released and the parents cannot respond within a reasonable period of time.
 - (3) arrange to detain the juvenile.

C. Truant:

1. When custody occurs because a juvenile is a reported truant by school officials, or a deputy reasonably determines because of the child's age and circumstance that a juvenile is a reported truant, the juvenile shall be taken into custody and delivered to the appropriate school personnel and released.
2. The deputy shall complete a field interview which includes the name of the person notifying the parent of the truancy and the name of the person to whom the juvenile was released.

VII. DETENTION ORDERS AND WARRANTS

A. Release or detention of juveniles charged with delinquent acts:

1. Deputies shall whenever possible release a juvenile to a parent or person acting for a parent, who, (1) is available and willing to provide supervision and care; and (2) promises to bring the juvenile before the court when requested. However, the arresting deputy shall seek a detention order or

warrant from the district judge, probation officer, or magistrate to detain a juvenile whenever there is probable cause to believe that the juvenile committed a felony.

2. The deputy shall inform the probation officer of arrests in cases of all felonies and misdemeanors and whether a parent or custodian of the juvenile has been notified of the arrest.

B. Handling of escapees:

1. Immediate custody of escapees:
 - a. Juveniles who are escapees from jail, a detention home, or other institution in which they were placed by order of juvenile court. Child Protection Services or other licensed child welfare agency may be taken into immediate custody when:
 - (1) there is a detention order or warrant known to be on file in this or another jurisdiction.
 - (2) a deputy has probable cause to believe that a juvenile has escaped or run away from jail; detention home, residential child care facility or home in which they were placed by the court, the CYFD, or a licensed child welfare agency.
2. Return or placement of escapees:
 - a. Whether juvenile court is open or closed, the juvenile may be returned and released to the facility from which the juvenile escaped or fled.
 - b. When court is open or closed and the juvenile is not released to the facility from which the juvenile escaped or fled, the deputy shall contact the probation officer who will determine where the juvenile will be placed.
3. Reporting requirements:
 - a. The deputy shall complete an offense report with applicable supplements.
 - b. When a locally-placed juvenile runs away from an unsecured group home, no matter where that home is located, the deputy shall:

- (1) take an offense report for a missing juvenile (runaway).
 - (2) complete a New Mexico Missing Children Information Clearinghouse Report. The adult reporting the juvenile missing will sign the report.
- c. When an out-of-town-placed juvenile has either escaped from the detention home or run away from a local group home, the deputy shall:
 - (1) notify the administrator reporting the missing juvenile to contact the jurisdiction which placed the juvenile in the facility to make the original report.
 - (2) complete an offense report including a suspect description.
- d. When an escaped juvenile or one that has run away from a group home is apprehended, the deputy shall:
 - (1) if a locally-placed juvenile, complete a supplement to the original report to be booked. (In most cases the juvenile court will have filed already a detention order on the juvenile.)
 - (2) If an out-of-town juvenile from an out- of-town facility, complete an original offense report including a suspect description.
 - (3) If an out-of-town-placed juvenile escaped or ran away from a local facility, supplement the offense report and notify the jurisdiction that placed the juvenile of the apprehension.

(Deputies will initiate a search and broadcast a lookout for any juvenile reported missing or escaped from a local facility.)

C. Interviewing of detained juveniles:

Deputies wishing to interview, or question juveniles held in detention must:

1. inform the juvenile's parent or guardian and the attorney, if any, that an interview will be requested.
2. request permission of the Juvenile Court to conduct the interview.

3. arrange the interview, if approved, consistent with detention home rules and regulations.
4. provide a copy of the court's approval to the detention home.
5. before the interview, inform the juvenile of his/her legal rights.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Child Abuse	NUMBER: 2-26
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA 32A-4-1 through 32A-4-33

INDEX WORDS

Child abuse
 Child neglect
 Interviewing (children)
 Investigator responsibilities re: child abuse/neglect
 Patrol responsibilities re: child abuse/neglect

I. POLICY

It is the policy of the department to protect and ensure the safety and welfare of the children in this jurisdiction. All deputies must be knowledgeable about child abuse and neglect, their effect on children, and help the children who become victimized. Coordination with other criminal justice and social service agencies is a necessity. Initial responsibility for investigation of such cases lies with the department. Law enforcement must assume leadership in the prevention of child victimization and in the prosecution of offenders.

II. PURPOSE

To establish guidelines for investigating crimes in which the victims are children.

III. PROCEDURES

A. General responsibilities:

1. "Child" refers to any person under the age of 18 years.
2. Department personnel shall be aware of local social service agencies for cases involving child victims.

Deputies shall know how and when to contact agency representatives, especially Child Protective Services (CPS).

- a. CPS-statewide number to call (855) 333-SAFE or 575-546-6557 (directly call your local number).

In circumstances involving no imminent danger to a child, a deputy shall record complainant's name, address, telephone number, and pertinent information concerning the alleged abuse or neglect and transmit this information immediately to CPS, and they shall jointly determine the proper course of action.

- b. Juvenile and Domestic Relations Court

If the deputy finds a child in a situation which presents an imminent danger to the child's health or life, the deputy may take the child into custody without parental permission if a court order is not immediately available from the court (NMSA 32A-4-6). Otherwise, the court may grant the deputy an emergency removal order, and a hearing shall be held as soon as practicable, but not later than 10 days from the date of petition. (NMSA 32A-4-18)

- 3. Department personnel shall be trained and knowledgeable about child abuse and neglect, their effects on children, and how to identify it. (See Appendix 1 to this order.)
- 4. All personnel interacting with child victims shall use appropriate communication skills.
- 5. The protection of all children is vital to the well-being of the community.
- 6. All deputies shall know the sections of the New Mexico Statutes that pertain to crimes most commonly committed against children:
 - a. child abuse NMSA 32A-4-2B
 - b. child neglect NMSA 32A-4-2C
 - c. Criminal sexual penetration (rape) NMSA 30-9-11
 - d. child abduction/kidnapping NMSA 30-4-1
- 7. The department shall work with local schools and agencies to educate children to identify and prevent their own victimization and to provide community awareness.

B. Patrol responsibilities:

1. Arrival at scene: Obtain all pertinent information from the dispatcher.
2. Initial contact:
 - a. If the patrol deputy suspects child abuse, he or she shall explain law enforcements role in ensuring the health and safety of the child.
 - b. If entry to the home is refused and the deputy feels entry is necessary, he/she may gain entry in one of several ways.
 - (1) In a non-emergency, obtain a court order or a search warrant from a magistrate or district court judge.
 - (2) In an emergency, forced entry without a warrant is legal when there is probable cause that a child is in danger.
 - c. The deputy shall immediately ensure the safety of the child. Summon an ambulance or administer First Aid, if necessary. Reassure the child that he or she is safe now and that the child has done nothing wrong.
3. Transport the child victim to a safe place, if necessary. This may include a local, court- approved juvenile shelter.
4. If the child is a victim of sexual assault, refer to sexual assault procedures (General Order 2-27).
5. Interviewing the victim.
 - a. Child victims require special treatment. To minimize the number of times the child will have to tell his story, coordinate with other agencies (example: CPS, the courts) before interviewing. **A safe-house interview should always be conducted, and only by trained personnel.**
6. Interviewing witnesses (including the parents/guardians).
 - a. Create an atmosphere of support and understanding. Remain non-judgmental until all the facts are known.
 - b. The deputy must communicate in a friendly manner and allow the adults to express their anger and fears concerning the incident.

- c. Assess resistance to the interview. It may be in the form of denial, uncooperative attitude or explanations of how uncontrollable the child is.
- d. If the deputy prepares to interview the suspect, he shall give Miranda warnings in accordance with General Order 2-1.
- e. If parental child abuse is suspected, interview each parent separately and be alert to any apparent vagueness or inconsistencies in the explanations each gives for the allegation. Parents shall be told the reason for the interview and be treated with respect.
- f. Witnesses may be reluctant to discuss a family with a deputy (due to fear of retaliation or because of breaking confidentiality).

Deputies shall explain the use of any information provided and that efforts will be made to maintain the identity of witnesses in confidence.

D. Investigator responsibilities:

- 1. Child victims have little power and depend on deputies and social service agencies to take action in whatever way is needed to lessen their victimization. The investigator shall determine whether or not criminal prosecution is the best means to achieve that end.
- 2. The investigator shall place a high priority on coordinating and communicating with social service agencies involved in the child victim's case (e.g., CPS, District Court, court-appointed guardian, or child advocate).
- 3. Either the investigator or the deputy must make an oral report of child abuse/neglect to the Department of Social Services. A copy of the offense report must be sent of Social Services.
 - a. In severe cases of abuse, the deputy shall ask the dispatcher to contact Social Services so that a case-worker can respond.

NOTE CONCERNING GENERAL ORDER 2-26, CHILD ABUSE

The victimization of children is widespread. The Children Youth and Families Department estimates that more than one million children are victims of maltreatment by their parents each year. This includes physical and sexual assault, as well as neglect. Each year more than 2,000 children die from such crimes. Other studies suggest that perhaps 20% of all children are sexually assaulted (by acquaintances, relatives, or strangers). Victimization at school is now more frequently reported. Accurate victimization data for children under the age of twelve is nonexistent, but what is known is alarming enough.

The problem of child victimization is frequently encountered by law enforcement deputies. Due to the nature of law enforcement services within a community, suspected cases of child abuse and neglect are often referred/reported to them. Child victimization is a complex social issue demanding medical, social, legal, and educational services.

Appendices to General Order 2-26

1. Child Abuse and Neglect Guidelines

(From The Police Perspective in Child Abuse and Neglect. IACP, Gaithersburg, Maryland, 1977.)

2. Physical and Behavioral Indicators of Abuse and Neglect

(From The Role of Law Enforcement in the Prevention and Treatment of Child Abuse and Neglect. U.S. Dept. of Health and Human Services.)

3. Suspected Child Abuse/Neglect Report Form

Child Abuse and Neglect Guidelines

ABUSE INDICATORS

Recognizing Physical Abuse:

- Injuries on several surface areas of the body
- Injuries in various stages of healing
- Complications arising from old injuries
- Nonaccidental bruising patterns
- The shape of an instrument imprinted on the skin Cigar/cigarette burns

When the Parent:

- Presents an explanation of the injury inconsistent with appearance of the injury
- Is evasive or vague
- Presents a contradictory history
- Gives a history of repeated injury
- Is reluctant to give information
- Projects cause of injury onto a sibling/third party
- Oral threats against the child
- Is psychotic or psychopathic
- Personally misusing drugs/alcohol

When the Child:

- Has an unexplained injury
- Is unusually fearful, non-spontaneous, refuses to speak in front of parents
- Overly eager to please adults
- Shows evidence of overall poor health

NEGLECT INDICATORS

Living Conditions

- Consider the child's complete environment
- Avoid associating low income as synonymous with neglect
- Burned-out or condemned building (unsafe housing)
- Unsanitary conditions-human and animal waste on floors
- Lack of heat in hours during winter months
- Danger of fire from open heating units
- Children sleeping on cold floors or dirty/wet beds
- Infestation of rodents (rats/mice)

HEALTH HAZARDS

- Malnutrition-underweight and small in stature
- Undernourishment with poor living conditions
- Lack of food in the house for children
- Lack of medical care provided for children
- Emotional damage from poor conditions, verbal abuse

Physical and Behavioral Indicators of Abuse and Neglect

TYPE OF ABUSE	PHYSICAL INDICATORS	BEHAVIORAL INDICATORS
PHYSICAL ABUSE	<p>Unexplained Bruises and Welts:</p> <ul style="list-style-type: none"> - on face, lips, mouth - on torso, back, buttocks, thighs - in various stages of healing - clustered, forming regular patterns - reflecting shape of article used to inflict (electric cord, belt buckle) <p>- on several different surface areas</p> <p>- regularly appear after absence, weekend vacation</p> <p>Unexplained Burns:</p> <ul style="list-style-type: none"> - cigar, cigarette burns, especially on soles, palms, back or buttocks - immersion burns (sock-like, glove-like, doughnut shaped on buttocks or genitalia) - patterned like electric burner, iron, etc. - rope burns on arms, legs, neck or torso <p>Unexplained Fractures:</p> <ul style="list-style-type: none"> - to skull, nose, facial structure - in various stages of healing - multiple or spiral fractures <p>Unexplained Lacerations or Abrasions:</p> <ul style="list-style-type: none"> - to mouth, lips, gums, eyes - to external genitalia 	<p>Wary of adult contacts</p> <p>Apprehensive when other children cry</p> <p>Behavioral extremes:</p> <ul style="list-style-type: none"> - aggressiveness, or - withdrawal <p>Frightened of parents</p> <p>Afraid to go home</p> <p>Reports injury by parents</p>
PHYSICAL NEGLECT	<p>Consistent hunger, poor hygiene. Inappropriate dress</p> <p>Consistent lack of supervision, especially in dangerous activities or long periods</p> <p>Unattended physical problems or medical needs</p> <p>Abandonment</p>	<p>Begging, stealing good</p> <p>Extended stays at school (early arrival and late departure)</p> <p>Constant fatigue, listlessness or falling asleep in class</p> <p>Alcohol or drug abuse</p> <p>Delinquency (e.g. thefts)</p> <p>States there is no caretaker</p>
SEXUAL ABUSE	<p>Difficulty in walking or sitting</p> <p>Torn, stained or bloody underclothing</p> <p>Pain or itching in genital area</p> <p>Bruises or bleeding in external genitalia, vaginal or anal areas</p> <p>Venereal disease, especially in pre-teens</p> <p>Pregnancy</p>	<p>Unwilling to change for gym or participate in physical Education class</p> <p>Withdrawal, fantasy or infantile behavior</p> <p>Bizarre, sophisticated, or unusual sexual behavior or knowledge</p> <p>Poor peer relationships</p> <p>Delinquent or run away</p>

TYPE OF ABUSE	PHYSICAL INDICATORS	BEHAVIORAL INDICATORS
EMOTIONAL MALTREATMENT	<p>Speech disorders</p> <p>Lags in physical development</p> <p>Failure-to-thrive</p>	<p>Reports sexual assault by caretaker</p> <p>Habit disorders (sucking, biting, rocking, etc.)</p> <p>Conduct disorders (antisocial, destructive, etc.)</p> <p>Neurotic traits (sleep disorders, inhibition of play)</p> <p>Psychoneurotic Reactions (hysterias, obsession, compulsion, phobias, hypochondria)</p> <p>Behavior extremes:</p> <ul style="list-style-type: none"> - compliant, passive - aggressive, demanding <p>Overly adaptive behavior:</p> <ul style="list-style-type: none"> - inappropriately adult - inappropriately infant <p>Developmental lags (mental, emotional)</p> <p>Attempted suicide</p>

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Sexual Assault	NUMBER: 2-27
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Children interviews of sexual assault victims
Evidence collection re: sexual assault
Interviews of sexual assault victims
Investigator responsibilities re: sexual assault
Patrol responsibilities re: sexual assault

I. POLICY

The department recognizes the fact that sexual assaults (criminal sexual penetration, forcible sodomy, sexual battery, object penetration, incest, child molestation, exploitation of children, and attempts thereof) are personal violent crimes that have great psychological or physical effects on the victims. It is the policy of the department to assist sexual assault victims in a supportive manner, using appropriate crisis intervention skills. Because of the seriousness of these offenses and the delicate nature of the investigations involved, it is important for the department to undertake diligent investigations in order to increase the reporting of these crimes. Reducing recidivism through the apprehension and prosecution of the assailants is a department priority.

II. PURPOSE

To outline a protocol for coordinated preliminary and follow- up investigations of sexual assault and other related offenses.

III. PROCEDURES

A. General responsibilities:

1. "Sexual assault" means those offenses involving criminal sexual penetration/contact (to include: Rape, Date Rape, Stalking, Sexual Harassment, Physical Abuse, Criminal Sexual Contact, Witness to Crime,

Incest, Gang Rape, Spouse Rape, Fondling, Neglect, Criminal Sexual Penetration, Witness to Domestic Violence, Drug Endangerment) with any person by force or threat of force, fear, or intimidation, or any attempts to force (Gun, Knife, Physical Force, Verbal Threat, Manipulation, Verbal coercion, other weapon, intentionally drugged) sexual penetration/contact on any person.

2. Department personnel shall be aware of community services available to victims of sexual assault.

La Pinon Sexual Assault Recovery Services of Southern NM
850 N. Motel Blvd. Ste. B
Las Cruces, NM 88007
575-526-3437 or 888-595-RAPE (7273) 24-hour crisis line
575-545-2894 Rural Coordinator (Serves Luna/Grant/Hidalgo Counties)
(24-Hour Line)
ww.lapinon.org
rural@lapinon.org

Services Offered:

- *24-7 Crisis Intervention
- *Outpatient Counseling including La Pinon Rural Counselor located in Luna County
- *Professional Training
- *Sexual Assault Nurse Examinations (SANE)
- *Children's Advocacy Center (CAC) serves children ages 3 – 19 and those with intellectually disabilities that are over age 19
CAC provides Safe Houses, Forensic Interviews with Certified Interviewers, Case Management, and all other services too victims and their NON-OFFENDING family members.
- *Crime Victim Reparation Commission Assistance (CVRC)
- *Resource & Referral

3. Department personnel shall be trained and knowledgeable about sexual assault investigation and its impact on victims. (See Appendix 1 to this order.)
4. Department personnel shall use appropriate communication skills when interacting with sexual assault victims. (See appendix to General Order 2-28.)

B. Patrol responsibilities:

1. The patrol deputy has certain immediate responsibilities, as follows.
 - a. The primary concern is the victim's physical well-being. Give attention to the victim's emergency medical needs. Ensure safety.
 - b. Note the time frame since the assault. SANE exams can be done on CHILDREN up to 3 days since the last point of contact with alleged offender and 5 days since last point of contact with alleged offender for ADULTS
 - b. Preserve the crime scene and call the on-call investigator. La Pinon SARS should be contacted once the well-being of the victim has been secured, in order to have the rural advocate respond to assess and staff the case, especially in the case where a SANE is needed. (follow the SANE protocol) La Pinon SARS should be contacted even if the victim has not directly stated to the deputy that a sexual assault took place, but the deputy believes this may be the case. We have learned that in many cases victims do not disclose to law enforcement immediately and sometimes will disclose first to advocates at an agency like La Pinon. It has also been found that it is best for the victim to talk to a minimal amount of people as possible; interviewer, investigator, SANE nurse, etc. This is because many victims suffer from re-traumatization every time they have to tell their story.
 - c. The deputy shall be alert to any suspect in the vicinity. Give crime broadcast, if applicable.
 - d. The deputy shall explain his or her role to the victim and what will be done at the scene and through follow-up.
2. The patrol deputy shall obtain detailed information essential to determine what offense (or offenses) actually occurred.

Abduction:

Assault/Battery:

Child abuse, neglect:

Conspiracy:

Sexual offenses:

Stalking:

Oral:

Vaginal:

Digital: (Many victims do not realize digital/oral penetration is a sexual

assault)

Human Trafficking:

3. Obtain preliminary statements from victim and witnesses. Try to establish rapport and get only the needed information.
4. The deputy shall inform the victim, preferably in writing, of counseling services available in the area. Ask whether the victim would prefer to have a support person (sexual assault worker, family member, or friend) present if this has not already been done by dispatcher. Offer to contact this person if necessary. (Once La Pinon has responded they take full responsibility of providing all services, resources, and referrals)
5. See General Order 2-12 for additional guidance.

D. Investigator responsibilities:

1. The investigator shall obtain a complete report from the patrol deputy assigned to the case.
2. The initial contact with the victim may happen in different ways:
 - a. At the crime scene: The patrol deputy shall protect the crime scene and the investigator shall establish rapport with the victim, transport the victim to the hospital, and begin the preliminary investigation.
 - b. At the hospital: Arrange for the collection of evidence needed for prosecution. The SANE RN provides a detailed description of the SANE to the victim, and an advocate is also available to explain the pre and post procedures for a SANE and continued case management. The investigator shall not be in the room during the sexual assault exam but shall have the victim sign a consent form in order to obtain a copy of the hospital report. (See appendix to General Order 2-13 and appendix 2 to this order.)
 - c. At the department: Before interviewing, review the patrol deputy's report and establish rapport with the victim by allowing her or him to ask preliminary questions or voice initial concerns.
 - d. The Investigator shall arrange for transportation or transport the victim to the hospital for a sexual assault examination, if appropriate (if the assault occurred within the last 72 hours). Explain the medical and legal necessity of this exam, (See appendix 2 to this order.) Inform the victim to take a change of

clothing along. The Investigator may provide transportation back home following the exam. If the assault occurred more than 72 hours before, the Investigator shall still encourage the victim to seek medical help.

3. The investigator shall be trained in sexual assault procedures.
 - a. The investigator shall allow the sexual assault crisis worker to be with the victim for support if the victim desires.
 - b. If the victim prefers a woman investigator, every attempt to provide one should be made, but if one is not available, the investigator shall nevertheless encourage the victim's cooperation. La Pinon has female SANE nurses and they have both female and male advocates.
 - c. Prepare the victim for each phase of the investigation. By explaining what must be done and the reasons why, the deputy will encourage the victim's cooperation.
4. Follow-up interviews by the investigator.
 - a. Privacy is a necessity for follow-up interviews. Choose a quiet room at the department or go to the victim's home. A support person to aid the victim may be helpful to the investigation. Advise this person of his or her role and ask the person not to interfere with questioning. La Pinon has interview rooms, family rooms, and MDT rooms that include top notch technology to record the interviews.
 - b. Questions which must be addressed include the following:
 - (1) Assault circumstances: Where approached?
How? Where occurred? When?
 - (2) Assailant: Name, if known? Age? Race? Color of hair?
Clothing? Height? Weight? Identifying marks?
Relationship to victim, if any?
 - (3) Multiple assaults occur? Other crimes committed?
 - (4) What happened during the assault? Were weapons used?
Describe them. Were threats made? What were they?

Was there a fight or struggle? Injuries sustained?
Drugs/alcohol involved? Sexual detail- what did he do?
Other degrading acts? Did he ejaculate? What was said?

- (5) How long was assailant with you?
 - (6) What did you or the assailant do immediately after the attack?
 - (7) Concerns about prosecuting?
- c. At the conclusion of the interview, the investigator shall ask about any additional assistance needed. (Counseling services are always recommended.) Refer the victim to the local victim/witness advocacy program. (La Pinon rural coordinator is the direct contact in this matter)
 - d. Encourage the victim to call later with additional details or to ask questions. Give a number.
 - e. Interviewing child sexual assault victims requires special guidelines. See appendices to General Order 2-26 and appendix 3 to this order. (Forensic/Safe House Interviews Required)
 - f. As soon as practicable, alert the victim/witness advocate that a sexual assault has occurred. Provide the information necessary for staff to contact the victim.
- 1. See General Order 2-12 Investigator responsibilities, for additional guidance.

Appendices to General Order 2-27

- 1. Sexual Assaults/Victim Impact
- 2. Evidence Collection - Sexual Assaults

Appendix 1 to General Order 2-27

Sexual Assaults/Victim Impact

Sexual assault is one of the most frightening crimes that can be committed against a person. It is a crime of violence. Any forced sexual contact or unwanted sexual touching is a crime, whether persons are married to each other or not. Indirect assaults include obscene phone calls, exhibitionism, stalking, and indecent exposure (Yes means YES, and everything else means NO! Sexual assault is valid even if a person's consents at one point but then states otherwise. . Direct assaults include rape, incest, child molestation, sodomy, and attempts thereof. The two most severe felony sexual assaults are discussed below.

Incest is a sexual involvement with a blood or step relative. The most frequent offender is the father and the most frequent victim is the daughter, but other possibilities exist: mother/son, brother/sister, grandfather/granddaughter, uncle/niece, etc. Coercion is built on trust and love rather than violence. The offender is often immature with low self-esteem. The victim doesn't want to be rejected. Incest can range from fondling to full intercourse. The victim's feelings are very confused because of the relationship with the offender and the rewards/threats by the offender.

Criminal sexual penetration (Rape) is forced sexual penetration against the will of the victim. It may include much different sexual acts-vaginal, oral, anal intercourse, object penetration, plus, other humiliating acts (urination by offender, lewd remarks, physical injury). Rapists commonly have low self-esteem, desire for dominance, frustration and instability. They may be anti-social and violent. Social pressures may trigger a rape. Common reactions of victims are shock, embarrassment, anger, fear, guilt, confusion, and lack of power (control).

These attacks are usually emotionally traumatizing experiences from which it may take months or years to recover. Initial concerns will be sexually-transmitted disease, pregnancy, and injuries. At first, the victim will experience confusion, shame, and fear. Later on, helplessness, worthlessness, isolation, distrust, anger, fear, and guilt will become strong feelings. Trouble may persist in the form of inability to express affection, relate to family members, or trust others. Crisis counselors trained to deal with sexual assault can help victims cope with the assault and find a resolution to the incident and their feelings. An active support system and building new strengths and relationships are positive factors in post-rape recovery.

Appendix 2 to General Order 2-27

Evidence Collection-Sexual Assaults

General Rules

1. Safeguard crime scene and evidence that is collected.
2. Call a crime scene unit, if available.
3. Use caution not to damage, mark, or contaminate evidence.
4. Initial and date all items seized.
5. Document chain of evidence in report.
6. Place all evidence in appropriate containers, seal, and initial.
7. See appendix to General Order 2-13 for complete instructions.

At the Crime Scene

1. Collect undergarments, clothing, bedding, rugs, or other appropriate items which may contain semen, blood, or be damaged.
2. Collect wash cloths or towels which may have been used.
3. Collect bottles, glasses, or other objects which may contain latent prints.
4. Search scene for foreign objects (buttons, hair, pieces of torn clothing).
5. If crime occurred outdoors, take soil samples from several areas and sketch the location of each sample taken.
6. If crime occurred in a car, gather sweepings from seats and floors, search floor mats, and seat covers for stains.
7. If entry was forced into the victim's house, gather samples of broken glass, paint samples, and note any pry marks.
8. Photograph crime scene.
9. Photograph bite marks, scratch marks, or other signs of brutality or injury to victim. The SANE RN does this with up-to-date technology, during SANE.

Notes to be Prepared

1. Description of exact location where each piece of evidence was found. [Example: one white bra, left strap torn, found on the ground in rear yard of (address), 6 feet south of rear stairs.]
2. Description of victim's appearance and behavior. It is very important to know that not every victim responds the same, some victims will respond by laughing, smiling, talking excessively, etc.

Note: bruises or marks, facial discoloration, disarrayed clothing, smeared makeup, hair disheveled, confused or dazed behavior, bewilderment or disorientation, apparent hysteria or crying, incoherent speech.

3. Description of victim's clothing. Note locations of torn garments, dirt, stains-blood, semen, grass.
4. Description of suspect. Physical description as provided by victim with special attention to items which would not be readily visible if the suspect were clothed: scars, tattoos, moles.
5. Have all signs of trauma or injury, as well as emotional state of the victim, recorded on hospital record. Be certain that smears are taken from vagina, anus, and mouth of victim, as dictated by the nature of the assault.

NOTE CONCERNING GENERAL ORDER 2-27, SEXUAL ASSAULT

Sexual assault is a humiliating and often terrifying and brutal crime. It can happen to a man as well as a woman and to a child as well as an elderly person. It includes any sexual conduct which a person is forced into without his or her consent. Each victim requires strong support from medical, legal, law enforcement, victim/witness, and social service personnel.

The crime of sexual assault is, at times, misunderstood. In order to deal effectively with those who have survived a sexual assault and educate others about the crime, law enforcement must understand that rape and other sexual assaults are not crimes of passion, but acts of criminal aggression, most of them violent. The offender, not the victim, is responsible for the sexual assault.

Victims react to an attack in a variety of ways. The stereotype of a hysterical woman calling law enforcement is just that- a stereotype. Many victims are calm and composed. The emotional state of the victim immediately following the assault is one of intense emotional shock. That shock may be expressed as hysteria, anger, fear, or as outward calm. But the disbelief and shock are usually the underlying feelings.

Reporting the crime is often difficult for victims. The FBI estimates that a large percentage of sexual assaults are not reported. Victims of sexual assault may have difficulty deciding what to do after the crime. Official reports have many uses. Once the report is taken, it can be kept on file for future use. As rapists are recidivists (repeaters), law-enforcement personnel, with the aid of several written reports, can often identify the person based on his similar mode of operation and description.

Deputies who first come into contact with a sexual assault victim may be the most important people the psychologically and physically violated victim will see. It is important to remember that a rape undermines the victim's sense of control. She (or he) must be allowed to regain a feeling of control by making decisions and by being listened to in a supportive, nonjudgmental way.

Most deputies understand the technical aspects of evidence collection necessary for the case. Their difficulty is handling their discomfort when interviewing a victim. Many deputies report that this feeling makes the evidence collection and the technical investigation more difficult. Regardless of the result of the investigation, the establishment of rapport between the deputy and the victim is always a plus. Being able to respond to sexual assault victims in a constructive way is a benefit to the deputy and enhances the department's image in the community.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Domestic Violence	NUMBER: 2-28
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Arrests; in domestic disputes
Dispatcher responsibilities
re: domestic violence
Domestic violence
Family violence

Domestic disputes
Primary physical aggressor
Protective orders
Victims; of domestic violence

I. POLICY

It is the policy of the department to respond to all reports of domestic violence and take appropriate law enforcement action as defined in current New Mexico state statutes. Deputies will ensure that safety is provided for all involved parties and assistance is given to victims and witnesses.

II. PURPOSE

To define domestic violence and related offenses, outline a safe procedure for handling violent incidents and calls, describe measures to end violence and protect victims.

III. DEFINITIONS

- A. As used in the Family Violence Protection Act [40-13-1 NMSA 1978]: the following terms for this policy shall be interpreted to have the following meanings:
1. Domestic Violence means any incident by a household member against another household member resulting in:
 - a. Physical harm.
 - b. Severe emotional distress.
 - c. Bodily injury or assault.
 - d. A threat causing imminent fear of bodily injury by any household member.
 - e. Criminal trespass.
 - f. Criminal damage to property.
 - g. Repeatedly driving by a residence or work place.

- h. Telephone harassment.
 - i. Stalking.
 - j. Harassment.
 - k. Harm or threatened harm to children residing in the home or residing elsewhere who would be considered a household member.
- 2. Household member means a spouse, former spouse, family member, including a relative, parent, present or former stepparent, present or former in-law, child or co-parent of a child, or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member.
 - 3. Co-parents means persons who have a child in common, regardless of whether they have been married or have lived together at any time.
 - 4. Petitioner means the person requesting the Family Protection Order.
 - 5. Respondent means the offender named in a Family Protection Order.
 - 6. Family Protection Order is an order granted for the protection of victims of domestic abuse. Also, may be called a “Domestic Violence Order” or DVO. These orders indicate the court decisions regarding the incident, and specifically describe the acts the court has ordered the respondent (or offender) to do or refrain from doing. These orders may be served by any law enforcement officer and any law enforcement officer may make an arrest on the basis of the order provided they have probable cause to believe that the order has been violated.
 - 7. Primary physical aggressor means the party that poses the greatest threat. The primary aggressor is not necessarily the first disputant to engage in assaultive behavior, but the one with the most ability and inclination to inflict physical injury. Deputies shall identify a primary physical aggressor based on the totality of the circumstances. Some or all of these characteristics may be present including:
 - a. evidence that any of the parties acted in self-defense.
 - b. a history of violence (prior assault convictions) of the parties involved, including history of calls for service.
 - c. the relative severity of injuries inflicted on all parties, plus consideration whether the injuries were offensive or defensive.

- d. the relative size, bulk, and strength of the parties involved.
 - e. evidence from persons involved in or witnesses to the incident.
 - f. the likelihood of future injury to any party.
 - h. current or previous protection orders filed against either party.
8. Stalking means any person who on more than one occasion engages in conduct directed at another person with the intent to place, or with the knowledge that the conduct places, that other person or the person's family or household member in reasonable apprehension of death, criminal sexual assault, or bodily harm, confinement or restraint.
- a. Stalking behaviors include following a person to home, work, and other places, parking outside home or office, threatening notes or telephone calls, or other forms of harassment or threats.

IV. PROCEDURES - General responsibilities

- A. An arrest shall be made without a warrant when the deputy is at the scene of a domestic disturbance and has probable cause to believe that the person has committed an assault or a battery upon a household member. According to New Mexico state statute 31-1-7 (Arrest without warrant; liability.) No peace officer shall be held criminally or civilly liable for making an arrest pursuant to this section, provided he/she acts in good faith and without malice.
- B.
 - C. Deputies who are dispatched to a domestic violence/abuse call will take whatever steps are reasonably necessary to protect the victim from further domestic abuse.
 - D. Deputies shall advise victims of domestic violence of the remedies available under the Family Violence Protection Act, (40-13-1 to 40-13-7 NMSA 1978), the right to file a written statement or request for an arrest warrant and the availability of domestic violence shelters, medical care, counseling and other services.
 - E. If requested, provide for or arrange for transportation of the victim to medical facility or place of shelter.
 - a. Deputies may request assistance from outside agencies for transporting victims when they are available.
 - F. If requested by the petitioner, deputies will accompany the victim to their residence to remove clothing and personal effects required for immediate needs and the clothing and personal effects of any children in the care of the victim.

- G. Deputies will also assist in execution or service of the Order of Protection.
- H. Deputies will complete an initial offense report on every incident of domestic disturbances they are dispatched to or come into contact with on duty, regardless of whether or not an injury was sustained, an assault was committed, or enforcement action was taken.
- I. The department will provide each deputy with “Domestic Violence Packets” which will contain all the necessary information that a victim will need to guide them in the process of filing for a Family Protection Order. Deputies will also provide victims of domestic violence with a “Domestic Violence Packet” and will direct them in the steps necessary to obtain a Family Protection
- J. Order. The Domestic Violence Packets will be available in both Spanish and English.
- K. When an arrest has been made but the offender is taken to the hospital for treatment, a deputy will stay with the prisoner until such time as the prisoner can be transported to the Detention Center and booked. A deputy is responsible for remaining with and guarding the prisoner unless other arrangements are made with another law enforcement agency.
- I. Department personnel shall be trained about domestic violence and its impact. Personnel must be well trained to confront unexpected violence. Disturbance calls can be dangerous to responding deputies. Deputies are encouraged to consult community resources such as the local domestic violence shelter and the local victim/witness advocacy program.
- J. Dispatcher (communications center) responsibilities:
 - 1. Because the dispatcher is likely to be the first person to receive the call, he or she is instrumental in determining the type of response.
 - 2. The dispatcher is responsible for deciding whether a deputy is needed at the scene. To make that decision, the dispatcher shall determine the following, if possible:
 - a. Who is complaining? Phone number? Whereabouts and identity of the assailant/aggressor?
 - b. Name of caller and location of incident? Location of caller and complainant, if different? Phone numbers?

- c. Is the crime (incident) in progress or when did it occur?
 - d. Is a weapon involved?
 - e. Have people at the scene been injured? Is an ambulance needed?
 - f. Presence of children? Witnesses?
3. At this point, if evidence of injury or a weapon exists, someone has threatened violence, or the complainant requests a deputy, dispatch one immediately (two deputies preferred) and an ambulance, if needed. The dispatcher shall perform a record inquiry and give the results to the responding deputy(s) before their arrival at the scene. Keep the caller on the telephone, if possible, and obtain additional information:
- a. Assailant's whereabouts? If not known, obtain vehicle description, direction of travel and elapsed time and access to weapons.
 - b. Were alcohol or drugs involved?
 - c. A history of calls to this address? Outstanding warrants on disputants? Probation/parole status of assailant or aggressor?
 - d. A history of previous arrests?
 - e. A protective order in effect?
4. The dispatcher shall maintain telephone contact until the deputies arrive in order to monitor the incident and provide support to the victim. The dispatcher shall advise the victim of the intended department response. Use crisis intervention skills.
5. The dispatcher shall provide the responding deputy with as much information as possible to identify risks at the scene.

V. RELEASE & NOTIFICATION PROCEDURES

- A. When an offender in a domestic violence incident is being released from custody, it is the responsibility of the holding facility to inform the arresting agency of the impending release. The arresting agency must make a reasonable attempt to notify the victim that the offender is being released from custody. Pursuant to 40-13-7 NMSA.

- B. In order to comply with the above requirement, the following steps will be followed by department personnel:
1. The initial deputy making an arrest at a domestic violence call will solicit a contact information for the victim and forward the information to dispatch. The deputy will capture information essential to the notification process. The deputy will ask the victim for, and record contact names and associated contact information that can be used to notify the victim when the offender is released from custody, such as telephone numbers and addresses.
 2. The deputy will advise the victim that they can call the department to provide additional contact information in the future.
 3. The deputy will advise the booking officer at the Detention Center that this is a domestic violence case and will include the notification information. Deputies will then advise the booking officers that the department must be notified prior to the release of the offender.
 4. If the victim refused to provide Victim Contact Information, the deputy should inform the victim of the reason and importance of the information. If the victim continues to refuse to provide Victim Contact Information, the deputy will document the fact in the Uniform Incident Report.
 5. Victim Contact Information provided by the victim is confidential and will not be released to the public. The deputy should take special care not to collect or report Victim Contact Information in the presence of the offender.
 6. After notification, the notification sheet will be shredded or destroyed.

V. RELEASE OF OFFENDER

- A. Personnel at the Detention Center will contact Central Dispatch when the offender is being released. Dispatch will then notify a deputy on duty.
- B. Deputies will make three (3) attempts to contact and notify the victim. The first attempt should be made within thirty (30) minutes of our notification. All three attempts should be made within the first two hours after notification has been received.
- C. Deputies will log all attempts to notify the victim.
- D. In cases where the victim does not have a telephone, a deputy will be dispatched,

one time, to the victim's residence to make notification of the offender's release. If the victim lives in another jurisdiction, the law enforcement agency having primary patrol responsibility for that area will be contacted and requested to make notification. The victim's contact number or location will not be given to anyone other than law enforcement personnel except for notification purposes.

VI. ENFORCEMENT OF FAMILY PROTECTION ORDERS

- A. Deputies shall arrest without a warrant any person whom the deputy has probable cause to believe has violated a current and valid Order of Protection (this includes the following orders: stipulated order of protection, a temporary order of protection and an emergency order of protection).
 - 1. When the Order of Protection (as outlined above) is deemed valid and the deputy has probable cause that a violation of an Order of Protection has occurred, the deputy shall place the offender under arrest.
 - 2. Validating Orders of Protection: Attempts can be made to confirm the Order of Protection as you would a warrant. The department maintains a file of many but not all Orders of Protection. When a deputy comes in contact with a party suspected of violating an Order of Protection, verification of the order may be made by contacting dispatch.
 - 3. If unable to validate the Order of Protection an arrest may be made if the following criteria are found by the deputy and the deputy has probable cause:
 - a. The order gives the name of the parties.
 - b. The order contains the date the order was issued.
 - c. If the order has an expiration date and is not expired.
 - d. The order indicates against whom the order is to be enforced.
 - e. The order contains the name of the issuing court.
 - f. The order is signed by, or on behalf of a judicial officer.
- B. Deputies will obtain a copy of the Family Protection Order and attach it to the report.
- C. If deputies are at the scene of a domestic disturbance and the victim states that a

protection order has been filed but not served, deputies may then serve the petitioners copy to the respondent. The respondent shall be permitted to comply with the order and, if this is not done, an immediate arrest shall be made.

VIII. FOREIGN PROTECTIVE ORDERS

- A. All out-of-state Protective Orders shall be enforced as written, including provisions, which grant relief not available in New Mexico.
- B. All Foreign Protective Orders are presumed valid upon presentation to law enforcement officers. Foreign Orders do not have to be filed in District court to be valid and enforceable.
- C. Some Foreign Orders may have been filed in District Court and available for verification.
- D. Arrest Procedures for Foreign Protective Orders:
 - 1. When a Foreign Protective Order is presented to deputy by the complainant, the deputy shall:
 - a. Determine if the order is current.
 - b. Determine whether the conduct is prohibited by the order.
 - c. The deputy shall inquire if the order has been filed in the Court of Jurisdiction. If the order has been filed; it may be verified.
 - d. The deputy shall assume that the respondent was given notice of the Protective Order and its contents.
 - e. If the deputy has probable cause to believe that the Foreign Order has been violated, the deputy shall arrest for violation of the order and charge violation of order of protection 40-12-6. The same for a violation of a local order.

NOTE: FOR DIFFERENT REASONS, SOME FOREIGN PROTECTION ORDERS DO NOT HAVE EXPIRATION DATES ON THEM. EVEN THOUGH NO EXPIRATION DATE IS CONTAINED ON THE ORDER, THE DEPUTY SHALL ACCEPT THE STATEMENT (WRITTEN OR ORAL) OF THE COMPLAINANT THE ORDER IS CURRENT.

2. EMERGENCY ORDERS OF PROTECTION

Emergency Orders of Protection (EOP's) are domestic violence emergency orders that deputies may obtain outside the normal operational hours of District Court. The orders can be obtained telephonically from an on-call District Court Judge between the hours of 1700 on Friday through 1700 on Sunday. They can only be obtained on holidays that are in conjunction with a weekend. An EOP is good for only 72 hours from the date and time of issuance, or by 5 pm on the first full judicial business day, whichever comes later. For example, if a deputy obtained an EOP on a Thanksgiving Thursday, the EOP will still be in force until 5pm on Monday, since the court will be closed for four days. This is to ensure that a victim maintains emergency protection until they have the opportunity to go to District Court on a full judicial business day. If a domestic violence victim needs protection for a longer period of time, they must take their request personally to District Court.

1. Deputies will determine if an Emergency Order of Protection is appropriate based upon the following criteria:
 - a. Probable cause exists that domestic abuse has occurred.
 - b. Victim(s) wants an order of protection issued.
 - c. Victim and/or children are in danger of or believe there is a danger of another act of domestic violence.
2. If the above criterion exists, deputies need to complete 1 through 4 on the application for Emergency Order of Protection.
3. Deputies must contact a District Court Judge for approval of the EOP.
 - a. Deputies must provide the Judge with a brief description of the facts surrounding the incident and provide facts as to why the EOP should be approved.
 - b. If the Judge denies the EOP, deputies must indicate in their report the name of the Judge and the reason for the denial. The incomplete application does not have to be saved in this instance.
4. After approval by a Judge, deputies need to complete numbers 7 through 9 on the application indicating the Judge's approval. Deputies should circle on the application, in number 9, the manner by which they obtained approval. EOP's must be signed off by a supervisor prior to being submitted to the court.

5. EOP's are to be distributed as follows:
 - a. If the offender is present at the scene, deputies are to complete the proof of Service portion of the application and serve the offender with the pink copy.
 - b. The yellow copy is given to the victim.
 - c. If the offender has fled/left prior to the deputy's arrival and cannot be served, the offender's copy of the EOP shall be left with the victim so that the offender can be served when and if he/she returns.
1. A copy of the EOP must be delivered to dispatch as soon as possible but no later than the end of the deputy's shift so that the EOP and/or proof of service can be verified later by any other deputy or agency. This will assist others in knowing if service was completed or needs to be completed. Deputies shall include in their offense/incident report the fact that the order was provided to dispatch.
2. If you are a deputy responding to a call where an EOP has already been issued and the offender is present but has not yet been served, do the following:
 - a) Obtain the pink copy from the victim and serve the offender.
 - b) Complete a regular departmental return of service form.
 - c) Fax a copy of the return of service to dispatch as soon as possible, but not later than the end of the deputy's shift, in order that proof of service may be later verified by another deputy or agency.
 - d) Deputies must attach the Return of Service as the top page of their offense/incident report.
 - e) If the responding deputy learns that the call is just a follow-up to the original call and there has not been another instance of domestic violence/abuse, all the deputy needs to do is serve the offender, complete a Return of Service, and document the information on a supplementary report.
3. Deputies should proceed with criminal charges and/or arrests as they normally would in any other domestic violence situation. EOP's are just as enforceable as any other domestic violence order and violations are to be handled in the same manner as booking on a Temporary or Extended Order of Protection.
4. All other applicable procedures relating to Domestic Violence also apply to EOP's.

3. VICTIM/WITNESS ASSISTANCE

- A. The Department shall provide assistance to victims and witnesses of crime in cooperation with other states and local agencies and as provided for by State and local law.
- B. Confidentiality– The confidentiality of victims and witnesses will be maintained and their role in case development will be kept confidential to the extent consistent with applicable law.
- C. Information to be provided to victims and witnesses – At the time the initial/preliminary investigation is conducted, the primary deputy will provide victim and witnesses with the deputy's badge number, name and work phone number.
- D. A Domestic Violence Packet, as outlined in the Domestic Violence section of SOP.
- E. A number to call to report any additional information and/or to receive follow- up information about a case.
- F. The District Attorney's Victim Witness Assistance Program number for victims of violent crimes. The advocates can provide comprehensive victim assistance which includes emotional support, criminal justice information, assistance in filing Crime Victims Reparation applications for medical, funeral, and psychological counseling expenses, notification and support for next-of-kin, referrals and crisis intervention.
- G. If there are no leads at the time of the preliminary investigation, and the initial deputy is closing the case, pending further leads, deputies shall advise the victim of that fact so as to not give false hope to the victim.

XI. CIVIL SERVICE OF COURT ORDERS OF PROTECTION.

- A. Deputies shall serve District Court Orders of Protection under the following circumstances.
 - 1. Deputies at the scene of a domestic call can serve if requested to do so.
 - 2. If the petitioner requests that a deputy serves the order.
 - 3. The respondent (offender) must be physically served with the order.
 - 4. The petitioner must have a copy of the valid District Court Order in his possession.

5. Before serving the respondent with the court order, deputies will have communications contact with dispatch and determine if the order has already been served.
 - a. If service has not been made, deputies will promptly serve the Order of Protection on the respondent.
 - b. If service has been made and the Order of Protection prohibits the respondent from being on the premises, deputies shall arrest the respondent.
- B. Any deputy serving a Civil District Court Order as outlined above will fill out a "Sheriff's Return of Service" form and provide or fax a copy to dispatch, prior to the end of the officer's shift.
- C. The original "Return of Service" form will be attached to his/her report.

XII. FOLLOW-UP INVESTIGATION

- A. If a deputy or detective conducts a follow-up investigation the following information will be provided to the victim/witness either verbally or by using handout material.
 1. Update on case status.
 2. Explanation of process involved in prosecution of their case and their role in prosecution.
 3. Any additional requirements imposed on the victim/witness i.e., attending line-ups, interviews, etc.
 4. Means by which property taken as evidence may be returned and the times and location for the return of this property, if applicable.
 5. Availability of District Attorney Victim/Witness Assistance Program.

XIII. RESPONSE TO THREATS OR INTIMIDATION OF VICTIM/WITNESSES

- A. Victims and Witnesses will be advised to notify the department immediately, any time they are threatened or intimidated. Appropriate assistance will be provided to any victim/witness including, but not limited to:
 1. Advising the victim/witness on procedures and process for reporting, filing, and prosecuting intimidation of a witness/victim, as outlined in N.M. State Statue 30-24-3.

2. Initiating the appropriate investigation.
3. Advising the victim/witness of any additional services available.
 - a. Deputies will inform other agencies of threats or intimidation of a victim/witness, if necessary, when the victim/witness or suspect is located in a different jurisdiction.

NOTE CONCERNING GENERAL ORDER 2-28, DOMESTIC VIOLENCE

Domestic or family violence (including spouse abuse) has received widespread public attention as a serious social problem affecting people in all economic, social, and ethnic groups. Many law enforcement agencies consider violence within the family to be the most frequent and under-reported crime in the United States. Further, law enforcement personnel have found spouse abuse to be a difficult problem for the criminal justice system to handle effectively. Some have become frustrated, indifferent or even hostile after encountering victims who are repeatedly abused and do not press charges or return to the battering relationship. Still others hold onto faulty beliefs that victims really provoke the attack or masochistically enjoy beatings.

Persons who resort to violence do not always lack self-control: most try to dominate their partners. Stress, isolation, and family circumstances usually contribute to violence. Many researchers have described a cycle of violence involving three phases:

1. During the tension-building phase, the victim tries to keep the peace, but is subjected to increasing verbal threats.
2. The acute battering phase occurs when the perpetrator violently assaults the victim.
3. In the loving respite phase, the abuser changes behavior and acts remorseful and loving. Both abuser and victim may believe the abuse will never recur. As the cycle continues, this phase becomes shorter and may entirely disappear.

The patrol deputy who responds may find the disputants in any one of these phases. The deputy must be aware of this cycle in order to respond appropriately and effectively. Alcohol and drug abuse frequently figure in cases reported to law enforcement agencies.

Policy-makers should know that recent studies of law enforcement responses to domestic violence do not necessarily agree on the appropriate guidance to communicate to deputies through written policy. For example, one recent study has concluded that victims of domestic violence are less likely to be repeat victims if they seek help through the legal system. Law enforcement personnel must know that abuse often begins as a threat or a shove but escalates into repeated beatings causing serious physical injury. If effective intervention does not occur, the abuse continues, and, in some cases, it may lead to homicide.

Yet the precise nature of law enforcement intervention is not easy to gauge. Different approaches, whether mediation, arrest, or some other solution all appear to have different outcomes depending on the particular suspects, communities, and other characteristics. Some studies have revealed that the deterrent effect of arrest is least among the unemployed. Although the current trend supports mandatory arrest policies, law enforcement executives should know that research remains inconclusive. Whatever policy guidance executives provide for their personnel, they should regard as experimental and subject to change.

The best basis upon which to devise policy is to analyze past domestic violence cases. Field deputies are best served by accurate information. Deputies dispatched to domestic violence incidents, therefore, should know if they are dealing with chronically violent people. They should respond fully aware of a violent household's history so that they can adjust their behavior accordingly.

The DCJS model policy promotes arrest when the legal elements of the offense are present. Deputies are not precluded from making additional decisions concerning the victim or future incidents involving the same people. In developing policy, law enforcement administrators must consult with social service agencies and prosecutors to develop a unified approach to local problems.

Regarding Inquiry Into Immigration Status

- A. Luna County Sheriff's Deputies **shall not** inquire into a person's immigration status, except under the following circumstances:
1. When conducting a criminal investigation of a suspect based on reasonable suspicion that the suspect has engaged in criminal activity; or
 2. When arresting a suspect for a criminal violation pursuant to a valid warrant or established probable cause.
- B. A person's presence in the United States without proper documentation or authority, standing alone, is not a criminal violation. Therefore, if during a criminal investigation or arrest, as set forth above a Deputy obtains information that calls into question whether the suspect is present in the United States without proper documentation and authorization, the Deputy shall contact the United States Border Patrol to advise of the immigration issue concerning the suspect. After providing such information to the United States Border Patrol, the Deputy should proceed as follows:
1. If the suspect is not being arrested, then Sheriff's Deputies shall not detain the suspect for any period of time longer than necessary to complete the Deputies' criminal investigation and to take any appropriate enforcement action for any criminal violations by the suspect, including traffic violations, unless the United States Border Patrol, or another Federal agency, provides the Deputy with information that the suspect has committed a criminal violation under the Federal law and therefore is subject to a "hold". In such cases, the Deputy shall hold the suspect for the United States Border Patrol, or another Federal agency with federal criminal enforcement authority; or
 2. If the suspect is being arrested, the suspect shall be processed in the normal manner for all other suspects committing similar offenses, without regard to the suspect's immigration status. If the arrested suspect is otherwise subject to release, the suspect may only be held if the United States Border Patrol, or some other Federal agency, provides the Deputy with information that the suspect has committed a criminal violation under Federal law and, therefore, is subject to a "hold". In such cases, the Deputy shall hold the suspect for the United States Border Patrol or other Federal agency with federal criminal enforcement authority.
- C. Luna County Sheriff's Deputies shall not stop, investigate, detain or question a person solely for the purpose of determining whether such person is in the United States without authorization and proper documentation.
- D. If a reporting party provides information to a Luna County Sheriff's Deputy concerning the alleged undocumented alien status of another person, but does not otherwise offer any reliable, trustworthy information that such person has committed or is committing any criminal offenses, the Deputy shall not take any further investigative steps. Instead, the

reporting party shall be referred to the United States Border Patrol with such information.

- E. Traffic stops, saturation patrols, criminal warrant sweeps, “knock and talks” and traffic roadblocks shall be used for the sole, law enforcement purpose of enforcing applicable criminal and traffic laws and ordinances. Such enforcement and investigative techniques shall not be used for the purpose of determining any person’s immigration status. If immigration status, all subsequent actions by the Deputy shall be in accordance with this policy, B (1) and B (2).
- F. The policy of the Luna County Sheriff’s Office is to encourage victims of crime to come forward and fully report criminal activity without fear of retribution. Consequently, a Deputy shall not inquire into a crime victim’s immigration status, including victims of domestic violence, victims who are being treated by medical personnel or any other victim of a crime.
- G. This policy is not intended to, nor does it change the Luna County Sheriff’s Office’s cooperation and coordination with Federal, State, County and City agencies and departments to enhance border security by increasing law enforcement presence and enforcing criminal laws. The Luna County Sheriff’s Office shall continue to utilize State and Federal grants to fund overtime, purchase equipment, conduct training and otherwise provide for increased law enforcement presence and the enforcement of criminal laws in cooperation with other law enforcement agencies and departments in accordance with existing agreements and operation plans.
- H. The Healing House is the Domestic Violence Shelter currently operated as a program within Luna County. Clients served by the Healing House shall be treated as directed by this policy.
- I. It shall be the policy of the Luna County Sheriff’s Office to allow any citizen of a foreign country to contact his/her consulate within a reasonable period of time upon being arrested and charged with a criminal act by a Deputy Sheriff. The Deputy Sheriff shall take all reasonable steps to comply with terms of any and all international treaties governing the treatment of foreign citizens accused of violations of law.

Services for Non-English-Speaking Persons

The Luna County Sheriff's Office commits to providing meaningful access to its services for all persons, regardless of language or English proficiency.

"Limited English Proficiency" is defined as the inability to speak, read, write, or understand the English language at a level that permits individuals to interact effectively with personnel.

"Competent Interpreter" is defined as a person with proficiency in both English and the language of the client who has a commitment to confidentiality, ethics, and an understanding of the boundaries of the role of the interpreter. All efforts shall be made to provide a confidential, competent interpreter who has no other relationships with the client. Family members, friends, children, or other clients should not be used as interpreters.

Deputies, upon contact with a "LEP" person shall identify the assistance needed and contact Central Dispatch in assisting to find an interpreter. Upon locating an interpreter, the Deputy shall continue collecting the information and advising the caller as stated in the SOP's.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Towing/Wreckers	NUMBER: 2-29
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Inventory (of vehicles)
Towing

I. POLICY

Deputies must understand when the towing and storage of vehicles is appropriate and legal. Whenever possible, owners or operators of vehicles for which towing is required will be encouraged to specify a towing service of their own choice. When required, the deputy shall summon a tow truck, unless a specific request for a particular tow service has been made by the owner or operator of the vehicle to be towed.

II. PURPOSE

To establish procedures for towing vehicles.

III. PROCEDURES - GENERAL

- A. Accident: Any vehicle involved in an accident shall be removed to the shoulder of the road or elsewhere as soon as possible after necessary accident investigation information has been obtained. Vehicles shall be removed from the shoulder without unnecessary delay.
 1. Vehicles may be removed to the shoulder of the road or other legal parking spot which does not obstruct or impede vehicle travel on the roadway. Deputies shall not push cars with department vehicles unless they are equipped to so and only in an emergency situation.
 2. If this is not possible, and a traffic hazard is created, the deputy may order towing of the vehicle at the owner's expense.

- B. Emergency: Any vehicle found illegally parked in the vicinity of a fire, traffic or airplane accident or area of emergency which creates a traffic hazard or interferes with the necessary work of law enforcement, fire, or other rescue workers may be ordered towed, at the expense of the owner, by a deputy. Vehicles being used by radio, T.V., and press are exempt unless they obstruct law enforcement, fire, or rescue operations.
- C. Impeding/danger to traffic: No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the highway by others, except in cases of mechanical breakdown or accident. If a disabled vehicle is not promptly removed and creates a traffic hazard, the deputy may order the vehicle towed at the expense of the owner.
- D. State/county/municipal vehicles: Paragraphs A, B, and C above shall not apply to any vehicle owned or controlled by the state or a local unit of government while actively engaged in construction or highway maintenance.
- E. Blocking driveway or parking area: Any deputy discovering or having report of any motor vehicle, trailer, or other vehicle blocking a driveway or parking area, or obstructing or interfering with the movement on any driveway or parking area without the land owner's permission may order the vehicle towed at the expense of the owner of the vehicle.
- F. Unattended traffic hazard/violation of law: Deputies may tow any motor vehicle found on a public street or grounds unattended by the owner/operator that constitutes a traffic hazard or is parked in such a manner as to be in violation of the law.
- G. Unattended vehicle: Whenever any motor vehicle is left unattended for more than ten days upon any public or privately-owned property other than the property of the vehicle owner, the deputy may order it towed at the expense of the owner of the vehicle.
- H. Abandoned vehicle: Whenever any motor vehicle is abandoned upon public or privately-owned property, without the permission of the owner, lessee, or occupant thereof, the deputy may order it towed at the expense of the owner of the vehicle. A vehicle may be presumed to be abandoned if (1) it lacks either (a) a current license plate; (b) a current county, city or town tag or sticker; or (c) a valid state inspection; (2) it has been in a specific location for ten days without being moved.
- I. Removal from private property.

1. No removal shall be ordered from private property under subparagraphs G and H above without receiving a written request of the owner, lessee, or occupant thereof. Such request shall indemnify the city against any loss incurred by reason of removal, storage, or sale thereof.
 2. Property owners, etc., may act immediately to have vehicles towed which are occupying a lot, area, space, building or part thereof without their permission.
- J. Evidence/crime involvement: Vehicles that are of an evidentiary value or involved in the commission of a crime shall normally be towed at the request of the deputy to the department compound at the Sheriff's Office's expense. Due to the expenses incurred with such a tow, an administrator shall be contacted for authorization.
- K. DWI vehicles: A vehicle driven by a DWI suspect that is legally and safely parked shall be locked and left there if the suspect consents. The suspect may turn the keys over to a friend or relative who will move the vehicle, or the suspect may request the vehicle be towed by a particular garage. If the suspect (1) does not consent to locking and leaving a legally and safely parked vehicle, or (2) refuses to allow a friend or relative to move the vehicle, or (3) does not request a particular tow service to move an illegally parked or hazard-creating vehicle, the deputy may order it towed for safekeeping at the owner's expense.

IV. TOWING PROCEDURES

- A. Deputies shall know under which provisions (subparagraphs A-K above) the vehicle shall be towed.
- B. Preferably, the vehicle owner/operator will name the towing company to be used.
- C. If the owner/operator does not wish to specify a towing firm or is not available to make a choice, normally the deputy shall ask the dispatcher to send a wrecker.
- D. In an emergency involving major traffic congestion, the deputy shall so notify the dispatcher and shall request a wrecker.
- E. If the vehicles involved are larger than normal passenger vehicle or pickup size, the deputy shall so advise the dispatcher who has a separate list of specially equipped wrecker services.
- F. Dispatchers shall log a notification on their report whenever a tow service is requested. The time the dispatcher called the tow service shall be recorded.

- G. When the wrecker arrives on the scene, the deputy shall advise the dispatcher of time of arrival and any other subsequent problems.
- H. Dispatchers shall be notified of all vehicles being towed by deputies or owners of private property and shall record date, time, place towed from and to, license number, make or model, and color of vehicle in the towed vehicle log.

V. INVENTORY

- A. Vehicles that are towed at the request of the owner/operator or vehicles that are left legally parked shall not be inventoried. Deputies are reminded of the "plain view doctrine" and the limitations upon the authority to search incidental to a lawful arrest. See General Order 2-1 & 2-5 for further details.
- B. A vehicle inventory/tow sheet shall be completed when a deputy assumes responsibility for towing a vehicle and shall complete an inventory before allowing the wrecker driver to pull the vehicle.
- C. Before the vehicle is removed, deputies shall obtain the signature of the tow truck driver on the tow sheet and provide the tow driver a duplicate copy of the form.
- D. Deputies shall turn in original copy of tow sheet with their offense/incident report.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Communicable Disease	NUMBER: 2-30
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

AIDS

Acquired Immune Deficiency Syndrome

Communicable Diseases

Diseases

Evidence

possibly contaminated

Exposure control program

(communicable diseases)

HBV

Hepatitis B

HIV

Human Immunodeficiency Virus

Infectious diseases

Training;

responsibilities concerning

infectious diseases

Tuberculosis

I. POLICY

The department bears an obligation to the public and to its own personnel to increase awareness about risks, modes of transmission, and procedures for handling communicable diseases such as hepatitis B, tuberculosis, HIV (Human Immunodeficiency Virus) and AIDS (Acquired Immune Deficiency Syndrome), and AIDS-related infections. Although, of the diseases mentioned, AIDS has received the most notoriety, all present hazards to law enforcement personnel: hepatitis B and tuberculosis are more infectious than HIV, for example.

All personnel must understand that the focus of the news media on AIDS has dealt with so-called "high risk" groups, i.e., homosexual men, intravenous drug users, and prostitutes. As a matter of practice, the department does not recognize high-risk groups since health and legal experts maintain that the actual risk of contagion comes from high-risk behavior. Anyone-including members of the department-might conceivably behave in a way that promotes risk of infection. Further, the long incubation periods associated with diseases such as HIV (years) render testing difficult.

Accordingly, deputies shall act responsibly in minimizing the risk of infection when dealing with any person, male or female, child or adult, or with any body fluids. A few simple precautions, however, will avoid the risk of infection almost entirely. The appendix to this general order details common AIDS concerns of personnel plus relevant medical information.

Deputies cannot refuse to work with or handle anyone-victim, complainant, or suspect-because of the deputy's fears of possible infection. Personnel shall not refuse to arrest or otherwise refuse to handle any person in a legitimate law enforcement context, provided that appropriate protective equipment is available. The measures provided herein will assist deputies in carrying out their duties while simultaneously minimizing health risks.

The most likely danger from contact with HIV or other communicable diseases comes from

handling blood or other body fluids as evidence or at the scene of injury or death. The department does expect deputies to exercise caution when handling evidence, to which end the following procedures are set forth. One point bears repeating, however: deputies have no way to determine with certainty if a citizen is infected with a communicable disease.

The department shall provide employees, continuously, with information and education on prevention of communicable diseases, as well as safety equipment and procedures to minimize their risks of exposure. The department has instituted post-exposure reporting, evaluation, and treatment for all members exposed to communicable diseases.

Finally, the department advises all personnel that they shall not receive discriminatory treatment nor bear any stigma if they contract a communicable disease which becomes known to the department.

The department expects deputies to become educators in their law enforcement work. Deputies can advise children, drug users, or prostitutes of the risks of infection and can further distribute educational literature.

Additionally, deputies may refer citizens to health agencies such as the American Red Cross and the local health department. Department personnel, then, may set an example in demonstrating rationality and confidence in dealing with communicable diseases.

II. PURPOSE

The purpose of this order is to establish guidelines and procedures to be followed when a member of the department is exposed to a communicable disease with a risk of major illness or death, and for handling of evidence or property that may be contaminated.

III. DEFINITIONS

- A. Communicable disease - an infectious disease capable of being passed to another by contact with an infected person or his/her body fluids or on an object.
- B. HIV Human Immunodeficiency Virus 1 - is the virus that causes AIDS. HIV infects and destroys certain white blood cells, undermining the body's ability to combat infection. (Also named HTLV-III or LAV). Technically speaking, this general order aims to reduce the chance of HIV transmission, the virus that causes AIDS. HIV is transmitted through very specific body fluids, including blood, semen, vaginal fluids, and breast milk.
- C. ARC (AIDS - related complex) - is a condition caused by the aids virus (HIV) and has a specific set of symptoms. Such symptoms include persistent fever, weight loss, skin rashes, diarrhea, and swollen lymph nodes. Although these symptoms may be debilitating, they are generally not life-threatening.

- D. AIDS Acquired Immune Deficiency Syndrome 1- is a blood borne and sexually-transmitted disease that attacks and destroys the body's immune system. It makes people susceptible to infections, malignancies, and diseases not generally life-threatening to persons with normal immune systems. AIDS also causes disorders of the central nervous system. There is no vaccine against the virus. Personnel are advised that AIDS is not transmitted through any of the following (according to the Centers for Disease Control):
1. Sneezing, coughing, spitting;
 2. Handshakes, hugging, or other nonsexual physical contact;
 3. Toilet seats, bathtubs, or showers;
 4. Various utensils, dishes, or linens used by persons with AIDS;
 5. Articles worn or handled by persons with AIDS, i.e., doorknobs, pens, or cups;
 6. Being near someone with AIDS frequently or over a long period of time;
 7. Riding the same transportation;
 8. Eating in the same public place with an AIDS- infected person; or
 9. Working in the same office.
- E. Seropositivity - refers to a person having antibodies to HIV, meaning that infection has occurred at some time in the past. A seropositive person can be infected with HIV for years without ever developing symptoms of AIDS. Infected persons can transmit the virus even though they may not have symptoms of AIDS.
- F. Hepatitis B (HBV) - is a viral infection that can result in jaundice, cirrhosis, and, sometimes, cancer of the liver. The virus is transmitted through exposure to blood, semen, vaginal secretions, breast milk, and possibly saliva. Two vaccines are currently available against hepatitis B [Recombivax (synthetic) or Heptivax (serum derived)].
- G. Tuberculosis - is a bacterial disease that can be transmitted through saliva, urine, blood, and other body fluids by persons infected with it. Tuberculosis is spread primarily by inhaling airborne droplets from infected coughing people. It can enter the body through infected mucous on the skin (as from coughing or sneezing) or from droplets that are inhaled. It is an airborne, opportunistic disease and it primarily causes lung infection. Although no vaccine against tuberculosis exists, medications are available to treat the disease.

- H. Exposure control program - is a written agency plan, available to all employees, which details the steps taken to eliminate or minimize exposure incidents, and identifies at-risk tasks and assignments.
- I. Personal protective equipment (PPE) - consists of specialized clothing or equipment worn or used by employees for protection against infection. PPE does not include uniforms or work clothes without special protective qualities.
- J. Universal precautions - includes controls or procedures advised by the Centers for Disease Control (CDC) that emphasize precautions based on the assumption that blood and body fluids are potentially infectious.

IV. GENERAL RESPONSIBILITIES

- A. The sheriff shall develop a written exposure control plan which provides the overall strategy for limiting exposure to HIV and HBV viruses, and for handling exposure incidents. The plan is available to all employees and may be reviewed upon request to their immediate supervisor.
 - 1. The plan adheres to the principles and procedures for the prevention of HIV and HBV exposure as detailed in the universal precautions prescribed by the CDC plus other federal agencies.
 - 2. All employees, and supervisors particularly, are responsible for the maintenance of a clean, sanitary workplace, and shall inspect workplaces daily to ensure that these conditions are met.
 - a. All supervisors shall develop and implement written schedules for cleaning and decontamination of equipment and workplaces.
- B. The sheriff shall ensure that adequate supplies are available for communicable disease control within the department. Supervisors are responsible for maintaining continuously an adequate supply of disease control supplies for all affected personnel within their purview. Further, supervisors must ensure that:
 - 1. Personal protective equipment (PPE) can be found in sufficient quantities at advertised locations.
 - 2. Hypoallergenic gloves and other materials are available for employees allergic to standard-issue gear.
 - 3. Supplies are routinely inspected, replaced, cleaned.
 - 4. First aid supplies and disinfectants are available always.

- C. The sheriff, through his subordinate supervisors, shall ensure that the department vehicles will each contain the following PPE supplies at all times:

- 3 pairs of disposable latex gloves
- 1 pair leather gloves
- 1 disposable face mask
- 6 absorbent disposable towels
- 3 disposable plastic bags with contaminated material seals
- 1 bottle of alcohol-based cleanser
- 1 CPR shield (with a 1-way valve to prevent the patient's saliva from entering the caregiver's mouth)
- 1 pair of wrap-around safety goggles
- 1 carrying bag with zipper closure
- 1 pair disposable shoe coverings
- 2 puncture-resistant, leak-proof containers for needles and other sharp objects
- 1 box of waterproof bandages
- "Isolation Area-Do Not Enter" signs

- D. Deputies using supplies in their vehicles shall replace them or arrange to have them replaced as soon as possible. Deputies shall maintain disposable gloves in their personal possession at all times.

- E. The sheriff or his designee shall cause to be maintained at the department office the following:

- 3 pair coveralls (different sizes)
- supply of disposable latex gloves
- orange/red plastic biohazard bags and tape, or plastic bags and sealing ties
- liquid household bleach
- disposable towels/towelettes
- "Isolation Area - Do Not Enter" signs
- buckets, mops

- F. Personnel shall use protective equipment under all appropriate circumstances unless the deputy can justify otherwise.

1. Deputies who, for whatever reason, do not use protective gear when appropriate shall document the incident as soon as practicable for department review.

- G. All personnel whose skin comes into contact with body fluids of another shall begin

disinfection procedures immediately: these procedures range from simple soap- and-water washing to the use of alcohol or antiseptic towelettes. All open cuts and abrasions shall be covered with waterproof bandages before personnel report for duty.

V. GENERAL PRECAUTIONS

A. General: Whenever possible, deputies shall wear disposable latex gloves when doing any of the following:

1. Handling persons or items with any blood or body fluid products (hypodermic needles, syringes, or surfaces soiled with blood or body fluids, gun or knife wounds).
2. Packaging and handling such items as evidence.
3. Cleaning up blood or other secretions which appear on floors, seats, equipment, handcuffs, shoes, clothing, pens, pencils, etc.

B. Specialized devices:

1. Masks shall be worn whenever splashes, spray, spatter, or droplets of potentially infectious fluids endanger contamination through the eyes, nose, or mouth. Masks may be worn with other protective devices such as goggles.
2. Gowns, jackets, coats, aprons shall be worn as determined by the degree of exposure anticipated.

C. Handling people:

1. Wash hands thoroughly for thirty seconds with warm water and soap after removing gloves (when handling evidence) or after contact with the subject (if bleeding or vomiting). If water is unavailable, use pre-moistened towelettes found in the communicable disease control kit to decontaminate skin.
2. Leather gloves or their equivalent shall be worn when searching persons or dealing in environments, such as accident scenes, where sharp objects and bodily fluids may reasonably be encountered. Search techniques shall be used that require suspects to empty their own pockets or purses and remove sharp objects from their persons. *Remember: Never put your hands where your eyes cannot see.*
3. When transporting prisoners:

- a. Do not put fingers in or near any person's mouth.
- b. Transport persons with body fluids on their persons in separate vehicles from other persons. A person who is bleeding or producing a fluid may have to wear a protective covering.
- c. Notify other support personnel or law enforcement personnel during a transfer of custody that the suspect has fluids on his or her person, or that the suspect has stated that he or she has a communicable disease. Booking forms should so state.

D. Handling objects:

- 1. Objects contaminated with body fluids shall be completely dried, double bagged, and marked to identify possible disease contamination.
- 2. Contaminated items to be disposed of shall be autoclaved.
 - a. To autoclave, items must be treated in special (biohazard) bags at a high temperature. Local laboratories or hospitals can assist.
 - b. Before burning, the bags must be closed with autoclave tape, which turns purple when the microbes are dead.
- 3. Deputies shall use extra care when handling any sharp objects. If deputies find syringes, they shall not bend, recap, or otherwise manipulate the needle in any way, but shall place them in puncture-resistant containers provided by the department.

E. Handling fluids:

- 1. Clean up blood spills or other body fluids with regular household bleach diluted 1 part bleach to 10 parts water (or use undiluted bleach, if easier). Bleach dilutions should be prepared at least every 24 hours to retain effectiveness.
 - a. Wear latex gloves during this procedure.
 - b. A soiled uniform (by blood or body fluids) should be changed as soon as possible. Wash in hot water and detergent or dispose of after autoclaving.
- 2. Departmental vehicles within which body fluids are spilled require immediate disinfection procedures. Employees who have the vehicles assigned to them shall notify their supervisor of the spill and arrange for a thorough cleaning as soon as possible. Affected vehicles should bear an

"Infectious Disease Contamination" sign upon arrival at a service center and while awaiting disinfection.

- a. All department vehicles will be cleaned with disinfectant as part of a routine, scheduled washing and maintenance check.

F. Precautions when bitten:

The danger of infection through bites is low. The victim cannot be infected with HIV through the blood of the biting person unless that person has blood in his or her mouth which comes into contact with the victim's blood, HIV cannot be transmitted through saliva. With HBV, however, transmission takes place through infected blood or blood-derived body fluids. Infection takes place by exposure of the eyes, mouth, or mucous membranes to the virus. Precautionary procedures to minimize the risk of infection include:

1. Encouraging the wound to bleed by applying pressure and gently "milking" the wound.
2. Washing the area thoroughly with soap and hot running water.
3. Seeking medical attention at the nearest hospital (if the skin is broken).
4. Advising your supervisor, make a report, or follow any other policy for reporting injuries, including the filing of appropriate Worker's Compensation forms.

G. Precautions when punctured by needles or knives:

If a deputy is cut or punctured by a needle or a knife or other instrument while searching a suspect or handling contaminated evidence, follow these general guidelines:

1. Allow the wound to bleed (unless severe bleeding occurs) until all flow ceases. Then cleanse the wound with alcohol-based cleanser (or pre-moistened towelettes) and then with soap and water. Do not rely exclusively on towelettes: wash wounds thoroughly with soap and water.
2. Seek medical attention as soon as possible after the injury. A physician will then decide the proper treatment.
3. Advise your supervisor, make a report, or follow any other policy for reporting injuries, including the filing of appropriate Worker's Compensation forms.

H. Precautions at major crime scenes:

At the crime scene, deputies and crime scene technicians confront unusual hazards, especially when the crime scene involves violent behavior such as homicides where large amounts of blood have been shed.

1. No person at any crime scene shall eat, drink, smoke, or apply make-up.
2. The best protection is to wear disposable latex gloves. Any person with a cut, abrasion, or any other break in the skin on the hands should never handle blood or other body fluids without protection. *Deputies should carry latex gloves on their persons at all times.*
3. Latex gloves should be changed when they become torn or heavily soiled or if a deputy leaves the crime scene (even temporarily).
4. If cotton gloves are worn when working with items having potential latent fingerprint value, wear cotton gloves over latex gloves.
5. Hands should be washed after gloves are removed, even if the gloves appear to be intact. Deputies shall take care to avoid contact between skin and soiled gloves.
6. Always keep a plastic bag in the communicable disease control kit to be used only to collect contaminated items (gloves, masks, etc.) until they can be disposed of properly. Clearly mark the bag "Contaminated Material."
7. Shoes and boots can become contaminated with blood. Wash with soap and water when leaving the crime scene, or use protective disposable shoe coverings.
8. Wrap-around eye safety goggles and face masks should be worn when the possibility exists that dried or liquid particles of body fluids may strike the face. Particles of dried blood, when scraped, fly in many directions, so wear goggles and masks when removing the stain for laboratory analysis.
9. While processing the crime scene, be constantly on the alert for sharp objects, such as hypodermic needles, razors, knives, broken glass, nails, etc. Use of mirrors may be appropriate while looking under car seats, beds, etc.
10. Use tape-never metal staples-when packaging evidence.
11. If practicable, use only disposable items at a crime scene where blood or other body fluids are present. Even those items (gloves, masks, shoe coverings, pens, pencils, etc.) must be decontaminated before disposal. If

autoclaving is not possible contaminated items must be covered with a bleach solution (one part bleach to ten parts water, or undiluted bleach).

12. Before releasing the crime scene, advise the owner of the potential infection risk and suggest that the owner contact the local health department for advice.
13. Warning labels must be placed on all plastic evidence bags to go to the crime laboratory.

VI. VACCINATIONS

- A. The department affords all employees who have occupational exposure to hepatitis B the opportunity to take the HBV vaccination series at no cost within 10 working days of assignment to an occupationally exposed duty. The vaccination shall be provided only after the employee has received departmental training in communicable diseases, is medically fit for the vaccinations, and has not previously received them.

VII. OCCUPATIONAL EXPOSURE TO COMMUNICABLE DISEASES

A. Notification:

1. All employees shall, as soon as practicable, document possible exposure to infectious fluids or materials. In any case, employees shall immediately notify their supervisor of possible exposure.
2. Examples of such exposure are:
 - a. Direct contact with body fluids on chapped or open areas (cuts, scratches) on the skin or on mucous membranes (i.e., eyes, mouth).
 - b. Direct mouth-to-mouth resuscitation (CPR) without use of a one-way valve.
 - c. Receiving a cut or puncture wound as a result of searching or arresting a suspect or handling contaminated evidence.

B. Testing:

If a member of the department is exposed to the body fluids of a person who has or is suspected to have a communicable disease, the member must be evaluated for evidence of infection by the department physician.

1. The person whose body fluids came into contact with a deputy may state that he or she has AIDS. Often, a person may try to prevent a deputy from

having blood for alcohol/drug screening (as in a DWI arrest), although, in fact, he or she is not infected at all. While the department cannot coerce a citizen-suspect or otherwise-to take periodic tests for infection, the department shall try to convince the citizen who may have transmitted infection to do so.

2. Personnel should understand the difficulty of transmitting HIV and hepatitis B. If infection control measures have been followed, the risk is very low.
- C. Testing for presence of infection shall be done if indicated by a medical assessment (after an incident involving the possible transfer of blood or other body fluids). The following information details testing methods and their reliability.
1. AIDS/ARC/HTV:
 - a. Blood tests can detect HIV antibodies (produced by the body's immune system),
 - b. The two common tests for HIV antibodies are the ELISA (Enzyme-Linked Immunosorbent Assay) and the Western Blot. Since the ELISA is less expensive and easier to perform, it is usually used as a first screen for HIV. If the ELISA identifies the person as seropositive, a second ELISA is performed. If the second test is also positive, a Western Blot is usually performed to confirm the results.
 - c. Since HIV antibodies may not develop for some months after a person has been infected, an initial negative result may not mean freedom from infection. Typically, three to six months elapse following an infection for a positive reaction to occur. High false positive rates also occur with the use of only ELISA test.
 - d. One must be tested, then, immediately following the incident (for a baseline) and then six and twelve months later.
 - e. The department shall ensure that the employee receives qualified counseling during the testing period.
 - f. The New Mexico Public Health Department provides free confidential or anonymous testing (both ELISA and Western Blot) in every health district. The results are given only to the person tested. State law provides confidentiality and prescribes a penalty.
 2. Hepatitis B - A blood test can confirm the presence of hepatitis B virus six to eight weeks after exposure. Note that different tests exist for hepatitis B depending on the reason for testing. See Section VI above.

3. Tuberculosis - This disease is detected first by a skin test, and then confirmed by an x-ray. The department physician can order this test for the department employee. (Some local health departments may do the test.)

D. Confidentiality:

Confidentiality of information concerning test results is paramount. The victim has a right to privacy in employer-maintained information about his/her health. No need exists for a supervisor routinely to know that a person tests positive (for HIV or hepatitis B). The department views a breach of confidentiality as a serious disciplinary problem which may result in suspension or termination of employment.

1. Under most circumstances, medical authorities will retain confidential records unless the employee tested requests it or state law requires it.

E. Positive test results:

1. Any person who tests positive for HIV or hepatitis B shall not be summarily removed from duty. The department shall make no restrictions simply because of diagnosis. These diseases are not spread by casual contact (as between coworkers in the department). The department shall alter an employee's assignment only when he or she can no longer perform the required duties.
 - a. The department shall ensure continued testing, if necessary, of members for evidence of infection, and shall provide psychological counseling if necessary.
2. Any person who tests positive for tuberculosis may be restricted from working for a period of time. The medical evaluation will determine the stage and type of disease the person has contracted and if he/she is contagious. A tuberculosis-infected person requires medication and shall not return to work until the doctor says he/she is non- communicable. (Tuberculosis is easily transmitted and incidence has recently shown a slight increase. After exposure to tuberculosis, a person may, after a medical evaluation, take medicine to help prevent the disease.)

F. Job performance:

1. Communicable disease: Infected employees shall continue working as long as they maintain acceptable performance and do not pose a safety or health threat to themselves or others in the department.
 - a. Where feasible, an employee who has medical complications from a communicable disease will either be reassigned to another job or

have his/her job restructured so that he/she can remain employed. As necessary, medical documentation shall support requests for job restructure or reassignment. All personnel shall treat such employees in the same manner as employees who suffer from other serious diseases or handicaps: that is, fairly, courteously, and with dignity.

- b. The department may require an employee to be examined by the department physician to determine if he/she is able to perform his/her duties without hazard to him/herself or others.

G. Federal law:

Employees infected by communicable diseases are generally protected by the Federal Rehabilitation Act of 1973. (A medical standard that is not job-related constitutes a prohibited personnel practice.)

H. Discrimination:

The department expects all personnel to continue working relationships with any fellow employee recognized as having AIDS/ARC, hepatitis B, or non-communicable tuberculosis. The department will consider appropriate corrective or disciplinary action against an employee who threatens or refuses to work with an infected employee or who disrupts the department's mission.

I. RECORDS

The agency maintains a record for each employee detailing incidents of occupational exposure, including information on vaccination status; the results of examinations and tests; health care professionals' written opinion; and any other relevant information. These records are retained by the sheriff in secure storage for the duration of tenure of employment plus 30 years, and shall not be disclosed or reported without the express written consent of the employee.

VIII. TRAINING

- A. Education on communicable diseases shall be continuous in the department. The training deputy shall ensure that all members of the agency with occupational exposure shall receive a course of instruction on blood borne diseases before their initial assignment. Further, each affected employee will receive annual refresher training plus any additional training appropriate to the particular employee assignment.
- B. The training deputy shall retain complete records on instruction of employees to include dates of training; content of sessions; names and qualifications of trainers. Names and job titles of attending employees.

- C. The training deputy is responsible for dissemination of updated information to all personnel and for appropriate educational programs about communicable diseases. These programs shall include at a minimum:
1. Written information concerning AIDS/ARC/HIV, hepatitis B, and tuberculosis in the form of brochures, bulletins, memorandums, or fact sheets.
 2. Group and/or individual presentations and discussions provided by adequately trained personnel or experts from outside the department.
 3. Local resources for further medical and law enforcement information.
 4. For more information, personnel may at any time contact:
 - a. National Hotline for AIDS, 1-800-342-AIDS
 - b. AIDS Info Hotline, 1-800-545-2437
 - c. AIDS Update (Dept. of Health and Human Services), 1-505-476-8475
 - d. AIDS Clearinghouse (America Responds to AIDS) 1-800-342-7514
 - e. National Institute of Justice AIDS Clearinghouse, 1-301-251-5500
 - f. State and local public health department
 - g. Local American Red Cross
 - h. Forensic laboratories
 - i. Vendors

EXAMPLES:

-Gall's (vendor for Communicable Disease Control Kit)

1-800-524-4255

-Baxter Healthcare Corporation (vendor for autoclave bags and tape)
Baxter Healthcare Corporation

1-800-638-2813

APPENDIX TO GENERAL ORDER 2-30

AIDS-RELATED CONCERNS OF PERSONNEL

ISSUE

INFORMATION

Human Bites

A person who bites is typically the one who gets the blood; viral transmission through saliva is highly unlikely. If bitten by anyone, gently milk wound to make it bleed, wash the area, and seek medical attention.

Spitting

Viral transmission through saliva is highly unlikely.

Urine/feces

Virus isolated in only very low concentrations in urine; not at all in feces; no cases of AIDS or HIV infection associated with either urine or feces.

CPR/first aid

To eliminate the already minimal risk associated with CPR, use masks/airways; avoid blood-to-blood contact by keeping open wounds covered and wearing gloves when in contact with bleeding wounds.

Body removal

Observe crime scene rule: do not touch anything; those who must come into contact with blood or other body fluids should wear gloves.

Casual contact

No cases of AIDS or HIV infection attributed to casual contact.

Any contact with blood or body fluids

Wash thoroughly with soap and water; clean up spills with 1:10 solution of household bleach.

*Source: Adopted from:

AIDS and the Law Enforcement Officer: Concerns and Policy Responses by Theodore M. Hammett, Ph.D., National Institute of Justice, U.S. Department of Justice, June, 1987

NOTE CONCERNING GENERAL ORDER 2-30, COMMUNICABLE DISEASES

Sections VI. A and B of General Order 2-30 concern a department's handling of employees who may become infected with a communicable disease in the line of duty. As this order is written, departments may require employees to submit to testing after an accident has occurred in which an employee was bitten, cut, injured, or otherwise came into contact with body fluids of another person. Note that the order presumes that the department's health care insurer may require such testing. Law enforcement executives should understand, however, that the legality of such a requirement-that employees must undergo testing following an incident-is open to question. Executives must review, with competent legal help, the provision of their health care contract to decide whether or not they have the authority to order employees to submit to tests for communicable diseases.

Similarly, Section V.F.12 requires deputies, before releasing a crime scene to the owner of the property, to advise the owner of an infection risk and request that the owner contact the local health department for advice. Some law enforcement executives may feel that this provision as written may not go far enough to ensure that the owner does not become infected from fluids or materials left at the scene. Executives, then, should modify this provision to suit their own notions of appropriateness. At a minimum, however, deputies should always advise property owners or occupiers of the health risks.

The federal government requires many states, including New Mexico, to enact laws outlining requirements for minimizing employees' occupational exposure to blood borne pathogens. The 1991 regulations, published by the Occupational Safety and Health Administration (OSHA) require law enforcement managers, among others, to limit occupational exposure to blood and other fluids or materials that might aid the transmission of pathogens which cause disease or death. The regulations cover all employees who could be "reasonably anticipated" to come into contact with blood or other infectious materials. "Infectious materials" includes, for policy purposes, virtually any body fluid. To comply, law enforcement executives must undertake the following:

1. Develop a written exposure control plan. The plan must identify not only tasks and procedures but also job positions where occupational exposure to blood occurs, without regard to protective equipment or clothing. The plan must also include a schedule for implementing other provisions of the OSHA standard, and describe procedures for evaluating exposure incidents. The plan must be made available to employees-though not necessarily included in a policy-and it should be reviewed and updated at least annually.
2. Develop universal precautions. Universal precautions refer to treating all body fluids and associated materials as potentially infectious. Workplace controls should be articulated and implemented. Such controls include a requirement that employees wash hands, for example, when exposed to fluids. These controls should set forth procedures to require employees to undertake certain measures to minimize infection risks, such as when

punctured with needles, splashed with blood, as well as to ensure proper packaging and labeling of fluids and related materials. Employers must provide appropriate facilities for employees to exercise these controls.

3. Provide employees with personal protective equipment, at no cost, including gloves, masks, mouthpieces, and bags.
4. Develop a written schedule for cleaning and decontamination of equipment, specifying procedures to be followed upon contact with fluids or blood.
5. Provide vaccinations, at no cost to employees, against hepatitis B. The vaccinations must be made available to all employees who have occupational exposure to blood within 10 working days of assignment. Employees who refuse this service must sign a declination form, but may later opt to receive the vaccination.
6. Specify procedures to be made available to all employees who have had an exposure incident with the further proviso that any laboratory tests must be conducted by an accredited laboratory at no cost to the employee. The follow-up must include a confidential medical evaluation documenting the circumstances of the exposure, identifying and testing the source person, if available, plus testing of the employee's blood if he or she consents, and counseling and evaluation of any reported illnesses.
7. Affix warning labels or biohazard symbols to any containers or waste involving body fluids or associated materials.
8. Provide training initially upon assignment of personnel, and at least annually on blood borne pathogens. The training must include making accessible a copy of the OSHA regulations, and explanation of them, discussion of blood borne diseases and their transmission, the exposure control plan, workplace controls, personal protective equipment, exposure procedures, hepatitis B vaccinations, and labeling of materials. The training must include a question-answer session.
9. Maintain medical records for each employee with occupational exposure for the duration of their employment plus 30 years. The files must be strictly confidential and must include name. Social Security number, hepatitis B vaccination status (including dates), a copy of the healthcare professional's written opinion; and a copy of the information provided to the healthcare professional for evaluation. Further, medical records must be made available to the subject employee. Training records must also be kept for a minimum of three years and must include dates, contents of the training program or a summary, trainer's name and qualifications, names and job titles of all employees attending the sessions.

[Most of the above information on the OSHA regulations comes from "Occupational Exposure to Blood borne Pathogens; Final Rule- 29 CFR Part 1910.1030.]

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Civil Process	NUMBER: 2-31
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
:	NMSA 4-41-14, 4-41-17, 7-1-31, 35-9-1-8, 35-10-1-6, 35-11-1-3, 35-12-1-19, 42-8-1-22, 42-9-1-39, 42-10-1-13, 43-1-1-25, 47-8-46

INDEX WORDS

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Subpoena Duces Tecum
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Writ
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I. POLICY

The department is mandated by law with the service of legal process in support of the judicial function. This includes the service of all civil and criminal process either received from the courts, or from individuals whose legal interests are affected by the court's decisions.

II. PURPOSE

The purpose of civil process is to promptly serve and make timely return of all legal process received. At times this may include legal process received from neighboring jurisdictions.

III. DEFINITIONS

- A. Alias: This term may appear on both Summons and Writ of Executions. This indicates that the document has been submitted for service for the second time.
- B. Attempts/Comments: This section is for notes that the deputy records in reference to the investigation as ordered by the court. These notes will be specific and in detail with particular attention given to dates, locations and times when the deputy has made, or attempted to make contact with the parties named in the order.
- C. Defendant/Respondent: Party named in action/complaint who must reply to the charges or complaint against them.

- D. Pluries: Same as above except it indicates that the document is being served a third or more times.
- E. Levy: Indicates that the deputies have, in fact, seized specific property pursuant to the Court Order.
- F. Nulla Bona: No goods and/or chattels to levy on. This usually occurs due to the exemption status that each person (defendant) is allowed as defined by State statutes. The deputies must make contact and view the goods and/or chattels in possession prior to a determination of returning the Writ Nulla Bona.
- G. Personal Service: The document has to be served on the person named or an individual that has been authorized to accept service for the defendant or person named. The deputy must verify the authorization.
- H. Plaintiff/Petitioner: Party initiating the action/complaint.
- I. Posting: The document has to be posted to the most public part of the premises, or the most visible portion of the premises, i.e., the front door of premises.
- J. Pro Se: This indicates that the plaintiff (the person who is initiating the action) is not being represented in the matter at hand by an attorney.
- K. Resident Address: This has to be a permanent resident of the dwelling who is also 15 years of age or older. This must also be verified by the deputy.

IV. GENERAL DUTIES AND RESPONSIBILITIES

- a. Service of **any** civil process, where any State Agency is named as the Defendant, **must be** served on the Head of the Agency in addition to the Attorney General's Office in Santa Fe, New Mexico. The court document **will not** be accepted by this Department for service. The individual will be instructed to deliver the document to the Sheriff of Luna County for service, see District Court Rule 1-004(F) 3D; Magistrate Rule 2-202 C6; and Metropolitan Court Rule 3-202-D (3).
- b. Deputies will not involve themselves and/or the department with repossesses and/or their agents unless specifically upon direction and authority by a court of record within this jurisdiction. Deputies **will not** make a determination as to lawful ownership of goods and/or chattels and cause or cause to be, the goods or chattels to be repossessed absent orders by the court. It will be the duty of the deputy to instruct the parties involved to seek direction through the courts.
- c. If the repossessing agent has documents either issued or filed with the court, that individual **must** present those documents to the supervisor before any

determination or action is to be taken by the deputy. Deputies shall keep their supervisor(s) appraised for the purposes of review and direction in this regard.

- d. Assigned personnel will not counsel, instruct, advise and/or supply any documentation or communication to other law enforcement agencies, or representatives with regard to the service of Civil Process as set forth in this Standard Operating Procedures Manual.
- e. If this agency receives civil process which requires service in another jurisdiction, the individual presenting the process will be informed of the need for them to take the process to the appropriate law enforcement agency in that jurisdiction.

V. PROCEDURES

2. Property Seizure:

- 1. All writs which require the seizure of real or personal property must be executed by a sworn deputy.
- 2. Two deputies will be assigned in the execution of any writ which may involve potential resistance.
- 3. All property acquired through the civil process function will be properly accounted for in agency records.
- 4. All property and monies collected will be disposed of by the agency pursuant to legal authority.
- 5. Any property collected as a result of an execution or other lawful court order will be secured in a department warehouse or other facility which is controlled by the department.

3. Summons and Complaints:

- 1. A Summons is a notice from the court (Magistrate, Metropolitan or District) of a civil action. Attached to the Summons is a copy of the complaint filed. The Summons requires a response to the court within the stipulated time period. The time period begins from the date of service of the Summons. Service can be affected through personal service, posting, service of a permanent resident who is 15 years of age or older at the residence, or an authorized agent who can accept service for the defendant. There are many different types of Summons, the general rule for service, however, would be as previously described unless there are

special instructions from the issuing court. Failure to answer a Summons will result in a default judgment against the defendant.

4. Summons for Notice of Trial on petition for Writ of Restitution (Eviction):

1. A notice to the tenant that they have not complied with the rental agreement, and they must appear at a court hearing regarding the disposition of the matter. Prior to the issuance of the Summons for Notice of Trial on the Writ of Restitution, the landlord must comply with the following requirements:
 - a. Landlord must post a 3-day eviction notice which is a notice the landlord serves on the tenant to inform him that he is behind in rent payments. The landlord can deliver it to the tenant personally or post it. This notice gives the tenant a specific time to vacate the premises. These notices can be served by deputies, but private process will suffice.
 - b. After (3) days have elapsed, if the tenant(s) have not vacated, the landlord files a Summons for Trial of Restitution in Magistrate Court and brings it to the Sheriff's Office.
 - c. Landlord then posts, or serves, the Summons for Notice of Trial of Restitution. This informs them of a specific court date. The Notice for Trial of Restitution must be posted or served no less than seven (7) calendar days prior to the trial or hearing date.
 - d. After the court hearing has taken place, a judgment will be issued and a "Writ of Execution and Writ of Restitution" is issued by the Judge with a specific date when the actual physical eviction is to take place.

D. Writ of Restitution (Eviction):

1. A removal of tenants from rental property by court order.
2. The actual physical eviction can only be affected by sworn law enforcement officers.
3. Once the deputies arrive and service the Restitution, the tenants are evicted from the property. The deputies may allow them 10 to 15 minutes to gather essential items. Following that, they must vacate the premises. Once the tenants are gone the landlord must do the following:

- a. Landlord must change locks on the premises to ensure security of the property once the deputies have left. The landlord should change the locks while the deputies are present.
 - b. The landlord must inventory property left behind by the tenants.
 - c. Following the eviction, the landlord should have someone available during normal business hours to allow the ex-tenant to enter the premises or other storage facility to remove their personal property in one trip. Landlords do not furnish the new key to the ex-tenant(s).
- 4. If the ex-tenant does not contact the landlord to remove his possessions, the following guidelines must be followed by the landlord concerning disposal of the property:
 - a. If the tenant abandons the property the landlord must store all the personal property left on the premises for not less than 30 days.
 - b. If the tenant voluntarily surrenders the premises, the landlord must store all the personal property for a minimum of 14 days following the surrender of the premises.
 - c. If the tenant is evicted by a writ of restitution, the landlord is not obligated to store the property left by the tenant for more than 3 days, (unless other arrangements have been made between them).
- 5. In all the above instances, the landlord must abide by the Uniform Owner-Resident Relations Act, which describes the proper procedures to be used to inform tenants of the landlord's intent to dispose of the property.
- 6. If the ex-tenant forcibly enters the premises following the eviction, the incident may be considered a criminal act and the proper law enforcement agency should be contacted by the landlord.

E. Evictions/Mobile Homes:

- 1. These are similar to the previous evictions. However, in many of these cases the mobile home is owned by the tenant, but they have fallen behind in payment on the trailer space.
- 2. Every available effort will be made to locate the owner(s)/ resident(s) of

the mobile home for the purpose of intent to file, or not to file (claim) a Homestead Exemption, as provided on Civil Form 4-803.

3. When the Writ of Restitution is obtained for the mobile home, the presiding judge will direct the landlord to serve the notice of judgment to the mobile home owner.
4. The notice of judgment shall state that at a specified time, not less than 48 hours from entry of judgment, the Sheriff will return to serve a Writ of Restitution and superintend the peaceful and orderly removal of the mobile home under that order of court. The notice of judgment shall also advise the mobile home owner to prepare the mobile home for removal from the premises by removing the skirting, disconnecting utilities, attaching tires and otherwise making the mobile home safe and ready for the highway travel.
5. Should the mobile home owner fail to have the mobile home safe and ready for physical removal from the premises or should inclement weather or other unforeseen problems occur at the time specified in the notice of judgment, the landlord and the Sheriff may by written agreement extend the time for the execution of the Writ of Restitution to allow time for the landlord to arrange to have the necessary work done or to permit the Sheriff's execution of the Writ of Restitution at the time when weather or other conditions will make removal less hazardous to the mobile home.
6. If the mobile home is not removed from the landlord's land on behalf of the mobile home owner within the time permitted by the Writ of Restitution, the landlord and the Sheriff shall have the right to take possession of mobile home for the purposes of removal and storage. Processing in this case will proceed normally, as in the service of any Writ of Restitution.
7. If the mobile home owner is present, they will be served with the Writ and evicted from the home. The landlord must change locks on the home while the deputies are present.
8. If the mobile home owner is not present when the Writ is served, the deputies will again proceed as in a normal eviction. The notice will be posted, and the locks will be changed. At this point the landlord must, while deputies are present, complete an inventory of the mobile home contents. In either instance, if the landlord is prepared and has made the proper arrangements to move the mobile home, they may move the mobile home to a storage facility.

9. The liability of the landlord and the Sheriff in such event shall be limited to gross negligence or willful and wanton disregard of the property rights of the mobile home owner. The responsibility to prevent freezing and to prevent wind and weather damage to the mobile home lies exclusively with those persons who have property interest in the mobile home.
10. Utility charges, rents and reasonable removal and storage charges may be paid by any party in interest. Those charges shall constitute a lien which will run with the mobile home and whoever ultimately claims the mobile home will owe that sum to the person who paid it.
11. Prior to the issuance of said Writ of Restitution, the court shall make a finding of fact based upon evidence or statements of counsel that there is or is not a security agreement on the mobile home being subjected to the Writ of Restitution. A written statement on the mobile home owner's application for tenancy with the landlord that there is no security agreement on the mobile home shall be Prima Facie evidence of the nonexistence of such security agreement.
12. In those cases where the court finds there is a security agreement on the mobile home subject to the Writ of Restitution and where the holder of the security agreement can be identified with reasonable certainty, then upon receipt of the Writ of Restitution, the plaintiff shall promptly inform the holder of such security agreement as to the location of the mobile home, the name of the landlord who obtained the Writ of Restitution and the time when the mobile home will be subject to removal by the Sheriff and the landlord.
13. The Writ of Execution/Restitution **will not** be closed out/completed until every effort is made to locate the owner/resident.
14. At all stages of the investigation, personnel will completely document all of the information received on the work sheet **as well as** on the Sheriff's Return of Service. Personnel will keep their immediate supervisor(s) informed of all stages of the investigation.

F. Writ of Replevin:

1. A Writ of Replevin is a court order to repossess goods or chattels that the Defendant wrongfully detains from the Plaintiff.
2. In order for the Replevin to be valid, a hearing must have been held or be pending. A bond must have been posted double the value of the property

to be repossessed. A bond is required unless otherwise ordered by the court. It is the duty of the deputy to see that the bond is adequate before executing the Replevin. If the Writ of Replevin is a FINAL JUDGMENT from the issuing court, no bond and/or waiver is required.

3. When large or multiple items are involved, the deputies will contact Plaintiff and/or their attorney to take custody of the items when located. This is, in all actuality, a request. State Statutes direct the Sheriff to seize and take responsibility for property seized pursuant to court orders.
4. On Replevins involving vehicles, a tow sheet, with an inventory, will be filled out when the Plaintiff cannot be reached, or the attorney cannot be reached.
5. A minimum of two deputies will work a Replevin.
6. An Execution and Replevin is a judgment with the repossession, and this document requires no bond.
7. When a mobile home is the subject of a Writ of Replevin, the plaintiff should be contacted and notified of the time the Replevin is to be executed. Their representative should make arrangements to be present at the time of execution to do an inspection and take possession of the property.

G. Writ of Execution:

1. An order from a court ordering the Sheriff to collect money or levy (confiscate) on property to satisfy a judgment. Magistrate court Writs are for amounts of \$10,000 or less. District Court judgments and subsequent Writs of Execution are for amounts over \$10,000.
2. The Writ can be served to the person named or someone authorized to accept the court document.
3. The Writ orders the Sheriff, or a full-time deputy Sheriff to levy on the personal property of the defendant. This is on Magistrate Court judgments. The District Court judgment reads: "The Sheriff is commanded to levy upon the goods, chattels, lands, and effects of the defendant."
4. The difference between Magistrate and District Writs is that the Magistrate Writ orders the deputy to levy on the personal property of the defendant. District Writs order the deputy to levy not only on the personal

property, but also land can be levied against. Each judgment debtor is allowed certain exemptions. Incorporated Businesses are not allowed exemptions however; there are certain items that cannot be levied against. A business such as a car dealer, or any business that has a large inventory of sale items, usually falls under the Uniform Business Code. The inventory is under lien to the manufacturer and does not belong to the business. Vehicles on consignment would also be exempt.

5. If the judgment names the business but the business is incorporated, the judgment would have to also name the business as a corporation to be valid.
6. When a judgment is obtained from the court, the plaintiff will get a transcript of judgment and file it with the County Clerk. If any "real" properties (lands, home) of the defendant are sold, the judgment will be paid. If the deputy receives a Writ of Execution and finds the house is for sale, he will obtain the information concerning the realty company and then return the document to the plaintiff.
7. Prior to the service of a Writ of Execution a deputy should be assured the judgment debtor was served a Notice of Right to Claim Exemptions (Execution), Civil Form 4-808A, and three copies of Claim of Exemptions on Executions, Civil Form 4-803, with the understanding the debtor had ten days to file listed exemptions with the court file for a hearing on the exemptions.
8. When the deputy serves a Writ of Execution, the defendant may say they have filed bankruptcy. If this is the case, the deputy will obtain the bankruptcy case number from the defendant, his attorney, or the Bankruptcy Court. This may also be the case with an Internal Revenue Service or State Tax lien. In the case of an IRS or tax lien, the defendant has to provide the documentation to prove the lien exists. Banks may have liens against the inventory, accounts receivable, and fixtures of the business. Again, documentation would have to be provided by the defendant to stop or stay the Execution. The bankruptcy number must be affixed to the work sheet and the Return of Service.
9. Another way to stop the Writ of Execution is to appeal. The defendant has fifteen days after the entry of the judgment to file an appeal. The appeal is filed with the Magistrate Court. The Magistrate Court Clerk will docket the appeal with the District Court. The action that stays the Execution is the filing of a Supersedes Bond with the Clerk of the Magistrate Court. The appeal process for a District Court judgment would be the same. The judge may waive the bond in either case if so desired;

however, documentation from the court must accompany the Writ.

H. Writ of Garnishment:

1. A writ served on an employer which requires them to reply to the court regarding the status of a person who may be employed by them. If the person is employed there, the employer will be required to withhold a portion of the person's wages to satisfy a judgment.
2. A garnishment must be served to an executive officer, payroll officer, or someone authorized to accept service for the employer.
3. A Writ of Garnishment is in effect, a summons for the employer. It must be answered even when the defendant named is not known or is no longer an employee.
4. The person being garnished can be served the Writ of Garnishment. Example: if the garnishee is the boss.
5. Failure of the employer to reply within the stipulated time limit will result in the court issuing a Writ of Execution against them for the full amount of the original judgment.

I. Writ of Attachment:

1. A Writ of Attachment is an order commanding the Sheriff to seize from the defendant his/her lands, tenements, goods, monies, effects, credits, and all other interests in specific property, this is to hold the property until a decision is made by the court. The Writ of Attachment prevents the defendant from disposing of the property until a hearing can be held. These Writs will be personal service only.

J. Subpoena:

1. An order from the court that requires a person to appear for a specific matter at a definite time and place.

K. Subpoena Duces Tecum:

1. A Subpoena which directs the person to appear, as well as bring records, papers, and other documents which relate to the matter at hand.
2. Subpoenas must be personal service only. An attorney can accept service for his client.

3. An agent authorized to accept service may be designated in some cases. For example, doctors may designate their secretaries to accept service for them. Another example would be the Office of Medical Examiner/Investigators. The secretary accepts service for all medical investigators. The deputy must print the authorized individuals name and title accepting service for the recipient on the work sheet and the Return of Service.
4. There are subpoenas, specifically those from the State Labor Commissioner, which must be served at least ten days prior to the court appearance date.

L. Reciprocal Subpoena and Motion for Child Support:

1. This is a subpoena from another state to an individual for a hearing on child support. It is a subpoena and should be personally served.

M. Writ of Assistance:

1. A court issued writ which orders the Sheriff's Office to take a specific action on behalf of the plaintiff. These orders normally involve the recovery of property or the restoration of premises to the plaintiff and allow the Sheriff's Office to take whatever action necessary to obtain entry into the property in question. Great care should be taken in the execution of these orders, and the following steps taken:
 - a. All property removed or disbursed to the various parties named in the writ must be recorded on a departmental inventory form. Details should be included on who took possession of the property, and where it was taken.
2. Normally only those persons who are named in the Writ should be allowed access to the home/property. If other people are present to assist either party, their names must be recorded on the work sheet. During the execution of the writ none of the parties, or other people present who are helping them, should be left unsupervised and allowed to remove **ANY** property/items from the residence unless directed by department personnel.
3. Prior to any property being removed, a video recording record of the property/home will be made. These recordings will be stored in an appropriate location, where they will be accessible in case of any future litigation.

N. Writ of Execution and Forcible Entry and Detainer:

1. Similar to the Writ of Assistance, it orders the Sheriff to restore property to the plaintiff and gives the Sheriff authority to enter premises to execute the order. Procedures as stated above for writs of assistance will be followed if any property is affected by the writ.

O. Child Pick-up Order:

1. A court order which specifically directs the Sheriff's Office to take custody of a child, and either restore them to the petitioning parent, or bring them before a judge for a hearing.

P. Out of State Child Pick-up Orders:

1. Court orders for child pickup orders from other states must be adopted by our Local Courts before we may enforce them. Before these orders are brought to us for action, the petitioner must obtain a Court order from our Local Courts which authorizes us to take action for the petitioner in Luna County.

Q. Alcoholic and Mental Pick-up Orders:

1. These orders come from the District Attorney's Office. They are all signed by a District Court judge and direct the Sheriff to pick up the named subject and transport them to a designated facility.
2. Two deputies will pick up the alcoholic or mentally ill individual and transport him/her to the designated facility. Both deputies will remain at the facility for the required amount of time as stipulated in the order. However, if the subject is violent and causing difficulties, the deputies will render assistance as long as necessary. The subject, when being transported, will be handcuffed and seat belted in the proper position in the patrol vehicle.
3. Not all orders require the deputies to remain at the facility for a stated period of time. In some instances, the subject is taken to a secure area and the deputies are free to leave.
4. The preceding guidelines are intended to be only guidelines. Situations which require two deputies should always be strictly adhered to for the safety and welfare of the deputies and those of the defendants/subjects. The guidelines which state who should be served should also be closely followed.

5. Each situation should be handled on an individual basis. The guidelines are not a substitute for State statutes and will change if the statutes change.
6. Assigned deputies will check the below listed resources and data banks for each proposed client prior to service of the order:

- a. Departmental Records
- b. N.C.I.C.
- c. District Attorney's Office

Hopefully, this data will provide the Deputies with greater knowledge of the client and therefore enhance officer safety principles.

7. Deputies will not permit family members, petitioner(s) or other citizens to enter any residence of a proposed patient/client for the purposes of effecting an order.

R. Emergency Mental Health Evaluation:

1. A document which authorizes a law enforcement officer to pick-up a person for an emergency mental health evaluation. The document will specify the facility where the person must be taken.
2. This pick-up Order is valid for (72) hours from the date and time the physician initiates the order.
 - a. The date and time of origin must appear on the face of the order.
3. The order **must be** signed by a physician/ psychologist.
4. The deputy and/or supervisor must verify the authenticity of the order. This can be accomplished by speaking with the doctor or a staff representative with regard to the client and pick-up order.
5. The Sheriff's Office **will not** transport clients/patients from one medical facility to another on this order.
6. Deputies will transport patients to the stated medical facility and turn the patient over to the medical staff. Deputies are under **no** obligation to stand by with the patient at the facility until the evaluation is completed. Deputies **will not** transport the patient to any other location if the facility does not accept or admit the patient.

7. It is the ordering doctor's responsibility to ensure that the named medical facility has available bed space for the patient.
8. Personnel **will not** accept an Evaluation Order if the doctor has not signed the Order and/or if the date of origin of the order is missing or is expired. Additionally, the client's name, D.O.B., and/or SSAN must appear on the Evaluation Order.
9. If any Order is ambiguous and/or incomplete, supervisory personnel will be immediately notified.
10. These Orders are valid only within [insert County name].
11. Assigned deputies will check the below listed Data Banks for each proposed client/patient prior to service of the Order:
 - a. Departmental Records
 - b. N.C.I.C.
 - c. District Attorney's Office
12. Deputies will not permit family members, Petitioner(s) or other citizens to enter any residence of a proposed patient/client for the purpose of effecting an Order.

S. Order Sealing the Premises:

1. This type of order originated with the State Taxation and Revenue Office. The business being served would owe back taxes. The deputy's duties, in this instance, would be to accompany the State Taxation and Revenue Officers to the place of business.
2. The order is served to the owner and the business is closed. Everyone is sent home and a copy of the order is posted on the front door of the business. At this point, the State Officers take charge of the premises and the locks are changed.

T. Warrant of Lien or Levy:

1. A warrant which originates at the State Taxation and Revenue Office and is filed with the County Clerk. This authorizes the state to levy on a delinquent taxpayer's property and requires the assistance of the Sheriff.

- a. The authority to Levy on delinquent taxpayer's property is that of the director of taxation (and does not need a Judge's signature) per NNSA 7-1-31 (1990 Replacement)

U. Domestic Violence Restraining Order:

An order directing the respondent to stay away from the petitioner pending the outcome of a court hearing regarding an incident of domestic violence.

- a. These orders are signed by either an appointed Special Commissioner or a District Court Judge. These orders are explicit and instruct/order the deputy what his duties will be in each specific case.

In some instances, these orders will require the deputies serving them to evict the respondent (defendant) from the home where the petitioner lives. In that event these orders should always be served by two deputies.

Remember that these are court orders and should be carried out exactly as specified in the order. At times the petitioner, or plaintiff, may request that some portion of the order not be carried out. Deputies must enforce ALL of the provisions in the order, regardless of the wishes of the plaintiff/ petitioner.

These orders require personal service, and the serving deputies should make sure that the respondent understands the order and is aware of the hearing date.

Assigned deputies should check the below listed data banks for information on each subject prior to service:

- a. Departmental Records
- b. N.C.I.C.
- c. District Attorney's Office

V. Video recording Civil Procedures:

Normally all Writs of Assistance will be video recorded, however, the recording of the execution of other writs will be at the discretion of the supervisor, or the Sheriff.

Before starting recording, the date and time will be set internally so that it

will be recorded as the recording is made. The recording should begin with a recording of the front of the business/residence which would indicate the address. At the same time the deputy making the recording should audibly announce the date, time, address, and case number, so that it will be recorded on the video recording. This will also be done at the conclusion of the recording, prior to completing the recording.

An Offense/Incident report will be completed for each recording of a writ. The report will include all information concerning the execution of the writ, and where the video recording is being stored. The report should also include notes regarding the fact that the writ was recorded, and any other important details.

Video recordings will be submitted in a timely manner, and will be appropriately marked with the date, time and civil case number.

The video camera and recordings will be stored at the office. Only Department issued recordings are authorized to be used by sworn personnel.

Duplication of the video recordings may be made at the discretion of the Sheriff, pursuant to a lawful court order, or in compliance with a defendant's motion for discovery.

Video recordings may be duplicated for internal use only upon the approval of the Sheriff.

A log will be maintained on video recordings which will contain:

- a . The case number
- b . Date and time of recording
- c . Recording Deputy
- d . Supervisor present during recording
- e . Others personnel present during recording

Video recordings will be stored in a secure location. A log will be kept to record the date, times, and names of personnel who review recordings.

Deputies who use the video camera will test the camera prior to beginning the actual recording. This test will be monitored by supervisory personnel if available. Any malfunction will be immediately reported. It will be the responsibility of supervisory personnel to investigate the cause of the malfunction, and to take any steps necessary to rectify the problem. Requests for repair or parts must be carried out through the normal procedures for obtaining purchase orders.

Video recordings of the service of writs will be stored for a period of two (2) years, or until the possibility of litigation no longer exists for the particular incident.

Supervisory personnel will be present during the execution of any writ where a video recording is made. Only one case/service of writ may be recorded per data storage unit.

LUNA COUNTY SHERIFF	GENERAL ORDERS
SUBJECT: Child Custody Orders	NUMBER: 2-32
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Child Custody Order

I. POLICY

The department shall promptly enforce all Child Custody Orders received from a court of competent authority.

II. PURPOSE

To outline a safe procedure for executing child custody orders and describe measures to protect affected parties.

III. DEFINITIONS

- A. Child Custody Order: Means an order which specifically directs the Sheriff's Office to take custody of a child, and either restore them to the petitioning parent, or bring them before a judge for a hearing. These orders specify the exact action that a Law Enforcement Officer must follow and will identify all the involved parties. Deputies will ensure that they follow explicitly the instructions detailed in the court order.

These orders must be examined carefully prior to any action being taken. If the orders are from neighboring states, the petitioning parent must take them to our State Court for adoption before any action may be taken.

IV. RULES AND PROCEDURES

- A. Child Custody Orders/Service:
Child custody orders will be affected by two deputies.

The petitioning parent may accompany the deputies to pick up the child. However, in order to avoid confrontations between the estranged parents or other involved parties, they will not be allowed to enter the building/home where the child is located.

When transporting any child, deputies must ensure that they comply with all State Laws pertaining to safe transportation of children, seat belts, child seats, etc.

If the transporting deputies take the involved parties to a hearing, they must be prepared to stand-by until the conclusion of the hearing.

B. Service of Child Custody Orders at School Facilities:

1. Lawful court orders regarding Child Custody matters sometimes require taking a child into custody at a public school. In the event such a case arises, the sworn personnel serving the order shall:
 - a. Contact the school Principal and advise them of the order.
 - b. Upon arrival at the school, coordinate removal of the child with the Principal.
2. Copies of the court order concerning the child should be made available to the Principal.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: TASER	NUMBER: 2-34
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. PURPOSE

A. The purpose of this policy is to provide guidance and direction on the use of the Electronic Control Weapon (ECW) in the context of the Use of Force Decision Chart.

II. POLICY

- A. It is the policy of the Luna County Sheriff's Office to use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest.
- B. The amount of force, the continued use of any force, and the type of police equipment utilized, all depends upon the situation being faced by the deputy. However, once the threat has been overcome, or a subject is in secured custody, it is a deputy's responsibility to de-escalate and immediately address any injuries the suspect may have sustained.
- C. Subjects may be physically or mentally incapable of responding to deputy commands due to a variety of circumstances, including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Deputies should be mindful of this when making use of force decisions.
- D. The use of an Electronic Control Weapon (ECW) is authorized when the offender is physically aggressive or assaultive and there is an immediate likelihood that they may injure themselves or others.
- E. Deputies are prohibited from carrying a department issued ECW off-duty as an alternative weapon.

III. DEFINITIONS

- A. **Arcing:** Pulling the trigger to activate an ECW that does not have an air cartridge installed. This may be done while the ECW is in contact with a subject (i.e., Drive Stun mode) or in a non-contact situation, such as, to test the ECW (i.e., Spark Test).

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Body Worn Cameras	NUMBER: 2-33
EFFECTIVE DATE:	REVIEW DATE: 10/29/2020
AMENDS/SUPERSEDES: Wearable Body Cameras 1/1/20	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. PURPOSE

The purpose of this policy is to provide instructions on when and how to use body worn cameras (BWCs) so personnel required to wear BWCs may reliably record their contacts with the public in accordance with New Mexico law. All recordings captured by issued BWCs are the exclusive property of the County.

II. DISCUSSION

BWCs have proven to be a valuable law enforcement tool. The Luna County Sheriff's Office has adopted the use of Body Worn Camera's (BWC) to comply with the law, to assist in the prosecution of criminal cases, to enhance the accuracy of reports and testimony in court, to reduce violent confrontations and to maintain public trust.

III. POLICY

It is the policy of the Sheriff's Office that BWCs be activated when responding to a call for service or at the initiation of any other law enforcement or investigative encounter. **This policy does not govern the use of surreptitious recording devices used in undercover operations. This policy does not apply to personnel actively working in undercover operations.**

REFERENCES

§ 29-1-18 NMSA (body-worn camera)

§ 30-12-1 NMSA 1978 (single party consent/ interference with communications)

IV. DEFINITIONS

"Body-worn camera" means an electronic device worn on a person's body that records both

audio and video data. “Body-worn camera” does not include a dashboard mounted camera or a camera intended to record clandestine investigation activities.

“**Law enforcement or investigative encounter**” means:

- (a) an enforcement stop;
- (b) a dispatched call;
- (c) a field interrogation or field interview;
- (d) use of force;
- (e) execution of a warrant;
- (f) a traffic stop, including:
 - (i) a traffic violation;
 - (ii) stranded motorist assistance; and
 - (iii) any crime interdiction stop; or
- g) any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

V. PROCEDURES

A. WEARING OF BWC

1. All sworn personnel or employees authorized to carry a firearm in the course and scope of their duties and who routinely interact with the public will wear a Sheriff’s Office issued BWC while on duty or performing law enforcement functions and will comply with this policy
2. Only the BWC provided by this Office will be worn while on duty.
3. BWCs shall be positioned forward facing, in a position and manner consistent with the manufacturer’s recommendations (e.g. chest, lapel, etc.) and shall be clearly visible to the person being recorded.

B. USE OF BODY CAMERA

1. BWCs shall be activated prior to any **law enforcement or investigative encounter, as previously defined.**
2. BWCs will only be activated in conjunction with official law enforcement and court security duties, as previously defined.
3. If the immediate activation of the BWC is not feasible due to immediate risk to the safety of a deputy or others, the deputy will activate the BWC at the first available opportunity when the immediate threat has dissipated and it is safe to do so. In such situations, the

Deputy will document in detail the immediate risk that prevented activation.

4. In accordance with 30-12-1 NMSA, personnel are not required to inform every individual being contacted that the recording device is enabled; however, it is generally recommended they do so as part of their initial contact with members of the public and their arrestees.
5. Every contact required by this policy to be recorded will be recorded regardless of the objections made by the subject(s).
6. The BWC shall remain activated until the conclusion of the law enforcement or investigative encounter in order to ensure the integrity of the recording. Conclusion will depend on the type of incident and individual circumstances. Typically, the incident has concluded when contact with the individual terminates or the scene has been cleared. **An announcement shall be made that the recording is being terminated prior to deactivation.**
7. Civilians shall not be allowed to view recordings at the scene unless doing so is necessary to further an investigation.

C. RESTRICTIONS

Recording devices shall not be used to record:

1. Encounters with undercover personnel or confidential informants.
2. Personal activities or private conversations of Sheriff's Office personnel that do not involve a law enforcement or investigative encounter.
3. Conversations between Sheriff's Office personnel without all parties being aware of the fact that it is being recorded, unless authorized by the Sheriff as part of an internal affairs investigation.
4. Daily briefings or conversations between Sheriff's Office personnel that involve case strategy or tactics.

D. TRAINING

1. All personnel who are required to use BWCs must complete mandatory training to familiarize themselves with the devices and Sheriff's Office procedures prior to their use. Luna County Information Technology Department provides training on the operation and downloading of body worn camera equipment.
2. Recordings may be used for training purposes. If the involved personnel object to the

3. showing of a recording, the objection(s) will be submitted to the Sheriff to determine whether the training value outweighs the objection(s).

E. VIEWING AND ACCESSING RECORDINGS

1. Personnel will be assigned access to the digital storage application appropriate to their rank and/or duties.
2. Personnel may review their own BWC recordings to use them for quality and accuracy in their reports and investigatory interviews.
3. Personnel may view and share BWC recordings only for legitimate law enforcement purposes and for authorized administrative review purposes.
4. Accessing, copying, or releasing of BWC recordings for non-law enforcement purposes is strictly prohibited, unless authorized by law and approved by the County Attorney's Office.

F. MANAGEMENT OF RECORDINGS

All recordings must be properly identified by date, time, BWC identifier, and assigned personnel.

G. DUTIES OF PERSONNEL

Personnel shall:

1. Ensure, that BWCs assigned to them are functioning properly at the beginning and end of each shift according to the instructions of the system's manufacturer and shall report immediately any malfunctioning equipment to a supervisor. Personnel shall not be responsible for verified equipment failure during an incident if the BWC had no signs of malfunction prior to the incident.
2. In the event the BWC malfunctions or otherwise becomes inoperable, dispatch will be notified immediately.
3. Articulate on a BWC recording and in writing their reasoning for failing to activate their BWC, failing to record the entire contact, or interrupting required recordings.
4. Personnel with administrative rights to the BWC program - In addition to the above responsibilities, shall:
 - a. Review at least two recordings per month from each assigned individual for policy

compliance and incorporate any knowledge gained from this review into ongoing

- b. evaluation and supervision. Supervisors shall note if positive feedback and/or training opportunities rise during the reviews.
- c. Review recordings of assigned personnel listed in any misconduct complaints made directly to the supervisor.
- d. Review recordings of assigned personnel involving injuries, uses of force, shows of force, or foot pursuits.
- e. Report equipment problems and seek to have equipment immediately repaired or replaced as needed. Supervisors shall be issued additional equipment in order to temporarily replace defective BWCs.
- f. Supervisors shall refer assigned personnel for investigation who intentionally, or repeatedly, fail to activate their BWC for contacts required under this policy to be recorded. Intentional or otherwise unjustified failure to activate a BWC, when required by this policy, may result in discipline.

H. REDACTION, RETENTION AND RELEASE

1. The Sheriff's Office will comply with all existing laws and regulations governing retention and disclosure of public information.
2. Recordings will be stored on a dedicated media storage system for a period of no less than 120 days. Recordings capturing a use of force, an incident that is the subject of a tort claim or public complaint or lawsuit, shall be stored for a minimum of three and a half years from the date of the recording and will not be destroyed without the approval of the County Attorney.
3. A recording may be redacted pursuant to applicable laws. Redaction should be narrowly tailored to the appropriate legal exemption from disclosure. Only the redacted recording shall be produced to the requesting party. There may be instances where the un-redacted recording shall be provided in criminal or civil proceedings. Personnel assigned to handle IPRA requests will consult with the County Attorney's Office prior to redacting or exempting recordings from public inspection.

I. INTENTIONAL MANIPULATION

Personnel will not tamper, alter, or manipulate any BWC recordings. This includes intentionally positioning or obscuring the BWC so that the law enforcement or investigative encounter is not captured by the camera. Such intentional acts may result in disciplinary action to include possible termination.

- B. **Activation or Activating:** The act of pulling the trigger of an ECW, either intentionally or accidentally, causing it to arc or to discharge probes.
- C. **Air Cartridge:** Replaceable cartridge for the ECW which uses, compressed nitrogen to fire two barbed probes with thin connecting wires sending an electrical charge into the subject.
- D. **Confetti Tags:** Small identifying cards expelled from an ECW air cartridge when probes are discharged. Each confetti tag contains a serial number unique to the specific air cartridge used. Confetti tags are also referred to as “Anti-Felon Identification” (AFID) tags.
- E. **Cycle:** The time during which electrical impulses are emitted from the ECW following activation. In most ECWs, a standard cycle is five (5) seconds for each trigger pull. The duration of a cycle may be shortened by turning the ECW off. The duration of the cycle may be extended in certain models by continuing to pull the trigger.
- F. **Display:** Drawing or exhibiting the ECW as part of a warning tactic, typically accompanied by appropriate verbalization.
- G. **Drive Stun:** A secondary function of an ECW. Drive Stun is possible when the ECW air cartridge has been expended or removed from the ECW or when the probes are deployed at close range with minimal spread. This action requires pulling the trigger and placing the ECW in direct contact with a subject, causing the electrical charge to directly enter the subject. Drive stun is frequently used as a non-incapacitating compliance technique. It may also be used to incapacitate a subject where at least one probe is attached to the subject’s body and the ECW contact will complete the circuit.
- H. **Duration:** The aggregate time that the ECW is activated. The duration of activation may differ from the duration of time that a subject is exposed to an electrical charge from an ECW.
- I. **Electronic Control Weapon (ECW) UU:** A weapon primarily designed to discharge a chain of small electrical charges into the subject sufficient to cause uncontrolled muscle contractions and override the subject’s voluntary motor responses.
- J. **Laser Painting:** The act of un-holstering and pointing an ECW at a subject and turning on the ECW’s laser aiming dot to show the device is aimed at the subject.
- K. **Objectively Reasonable:** Is a Fourth Amendment standard whereby a deputy’s

belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what a reasonable or rational deputy would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including, but not limited to, (1) the severity of the crime at issue, (2) whether the suspects poses an immediate threat to the safety of the deputies or others, (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

- L. **Probes:** Small projectiles with wires contained in an ECW air cartridge. When the ECW is activated; probes are expelled from the ECW and penetrate the subject's clothing and/or skin, allowing for the application of the electrical charge.
- M. **Probe Mode:** The primary setting on an ECW that allows the system's propulsion system to deploy two small probes that are attached to the ECW by insulated wires at distance up to 25 feet.
- N. **Resistance:** Is an act by an individual that opposes a deputy's lawful commands. There are two types of resistance.
 - 1. **Active Resistance:** Is defined as the use of physical force to defy a deputy's lawful arrest or attempt to gain control of a situation that requires police action.
 - 2. **Passive Resistance:** Is defying a deputy's lawful order without the use of physical force. Behaviors may include not moving, going limp, locking of arms or tightening of the body.
- O. **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 of any bodily member or organ.
- P. **Spark Test:** A spark test is accomplished by pointing the ECW in a safe direction, removing the air cartridge, turning the power on, pulling the trigger, then turning the unit off as soon as the spark is seen.
- Q. **Use of Force:** The amount of force a deputy should use based on the suspect's behavior and threat. It is the suspect's behavior that places the deputy and/or others in danger. The suspect's threat is the primary factor in choosing a force option. However, the deputy should also consider the totality of the circumstances to include, but not limited to, a suspect's altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons.

IV. USE OF FORCE

- A. **GOAL:** To always attempt to de-escalate and use sound tactics in any situation where force may become necessary. In the event force becomes unavoidable, **use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest.** The amount of force, the continued use of any force, and the type of police equipment utilized, all depends upon the situation being faced by the deputy. However, once the threat has been overcome, or a subject is secured in custody, it is a deputy's responsibility to de-escalate and immediately address any injuries the suspect may have sustained.
- B. No force is required or authorized when the offender is compliant nonaggressive and responds to verbal commands. Deputies may need to handcuff such offenders, but this is not considered use of force. No use of force report is required under these circumstances.
- C. Moderate/limited use of force may be required when the offender is non-compliant and is resisting the deputy's commands. Such behaviors may include pushing or pulling away, locking arms, or tightening of the body. Force including control holds, and OC Spray is authorized under these circumstances. Verbal aggression by itself does not warrant the use of force.

EXCEPTION: Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting deputy's commands, OC Spray **SHALL NOT BE USED** to overcome the resistance. Rather, deputies will disengage and contact a supervisor. If necessary, additional deputies will be used to overcome the resistance.

- D. The use of the Electronic Control Weapon (ECW) and/or ASP/Baton is authorized when the offender is physically aggressive or assaultive and there is a immediate likelihood that they may injure themselves or others. Such behaviors may include punching, kicking, grabbing, or approaching with a clenched fist.

EXCEPTION: Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting deputy's commands, ECW **SHALL NOT BE USED** to overcome the resistance. Rather, deputies will disengage and contact a supervisor. If necessary, additional deputies will be used to overcome the resistance.

- E. Deadly force is authorized when the deputy has an objectively reasonable belief that they must protect themselves or another person from the immediate threat of death or serious bodily injury.
- F. A deputy may address an offender's immediate threat with any option to the level of threat or lower. For example, a deputy may use their ASP/Baton, OC Spray or ECW on an offender displaying assaultive behavior with a likelihood of

injury to themselves or others. They cannot use an ECW on an offender who is only non-compliant.

NOTE: The mere handcuffing of a compliant individual is not considered force.

V. PROCEDURE

A. Authorized Users, Training and Equipment

1. Only those deputies who have successfully completed the approved, basic ECW training shall be authorized to carry an ECW. Deputies will have an ECW used on them to be issued an ECW. Deputies previously trained on ECW through other agencies must be able to provide proof of training (certificates and video/instructor letter).
2. Deputies who are issued an ECW **MUST** carry it on their duty belt, opposite side of their firearm, while on-duty.
3. To continue carrying an ECW, all personnel initially authorized to carry an ECW must undergo recertification training annually. Any personnel who fails to undergo recertification training and/or qualification shall be prohibited from carrying an ECW until such time that recertification training and/or qualification are completed.
4. Only departmentally issued ECWs shall be carried by authorized personnel. The use of privately owned ECWs, holsters or other related equipment is strictly prohibited.

B. Device Readiness

1. The ECW will be carried in a Department issued holster on the side of the body opposite the service handgun.
2. The ECW will be carried fully armed with the safety on in preparation for immediate use.
3. The ECW will be set in “Probe Mode” as the primary setting option with “Drive Stun Mode” used as a secondary option.
4. Deputies will be issued one spare air cartridge as a backup. The spare air cartridge will be stored and carried in a manner consistent with training and will be replaced consistent with the manufacturer’s expiration requirements.

5. The ECW's energy level will be checked and a spark test done prior to taking the ECW out on patrol. Point the ECW in a safe direction prior to spark test. This is accomplished by first removing the air cartridge, turning the power switch on, pulling the trigger, and then turning the unit off as soon as a spark is seen. A visible spark between the electrodes at the front of the ECW will show the unit is functioning properly.

*****CAUTION*****

**BE SURE TO REMOVE TASER AIR CARTRIDGE
PRIOR TO BEGINNING SPARK TEST**

6. The battery indicator on the Taser model **X26 Taser®** is visible on the central information display. This indicator in and of itself does not guarantee that the components of the Taser are performing properly. When the display indicates less than twenty (20) firings remaining, return the unit to the Taser Training Instructor.

C. Activating the ECW

1. The ECW shall only be activated against persons who are physically aggressive or assaultive and there is an immediate likelihood that they may injure themselves or others.
2. A verbal warning shall be given to a person prior to activating the ECW unless to do so would place any other person at risk.
3. Personnel should not intentionally activate more than one (1) ECW simultaneously against a person.
4. Personnel may activate an ECW against an aggressive animal, but only if doing so will not unnecessarily jeopardize the safety of the deputy or civilians present.
5. Whenever an ECW is about to be used, it is the responsibility of the activating deputy to make sure other deputies on the scene understand that the ECW is being activated by announcing "TASER" several times before being discharging.
6. Personnel should not intentionally target sensitive areas (e.g., head, neck, genitalia).
7. When activating an ECW, personnel should use it for one (1) standard cycle (a standard cycle is five (5) seconds) and should evaluate the

situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to multiple activations, continuous cycling and exposure to the ECW longer than fifteen (15) seconds may increase the risk of death or serious injury. Any subsequent activation should be independently justifiable and should be weighed against other force options. Under no circumstances are deputies authorized to administer more than **THREE (3) CYCLES** against a person.

8. To minimize the number of cycles needed to overcome resistance and bring the subject under control and once it is announced that an ECW is being activated; all deputies on scene should attempt to secure the subject while incapacitated by ECW power or immediately thereafter. All Deputies on scene must also be prepared for an ECW to be ineffective and immediately transition to other force options if necessary.

NOTE: In determining the need for additional energy cycles, deputies must be aware that an energized subject may not be able to respond to commands during or immediately following exposure.

9. **Drive Stun is a secondary** function of an ECW. Personnel must be aware that using an ECW in Drive Stun is **OFTEN INEFFECTIVE** in **INCAPACITATING** a subject. However, it may be used to effectively incapacitate a subject where at least one probe is attached to the subject's body and the ECW contact will complete the circuit (i.e., provide the second electrical contact to a subject) by creating uncontrolled muscle contractions and overriding the subject's voluntary motor responses.
10. The ECW **SHALL NOT** be used in the following manner:
 - a. Against a suspect exhibiting passive behavior or non-compliance.
 - b. Against an unarmed suspect attempting to elude capture by fleeing that is wanted for a non-violent misdemeanor, summary, or traffic offense.
 - c. For the dispersal of non-violent persons, disorderly crowds, or in situations where people are peacefully exercising their Constitutional Rights of Free Speech or Assembly.
 - d. At random or as a threat to gain compliance or information.
 - e. In any environment where a deputy reasonably believes that a flammable, volatile, or explosive material is present, including but

not limited to gasoline, natural gas, propane or alcohol-based Oleoresin Capsicum (O.C.) spray.

- f. Against any elderly/frail persons, young children, or any women who appear pregnant or where deputies receive information that the women are or may be pregnant.
- g. Against a subject when in an elevated position where a fall may cause substantial injury or death.
- h. Against a subject in physical control of a vehicle in motion to include automobiles, trucks, motorcycles, ATVs, bicycles and scooters.
- i. On handcuffed persons unless necessary to prevent the individual from inflicting serious bodily injury to themselves or others.
- j. Against a subject where deputies receive information that the subject has any heart ailments, conditions or has a pacemaker.
- k. Against an individual who attempts to ingest or is suspected to have ingested narcotics or other evidence at which time they will be transported to the nearest hospital.
- l. When deputies are in close contact with the suspect.

D. Post-Deployment

- 1. A supervisor will respond once notified of an ECW discharge and ensure:
 - a. All Post Deployment steps are completed.
 - b. When possible, the Confetti Tags will be recovered and placed on the property receipt.
- 2. Following an ECW activation, deputies should use a restraint that does not impair breathing.
- 3. All individuals who are exposed to an ECW activation shall be transported to a medical facility for treatment. If the prongs are attached to the skin of the individual, cut off the wires between the cartridge and the prongs, leaving a twelve (12)-inch lead, prior to transportation. The ECW prongs should be treated as a biohazard risk.

4. If not incapacitated, the deputy/supervisor firing the device will accompany the victim to the hospital. Retrieve the two (2) prongs from the hospital and place them inside cartridge holes and tape over and note: "Prongs are included". The cartridge and prongs will be placed on a property receipt and submitted as evidence.
5. The deputy will ensure that the area on the individual affected by the ECW is photographed. The use of the ECW will be noted on the USE OF FORCE form. All wearable video cameras (WVC) and other video footage of the incident is recovered and processed as evidence.

E. Reporting/Notifications

1. Any deputy or supervisor that activates an ECW toward a person (intentionally or unintentionally) shall notify Central Dispatch and complete a Use of Force report.

NOTE: Negligent discharges not hitting a person will be reported to Administration. The Use of Force report is not necessary.

2. The responding supervisor shall conduct an initial review of the ECW activation and ensure a Use of Force Report is completed as appropriate. A deputy may review video from a WVC that captured the incident prior to completing their Use of Force Report.
3. After medical treatment, if the suspect is being arrested, the activating deputy/supervisor shall ensure that the ORS is notified that the suspect was exposed to an ECW activation. In the event the activating deputy/supervisor is incapacitated, the responding supervisor shall ensure the proper notification is made to the County Safety Director.
4. Any deputy/supervisor that activates an ECW either intentionally or accidentally shall report to a Taser instructor no more than five (5) days after the incident for a replacement air cartridge and the instructor to download the ECW's data.

F. Investigations

1. All Use of Force Reports involving the activation of an ECW shall be reviewed by the Patrol Captain. All Use of Force reports involving the activation of the ECW shall contain the approximate number of activations used against the subject (probe and drive stun).

2. An internal affairs investigation shall be initiated when any of the following factors are involved:
 - a. A person experiences death or serious bodily injury;
 - b. A person experiences prolonged ECW activation (longer than fifteen seconds);
 - c. The ECW appears to have been used in a punitive or abusive manner;
 - d. There appears to be a substantial deviation from training; and
 - e. A person in an at-risk category has been exposed to an ECW activation (i.e., elderly/frail persons, young children, or any women who appear pregnant or where deputies receive information that the women are or may be pregnant).
3. When reviewing downloaded ECW data, supervisors and investigators should be aware that the total time of discharge registered on the ECW may not reflect the actual duration of ECW activation on a subject.
4. View any WVC or other video footage that captured the incident.

G. Auditing

1. All Department ECWs will be subjected to periodic and random data downloading by the Taser instructors. The data obtained will be reconciled with existing Use of Force Reports to ensure accountability between the cycles recorded and those documented in such reports and occurring in pre-shift testing.
2. Periodic and random audits shall be conducted to ensure all deputies/supervisors who carry ECWs have attended initial and recertification training.

H. Lost or Stolen ECWs

1. Lost or stolen ECWs and/or air cartridges shall be immediately reported on a memorandum, to the pertinent division commander and the senior Taser instructor, fully explaining the circumstances.
2. When the division commander determines negligence has occurred, the

deputy/supervisor will be subject to disciplinary action and/or required to pay for its replacement.

I. Revocation of Certification/Privilege to Carry an ECW

1. The issuance and authority to carry an ECW is a privilege granted to specially trained deputies/supervisors and is not to be construed as standard issued equipment. As such, the Department reserves the right to revoke this privilege. Any such revocation shall not prevent or limit the Department from invoking any disciplinary charges, penalties or other remedies available.

SHERIFF DEPARTMENT	GENERAL ORDERS
SUBJECT: Crime Prevention Services	NUMBER: 2-35
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

Crime prevention
 Neighborhood Watch
 Operation Identification
 Security surveys

I. POLICY

Crime prevention is the anticipation, recognition, and appraisal of crime risks and the initiation of action to remove or reduce such risks. The policy of the department is to promote crime prevention using all department employees to develop and implement procedures and programs which reduce the opportunity for or lessen the loss arising from crime.

II. PURPOSE

The purpose of this order is to set forth procedures for the delivery of crime prevention services.

III. PROCEDURES

A. Deputies, generally:

1. All deputies upon request and when appropriate shall provide knowledgeable, instructive advice to the public concerning steps which can be taken to reduce the opportunity for or lessen the loss from crime.
2. All deputies upon request and when appropriate shall conduct brief surveys of homes or small businesses and orally advise the owner or occupant of security strengths and weaknesses.
3. All deputies shall be aware of and where appropriate offer their assistance to crime prevention activities taking place within their assigned patrol area

such as: neighborhood watch, business watch, safe home, and safe kids' programs.

4. All deputies shall make referrals to the appropriate resource either within or outside the department in response to crime prevention requests which exceed their knowledge or capability to accommodate.
5. No deputy or other employee of this department shall advise any person that the use of any crime prevention suggestion or program will prevent that person or any other person from becoming the victim of a crime but will only lessen the probability of victimization.
6. Crime prevention activities undertaken by deputies shall be reported on daily activity reports.

B. Formal programs:

Deputies are encouraged to develop, stimulate the growth of, or otherwise participate in the following programs:

1. Neighborhood Watch (Business Watch) is the formal organization of residents to enable them to deter crime in their neighborhood by relying on their awareness of and concern for their fellow neighbors to detect or discourage suspicious or criminal activity.
 - a. Requests to establish a Neighborhood Watch (Business Watch) shall be forwarded to the Sheriff for action.
 - b. The Sheriff or his designee shall make an introductory presentation to the interested Neighborhood Watch group, maintain contact with the group once established, and contact it at least every three months.
 - c. Homes wishing to participate in Neighborhood Watch also must participate in the security survey and Operation Identification programs.
 - d. The Sheriff or his designee shall maintain a list of all Neighborhood Watch programs with names, addresses, and phone numbers of leaders and block captains.
 - e. The Sheriff or his designee shall provide quarterly crime reports to the Neighborhood Watch groups detailing the crimes which have been reported in their specific neighborhoods.

2. Security survey:

A security survey is an evaluation of the security strengths and weaknesses of a home or business and presenting that evaluation to the owner or occupant for correction.

- a. Patrol beat deputies are authorized to conduct brief surveys of homes or small businesses upon request or if there is an apparent need, time permitting. Only oral recommendations are to be made.
- b. Requests for in-depth surveys with written recommendations are to be forwarded to the Sheriff. Surveys of any large structure or facility are to be conducted by whomever the Sheriff selects. Outside agencies' crime prevention units may be asked to assist.
- c. All security surveys performed by deputies are to be considered information offered to law enforcement in confidence. Surveys are not considered information available through Freedom of Information Act requests.
- d. Deputies making recommendations during security surveys shall not recommend any particular brand name product or device.

C. Operation Identification:

Operation Identification is the retention of serial numbers or other identifying marks property owners use to assist in the identification and recovery of stolen property. When the property has no serial number, the owner is encouraged to permanently engrave the property in several places with an easily recognized and traced identification mark such as a driver's license or a Social Security number.

1. The Sheriff shall establish procedures for the loan of engravers for persons wishing to identify their property.

D. Site plan review:

Site plan review is the review of site plans for new commercial or residential development or redevelopment to identify components of the plan which once implemented may create crime opportunities, and to make reasonable recommendations to correct the crime-related deficiencies in the plan.

1. The crime prevention unit is responsible for all site plan reviews.
2. The crime prevention unit shall contact the community planning

department and request that it be allowed to review development or redevelopment plans for security-related strengths and weaknesses.

3. Crime prevention personnel shall visit construction sites and informally inspect projects for security strengths and weaknesses and then make informal suggestions for improvements to the appropriate project officials.

E. Other programs:

There are many other crime prevention programs aimed at specific types of crimes. Many of these programs can be incorporated into public educational programs or Neighborhood Watch activities as needed. Some of these programs are:

1. Auto theft prevention.
2. Child safety.
3. Street lighting.
4. Check fraud.
5. Victim services.
6. Elderly crime prevention.
7. Bicycle theft.

Again, if necessary, the Sheriff can contact Department of Criminal Justice Services for assistance in delivering such programs.

IV. REPORTING

A. Recordkeeping:

The Sheriff or his designee shall maintain up- to-date information on the following crime prevention activities for reporting and evaluation purposes.

1. Neighborhood Watch
 - a. Number of Neighborhood Watch programs.
 - b. Date-specific Neighborhood Watch programs begun.

- c. Number of initial and follow up Neighborhood Watch presentations.
 - d. Number of block captains.
 - e. Names, addresses, and telephone numbers of Neighborhood Watch program leaders and block captains.
 - f. Number of homes and businesses participating in Neighborhood Watch.
 - g. Number and types of reports made to law enforcement by Neighborhood Watch participants.
 - h. Number and types of arrests resulting from reports by Neighborhood Watch participants.
2. Operation Identification
- a. Number of times engraver loaned out.
 - b. Number of victim property identifications and returns made through serial number tracing.
 - c. Number of victim property identifications and returns made through Operating Identification number tracing.
 - d. Number of arrests made through serial number tracing.
 - e. Number of arrests made through Operation Identification number tracing.
3. Security survey
- a. Number of informal security surveys conducted by non-crime prevention personnel (residential and business).
 - b. Number of follow-up visits to site where security surveys were previously conducted.
 - c. Rate of compliance to recommendations found during follow-up visit.
4. Educational programs

- a. Number and types of programs.
 - b. Number of attendees.
- 5. Other programs
 - a. Number and types presented.
 - b. Number of participants or attendees.

V. CRIME PREVENTION ASSISTANCE

Assisting in promoting crime prevention programs can be obtained from the following:

- A. National Crime Prevention Council - The Woodward Building, 733 15th Street, N.W., Washington, B.C. 20005, 202-393-7141.
- B. National Criminal Justice Reference Service - Box 6000 Rockville, Maryland 20850, toll free 800-851-3420.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Radio Procedures	NUMBER: 2-36
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

INDEX WORDS

I. POLICY

Department policy is to coordinate the delivery of law enforcement services with requests from citizens and department personnel utilizing radio, telephone and digital communications equipment.

II. PROCEDURES

A. Use of Equipment/Radio

County communications equipment is to be used for official business only, as follows:

1. The Ten Code shall be used when transmitting.
2. All references to time shall be in military (24 hour) time.
3. The necessary language shall be short and relevant.
4. When feasible, lengthy messages shall be given to Central Dispatch or other personnel, by telephone or Computer Aided Dispatch (CAD).
5. Personnel shall be professional when using voice transmission and when using their CAD. Jokes, wisecracks, profanities or voice inflections that reflect or indicate irritation, disrespect or sarcasm shall not be used.
6. Transmissions should not be acknowledged unless they are understood.

7. Every deputy in a uniformed field assignment must have access to radio communications equipment.

B. Department Phone Numbers

1. When needed, follow-up contact information will be given to citizens. This information will include Luna County Sheriff's Office telephone number, duty hours and days off. Central Dispatch telephone number will not be given as a contact number for personnel. No restricted Central Dispatch telephone numbers will be given to citizens.

C. Assignment of Unit Call-Signs

1. The Sheriff or his designee is responsible for the assignment of all call-signs within the Department.
 - a. Call-signs are numbers preceded by the county name, Luna, which identifies a particular deputy, which need to be readily identified during radio contact.
2. Commanding officers will be responsible for notifying in writing to Central Dispatch of any deletions and/or additions of subordinate deputies within their particular command. This will ensure deputies are assigned a call-sign at all times.

D. Unit Response

1. When any unit is called by the dispatcher, the unit will promptly respond with his/her call-sign.

E. Calls Considered Official Orders

1. All calls by Central Dispatch shall be considered as official orders being subject to review only after the call has been responded to and handled. Supervisors may countermand a dispatch for justifiable cause.
2. When dispatched to a call for service, the primary deputy will be responsible for ensuring that the calling party is contacted before returning into service. Contact will not be necessary on calls that indicate "negative contact" or calls where the calling party's identity is not given.

F. Other Jurisdictions

1. Unless life threatening emergencies exist, units will not be dispatched to

locations outside the county limits.

2. In those instances where life-threatening emergencies are believed to exist, immediate dispatch will occur with the earliest possible follow-up notification to the appropriate supervisor.

G. Requests by Other Agencies

1. Requests for support services from outside law enforcement agencies will be handled as follows:
 - a. Life-threatening emergencies will be honored immediately.
 - b. Non-emergency services requests will only be honored if approved by the on-duty supervisor.

H. Required Use of CAD

1. Department personnel operating law enforcement vehicles equipped with Computer Aided Dispatch terminals shall use the CAD for all non-emergency communication activities but not limited to:
 - a. All non-emergency status changes.
 - b. Self-initiated out-of-service activities.
 - c. Routine car-to-car communications.
 - d. NCIC and MVD inquiries.
 - e. On-sight events (optional).
2. Supervisors and/or deputies shall not enter into or attempt to enter into any agreements with dispatchers as to “call-holding” at any time. Deputies will be expected to remain available for calls until the end of their shifts.
3. Deputies will be responsible for logging themselves on by using CAD at the start of their shift and log off at the end of their shift. Dispatchers will not log deputies on or off unless the deputy has no CAD or their CAD is out of service.
4. Deputies with CAD will log themselves out on meal breaks when cleared and back in service.
5. Supervisors may override dispatchers as to whom they dispatch on calls, but only on a case-by-case basis. Supervisors will make themselves aware of calls holding before changing any dispatch orders.

I. Central Dispatch

1. Central Dispatch is a restricted area. Access to the communications area will be provided to authorized personnel only.
 - a. Unauthorized persons shall not be permitted within the communications center without permission of the dispatch supervisor on-duty.
 - b. Deputies will not be allowed into the communications center with prisoners.
 - c. Persons requesting tapes must request this information in writing through an official records request. These types of requests may be submitted by an e-mail, memorandum or handwritten request (usually in emergency situations). Requestors shall include date, approximate time of call and call type. Such requests can be processed by the Shift Supervisor, Operations Manager and Director. Requestor must sign for information requested, upon release from Central Dispatch.
 - d. CAD reports and readouts do not require an official records request and can be processed by any dispatcher on shift.

J. Confirmation of Inquiry

1. When an NCIC hit is obtained on an entry, the unit will be advised of a POSSIBLE hit and all pertinent descriptors will be provided for verification, along with any additional information affecting the deputy's safety while safeguarding the transmission.
2. Triple I requests are used to gather information on a person's previous arrest record and can only be requested by sworn personnel.
 - a. The Triple I request form may be faxed to Central Dispatch with the appropriate information to be included on the form.
3. Misuse of NCIC
 - a. Intentional misuse of information obtained from the NCIC systems may result in termination of NCIC privileges for Central Dispatch.
 - b. Individuals may face potential criminal charges for the misuse of NCIC information.

- c. All NCIC information is considered law enforcement sensitive information and shall not be disseminated to unauthorized individuals.

K. Pursuits

- 1. During an incident of a pursuit, deputies shall avoid using the radio unless they are the secondary unit involved in the pursuit. The only exception shall be if there is emergency information available that others are not aware of.

- L. Phonetic Alphabet – The phonetic alphabet shall be used for spelling out unusual names, persons, locations or when radio reception is poor. When spelling out a word, use only the phonetic alphabet; for example: John Doe – John, Ocean, Henry, Nora, David, Ocean, Edward.

A – Adam	H – Henry	O – Ocean	V - Victor
B – Boy	I – Ida	P – Paul	W - William
C – Charles	J – John	Q – Queen	X – X-ray
D – David	K – King	R – Robert	Y - Young
E – Edward	L – Lincoln	S – Sam	Z - Zebra
F – Frank	M – Mary	T - Tom	
G – George	N – Nora	U – Union	

- M. Ten Codes – The Luna County Sheriff's Office utilizes the New Mexico State Police Ten Codes list. As stated in rule IIA(1), Ten Codes shall be used when transmitting normal radio communications. In accordance with FEMA (Federal Emergency Management Administration) rules, during an incident involving multiple agencies, plain text communication (normal talk) will be utilized.

10-1 RECEIVING POORLY
10-2 RECEIVING WELL
10-3 STOP TRANSMITTING
10-4 OK
10-5 RELAY
10-6 BUSY
10-7 OUT OF SERVICE
10-8 IN SERVICE

10-9 REPEAT TRANSMISSION
10-10 OUT OF SERVICE (FOOD)
10-11 DISPATCHING TOO FAST
10-12 VISITORS
10-13 ADVISE WEATHER/ROAD CONDS.
10-14 CONVOY OR ESCORT
10-15 PRISONER IN CUSTODY
10-16 PICK UP PRISONER AT ____
10-17 TRAFFIC HAZARD ON HIGHWAY
10-18 LIVESTOCK ON HIGHWAY
10-19 RETURN TO YOUR STATION
10-20 LOCATION
10-21 CALL THIS STATION BY PHONE
10-22 TAKE NO FURTHER ACTION
10-23 STAND BY
10-24 ALL UNITS REPORT TO ____
10-25 DO YOU HAVE CONTACT WITH ____?
10-26 DO NOT USE SIREN/LIGHTS
10-27 ANY ANSWER REFERENCE ____?
10-28 CHECK REGISTRATION/DL #
10-29 CHECK FOR WANTED
10-30 DOES NOT CONFORM TO REGS.
10-31 BOMB SCARE
10-32 DEMONSTRATION
10-33 EMERGENCY TRAFFIC
10-34 CLEAR FOR LOCAL DISPATCH
10-35 CONFIDENTIAL INFORMATION
10-36 CORRECT TIME
10-37 OPERATOR
10-38 SEND MECHANIC TO ____
10-39 CIVIL DEFENSE DISPATCH
10-40 PROGRESS ON ASSIGNMENT
10-41 FEMALE IN PATROL UNIT
10-42 OFFICER ____ AT HIS HOUSE
10-43 DRAG RACING AT ____
10-44 AUTO ACCIDENT (NO INJURIES)
10-45 AUTO ACCIDENT (WITH INJURIES)
10-46 WRECKER REQUESTED AT ____
10-47 DRUNK DRIVER
10-48 USE CAUTION
10-49 ANY TRAFFIC FOR THIS UNIT?
10-50 NO TRAFFIC

10-51 INDUSTRIAL ACCIDENT
10-52 DROWNING AT ____
10-53 OFFICER IS CLEAR
10-54 HAVE CAR STOPPED, MAY BE DANGEROUS
10-55 AMBULANCE REQUESTED
10-56 CHANGE LOCATION
10-57 DRUNK PEDESTRIAN
10-58 MENTAL PATIENT (VIOLENT)
10-59 MENTAL PATIENT (NONVIOLENT)
10-60 EMERGENCY ASSISTANCE NEEDED AT ____
10-61 THIS OFFICER HAS BEEN INJURED
10-62 POLICE UNIT IN ACCIDENT
10-63 DISPATCH CORONER TO ____
10-64 DOMESTIC PROBLEM
10-65 CLEAR FOR MESSAGE
10-66 CLEAR FOR CANCELLATION
10-67 STATION ____ CARRY MESSAGE
10-68 FIGHT
10-69 BREAKING & ENTERING
10-70 CRIME IN PROGRESS
10-71 HOMICIDE
10-72 PLACE ROADBLOCK AT ____
10-73 LIFT ROADBLOCK AT ____
10-74 RAPE
10-75 STOLEN VEHICLE
10-76 ENROUTE
10-77 MOBILE UNIT SWITCH CHANNELS
10-78 PROWLER
10-79 DECEASED PERSON
10-80 ARMED & DANGEROUS
10-81 OFFICER ____ WILL BE AT STATION
10-82 MAKE RESERVATIONS
10-83 UNDERCOVER INVESTIGATION
10-84 INFORMANT IN UNIT
10-85 SURVEILLANCE ONLY
10-86 ATTEMPTED SUICIDE
10-87 MEET OFFICER ____ AT ____
10-88 ADVISE PHONE # FOR CALL
10-89 ASSAULT
10-90 POLICE AIRCRAFT GOING DOWN
10-91 POLICE AIRCRAFT EMERG. LANDING
10-92 POLICE AIRCRAFT CLOSING FLT. PLAN

10-93 POLICE AIRCRAFT IN ADV. WX CONDS.
10-94 SWITCHING TO FAA FREQUENCY
10-95 ON GROUND & SECURED
10-96 CAMPUS UNREST
10-97 ARRIVED ON SCENE
10-98 LAST ASSIGNMENT COMPLETED
10-99 OFFICER NEEDS ASSISTANCE
10-100 RIOT CONDITIONS
10-101 CHECKING LOCATION

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Departmental Deaths	NUMBER: 2-37
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. POLICY

- A. Deceased department personnel, active or pensioned/retired, will be provided with the appropriate departmental honors. The next of kin will be informed, and upon request will be advised of Departmental services available to them.
- B. Sheriff's Office policy does not permit for provision of escorts, pallbearers, firing squad or bugler for personnel who have died as a result of their own criminal acts.

II. RESPONSIBILITIES

A. DUTY RELATED DEATHS

Duty Related Deaths – dies or is killed as a result of taking direct police action.

- 1. If the agency investigating the death recommends to the Sheriff that the death was duty related and the decision is approved by the Sheriff, the Sheriff shall notify the deputy's Lieutenant, or Commanding Officer.
- 2. The Commanding Officer, or in his/her absence, an officer of command rank, upon notification of the death of a deputy under his/her command will:
 - a. If verifications are necessary, contact the Director, Central Dispatch
 - b. NMDPS, Law Enforcement Academy Advanced Training Bureau.
 - c. Submit a memorandum to Human Resources Director containing:

- 1) Name and rank.

2) Date and cause of death.

3) Martial status and number of dependents (names and ages).

3. The Division Commander, with the approval of the Sheriff, will:
 - a. Send a computer message notifying Supervisors of time and place to assemble for Honor Watch. This is an informal watch, which is designed to be certain our fallen brethren is not alone until they are laid to rest, or cremated.
 - b. Send a message notifying Supervisors of the time and place of the funeral and/or religious services.
 - c. Notify all personnel via computer message stating the proper protocol and procedure (Saluting, uniform, etc.) for all services and functions.
 - d. Contact Director, Central Dispatch for final call (Radio recording).
 - e. Notify Border Patrol Pipes and Drums of date, time, and location of services.
 - f. Notify shift supervisor on duty, who will provide motors to escort the body from hospital to morgue and from the morgue to funeral home.
 - g. Notify Honor Guard of date, time, and location of services. Honor Guard may be assembled with members of the Luna County Sheriff's Office, Deming Police Department, New Mexico State Police and/or United States Border Patrol. Contact should be made with the highest-ranking member of each outside agency for a Point Of Contact (POC).
5. The Sheriff will request permission from the Governor to fly the State flag at half-mast, from the day of death until after the funeral for all deputies killed in the performance of duty.

6. The Division Commander will prepare and transmit a computer message notifying all personnel to wear mourning crepes on their badges for thirty days.
7. Notify a Central Dispatch Supervisor to inform all patrol vehicles on the day of the funeral to operate with headlights on from 8:00AM until after the funeral.
 - a. Send an inter/intrastate computer message through New Mexico Crime Information Center (NMCIC) after conferring with the Sheriff.
8. Following a duty related death, the Public Information Officer (PIO) will:
 - a. After family notifications are made, send a Press Release regarding the details and identification of the deputy and an official department photo will be released.
 - b. Provide media alerts for the viewing, funeral service, funeral procession closers, and burial.
 - c. Arrange for media coverage of the funeral services by coordinating with officials from the funeral home and/or religious institution. This coordination should include the approval for the media to record the services. Should specialized viewing equipment be requested for outside the services, make arrangements for it to be obtained and operated.
 - d. Coordinate with the County Manager's Office regarding notification of County Officials about the services and arrangements.
 - e. Be present at the viewing, services, and burial to coordinate media coverage of the services.
9. Formation of Escort
 - a. Administrative Captain or his/her designee will be responsible for the

formation or placement of all personnel during any processions, outside the funeral home, religious facilities and at the interment site.

10. Escort Responsibilities

a. The Patrol Division will have shared responsibilities in providing escort duties for the family of the deceased officer from the day of death to the day of interment.

NOTE: If burial is out of town, the Division Commander and the Honor Guard will coordinate with local law enforcement.

B. TRIBUTE VEHICLE

1. Administrative Division will:

a. Memorialize the police officer's marked patrol vehicle. This Tribute Vehicle will be on display where appropriate at viewing and funeral ceremonies. The vehicle will be retired for 30 days from the date of death before returning to the fleet for service.

C. NON-DUTY RELATED DEATHS

Non-Duty Related Deaths – death whether on or off-duty, not precipitated by a direct law enforcement action.

1. The Division Commander, upon official notification of the death of an active deputy under his/her command, will:

- a. If verifications are necessary, contact the Director, Central Dispatch
- b. NMDPS, Law Enforcement Academy Advanced Training Bureau.
- c. Submit a memorandum to Human Resources Director containing:

- 1) Name and rank.
- 2) Date and cause of death.
- 3) Martial status and number of dependents (names and ages).

d. Consult with the family to ascertain if color guard, honor guard escort, pallbearers, firing squad, and bugler are desired.

1) If police pallbearers are requested, they will be from the deceased's last division of assignment.

e. Consult with family to ascertain if an escort is desired.

2. FUNERAL ESCORTS (NON-DUTY RELATED DEATHS)

a. The uniformed Captain or designee in attendance will be the funeral escort commander, and upon appearance of the casket, will issue the command of "Present Arms" (Hand Salute). (Personnel in civilian dress will come to attention, uncover and hold hat or hand over left breast.) When the casket has been placed in the hearse, the escort Commander or designee will issue the command of "Order Arms."

b. Represent the department at the interment.

1) The Division Commander will act as consultant to the Commanding Officer of the deceased on all procedural matters pertaining to the funeral and will arrange firing squad and bugler if requested.

D. RETIRED/PENSIONED PERSONNEL

1. The Patrol Captain will make necessary arrangements for coverage by Patrol personnel for the viewing, services, and escort of the funeral cortege to the cemetery upon request of the family.

2. The Administrative Captain will upon request of the family of the deceased, arrange for pallbearers, firing squad and bugler.

a. Pallbearers will be supplied from last division of assignment if known.

E. OTHER JURISDICTION - PERSONNEL KILLED IN THE PERFORMANCE OF DUTY.

1. Upon receipt of an inter/intrastate computer message, or other notification concerning a police officer killed in the line of duty in a nearby

jurisdiction, the on-duty Supervisor will ensure prompt notification, via telephone, to the Sheriff.

2. The Sheriff will:
 - a. Check with the department concerned as to the circumstances of the death.
 - b. Arrange an escort consisting of at least two deputies.
3. The department escort will proceed to appointed location in marked vehicles.

F. DEATH OF A CIVILIAN MEMBER OR AN IMMEDIATE FAMILY MEMBER OF ACTIVE PERSONNEL

1. When there is a death of a civilian member or an immediate family member of active personnel, their Division Commander will be the department representative and attend the viewing and send a computer message giving details of the services.
2. If there is no viewing, then the Division Commander will attend the funeral services.
3. Upon request, provide Traffic escort.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: District Court Security	NUMBER: 2-38
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

I. PURPOSE:

This Policy provides guidelines and operating procedures for Luna County court security officers providing support services at the 6th Judicial District Court Complex. This document establishes a mission and strategy for the 6th Judicial District Court Complex security and defines functions, standards, responsibilities and authority. The following policy guidelines and Procedures will be available to all court security officers and sworn personnel assigned to the 6th Judicial District Court Complex. **The 6th Judicial District Court Complex and all persons thereon, are subject to the authority of the presiding judges. All Policy matters herein are subject to the discretion of the presiding 6th Judicial District Court judges. Luna County is statutorily required to provide adequate quarters for the operation of the 6th Judicial District Court, including the provision of security, and the Luna County District Court Complex is owned by Luna County and Court Security Officers are Luna County Employees under the authority and control of the Luna County Sheriff. New Mexico statutes grant District Judges authority to preserve the order and decorum over and administrative of their respective Courts and when a District Judge is exercising this authority, Court Security Officers and other Departmental Employees are subject to that authority. When in doubt or in the event a District Judge issues a directive contrary to an Policy, Rule, Regulation, Procedure or General Order, the Departmental Employee should refer the matter to the Luna County Sheriff, or in his absence, to the senior Court Security Officer before acting, except in emergencies.**

II. LUNA COUNTY COURT SECURITY OBJECTIVES:

The objectives of Luna County Court Security are to protect the judges, employees and participants of the 6th Judicial District Court Complex against any active or potential security threat. The ability of the 6th Judicial District Court Complex judiciary to function effectively and independently without interruption and/or intimidation is a major objective. Court security personnel are responsible for implementing safeguards and security measures and for custodial and law enforcement action needed to defend the facility and populations against violence or security threats. The security, stability and viability of the 6th Judicial District Court Complex are vital to the criminal

justice system of New Mexico. Any individual attempting to enter the facility with a firearm or lethal weapon, dangerous object, hazardous materials, and/or drugs are subject to arrest.

III. STRATEGY:

The strategy consists of the development and implementation of training, quality security equipment maintained in a state of readiness, safeguards, procedures and security measures that will effectively protect Judges, employees and participants of the 6th Judicial District Court Complex against any act of violence and/or security threat directed against the facility and the security environment. The system is designed to prevent and minimize any opportunity for violence.

Court security personnel are responsible for controlling and neutralizing any active or potential threat to the security of the 6th Judicial District Court Complex including Judges, employees and participants. Sworn deputies supported by court security personnel provide the response to any security problem or emergency that occurs within the jurisdiction of the 6th Judicial District Court Complex. Court security personnel are responsible for the transports, custody and handling and processing of inmates and persons remanded.

IV. ORGANIZATION

- A. The court security personnel operate under the authority of the Luna County Sheriff's Office. The Sheriff's Office will formulate policies and exercise direction and management/oversight on the overall operation.
- B. In accordance with the Luna County Sheriff's Office Standard Operating Procedures Manual the proper chain of command will be utilized. There will be no jumping the chain of command. The current proper chain of command for court security personnel will be as follows.
 - 1. Court Security Officer (Uncertified, ranked based on seniority)
 - 2. Corporal
 - 3. Sergeant
 - 4. Administrative Captain
 - 5. Sheriff

V. DEFINITIONS

- A. Authorized firearms: Any make, model or caliber of firearms meeting the designated requirements and specifications of U. S. law enforcement agencies and officially

approved by the Sheriff's Department or designated for use by sworn law enforcement personnel. This includes alternated handguns; backup handguns and other authorized firearms.

- B. Hazardous materials: Biological, chemical, radiological elements, viral diseases or drug capable of contaminating the environment and placing people exposed at serious risk. The following ways of exposure are included: Inhalation-infection through lung tissues: Ingestion-contact with mucous membranes or nasal tissues: Penetration-through open cuts or abrasions.
- C. Identification: CYFD, APPO, JPPO, who are issued identification badges with the individual's title, name and photo laminated on the badge. Law enforcement officers – a police badge from the appropriate agency and credentials certifying the individual as a commissioned officer.
- D. Prohibited Items: Prohibited items include cell phones, lap top computers that are camera capable, cameras, lighters, knives, and sharp instruments capable of being used as a dangerous weapon. Explosives, hazardous materials, firearms, drugs, food and drinks (brought in from the outside). Uniformed police personnel are authorized to enter with standard issued police equipment and cell phones.
- E. Officers of the court: Attorneys, CYFD, APPO, JPPO, etc., after being identified and entering through the magnetometer, will not undergo further screening unless a valid reason exists. Briefcases and personal belongings will undergo examination at x-ray units.

VI. PROCEDURES:

- A. Court security personnel implement the objectives, strategy and procedures defined in this Manual to protect the facility, Judges, employees and court participants against any violence or security threat.
- B. On-duty court security personnel and law enforcement assigned to 6th Judicial District Court Complex are permitted to carry firearms inside the facility. Sworn officers and detectives wearing their badge of office may carry firearms into the 6th Judicial District Court Complex, displaying a commission card if requested.
- C. Armed law enforcement and personnel from other agencies responding to assist the court security personnel during an emergency will be permitted to enter the building with their authorized firearms. The Luna County Sheriff's Office will coordinate the activity in such cases.

- D. Law enforcement personnel in uniform are permitted to enter the building with firearms. Unless discrepancies are noted such as an irregularity in uniform, a peculiarity in the badge worn or in demeanor, law enforcement personnel in uniform will be afforded every possible courtesy for an expeditious access. Standard police equipment such as handcuffs, mace and batons are also permitted while in the possession of the uniformed officer. These items may activate the magnetometer and can be disregarded.
- E. Law enforcement officers in civilian clothes will be asked for credentials, identified and requested to store their firearm in the gun storage locker located in the security control center prior to entering through the magnetometer. No further screening will be undertaken unless the magnetometer activates in a manner that indicates a possible second handgun. The sworn personnel if available will intervene. Personal items, i.e. fanny packs or briefcases will be screened at x-ray unit.
- F. Any law enforcement officer including sheriff deputies and detectives at the courthouse for personal matters will be limited to the same security procedures as would the general public.
- G. Jurors will be screened by magnetometer and personal belongings examined by x-ray scanning. Hand held scanners may be use to provide further screening.
- H. No visitors will enter the secure area of the court without prior authorization from the District Judge or his designee and must be escorted by court security or court staff.
- I. Court Employees are authorized to receive mail and packages at the 6th Judicial District Court Complex. Deliveries of any type are generally made to the “main entrance”. The court security personnel will ensure that deliveries are inspected and the receiving party is notified.
 - 1. Court security personnel will inspect the delivery of gifts or flower arrangements to ensure there are no dangerous materials or prohibited items involved. Court security personnel will notify the recipient to pick up delivery from the security control center.
 - 2. Court security personnel will not sign for items that are delivered to courthouse or employees. These packages will be forwarded to the clerk’s office for signature.
- J. Court security personnel are encouraged to communicate freely among other court personnel and court staff to coordinate in ways and means that help resolve security issues. The policy is that cooperation and the exchange of information in regards to security and law enforcement is the rule and not an option.
- K. It is the responsibility of the Sheriff’s Office and court security personnel assigned to the 6th Judicial District Court Complex to ensure that security safeguards

and operations overall are satisfactory, and an acceptable level of effectiveness and cooperation exists in protecting the facility and population inside the building and in controlling inmates inside the courtroom.

- L. It is the policy of the court that in situations of an immediate danger such as the discovery of a bomb, hazardous materials and/or an eruption of violence inside the facility, the Sheriff's Office will assume the lead role in any tactical response. Court security personnel assume a supportive role. The security control center will monitor all emergency situations and will request assistance from local agencies based on instructions from the designated Sheriff's Office incident commander.
- M. In a heightened security alert, the Sheriff's Office incident commander will order the implementation of measures described in this manual and in the court security emergency evacuation plan. Court security personnel will remain on the premises until the problem is declared over and will work jointly to safeguard the security interests of the 6th Judicial District Court Complex.

In accordance with this Manual P, during duty hours all personnel will remain in uniform, armed, openly displaying the badge of office and with commission card in your possession at all times. The only exceptions to this will be approved by the court security supervisor. (Issued equipment is the responsibility of the personnel to whom it was issued. At no time will issued equipment remain at the courthouse).

- O. Professional demeanor will be demonstrated at all times in dealing with the public, employees and officers of the court. Court security personnel will be courteous, tactful but firm. Discourteous behavior in public is considered unprofessional.

VII. SECURITY:

- A. This section provides policy guidelines and direction for court security personnel. Standards to obtain maximum coordination and cooperation in accomplishing the mission of protecting judges, employees, participants as well as the facility are provided.
- B. The 6th Judicial District Court Complex security is designed to operate at defined security levels. Safeguards and enforcement action will be augmented and increased to respond to changes in the existing security threat level. The following are the threat levels approved for the 6th Judicial District Court Complex.

THREAT LEVELS:

Threat Level I: Normal operations. Conditions exist that permit routine security and law enforcement operations at the 6th Judicial District Court Complex.

Threat Level II: A significant increase in dangerous and violent acts has occurred within the 6th Judicial District Court Complex security environment and/or a high-risk estimate is developing and is projected for the community and the State of New Mexico based on official information provided by local and national security sources.

1. Individuals entering the facility will be stringently and fully screened.
2. Surveillance and monitoring activities by the security control center will be doubled.
3. The inspection of mail and deliveries to the 6th Judicial District Court Complex will be screened and enhanced.
4. Additional patrols/inspections of the courtrooms and vulnerable targets will be implemented.
5. The Sheriff's Office incident commander and court security personnel will advise the court personnel of any emergency situation and/or the evacuation of the courthouse.

Threat Level III: A clear and eminent danger for the safety and security of the

6th Judicial District Court Complex exists. Immediate and hardened security measures are required to prevent and control acts of violence and threats against the 6th Judicial District Court Complex and its environment. The local and/or national security situation is threatened by acts of terrorism based on estimates of Homeland Security, the Federal Bureau of Investigation (FBI) or official sources.

1. Security and law enforcement personnel will remain on the premises of the 6th Judicial District Court Complex.
2. Law enforcement personnel and court security personnel will double patrols and inspections of vulnerable targets throughout the facility to identify potential security problems or risks.
3. Preparations will be made to evacuate the building if necessary based on the court security evacuation plan. No action to evacuate will be taken until approved by the Sheriff's Office incident commander and court administrator or designee.
4. Coordination with the Sheriff's Office incident commander will be accomplished to prevent illegal parking around the facility and to close off streets adjacent to the building.

- C. Court security personnel will be responsible for conducting patrols of the interior and exterior of 6th Judicial District Court Complex. Patrols undertaken at the 6th Judicial District Court Complex provide the opportunity for the public to witness the visible presence of court security personnel and for purposes of planning, patrols provide the opportunity to detect potential problems inside and directly outside the facility.
- D. Court security personnel on patrol will be alert to any active or potential safety or security issue and will report to the security control center any suspicious order, fumes, suspicious packages, articles or strange substances discovered.
- E. Personnel on patrol will challenge anyone that is disorderly, disruptive or found in a restricted area without proper identification. The individual will be identified and the security control center immediately advised of the situation. Sworn personnel will be advised of the situation and will intervene if necessary.
- F. Courthouse hours of operation are from 0800 to 1700 hours Monday through Friday. All personnel will be at the courthouse in uniform, and prepared to work no later than 0800. Personnel will remain in the courthouse with the doors unlocked until 1700.
- G. Solicitation of any kind is prohibited in 6th Judicial District Court Complex and in the 6th Judicial District Court Complex parking lot.
- H. The break room is used for lunch or breaks. Lunch time is generally from 1200 to 1300 hours. All personnel will rotate taking turns going to lunch at 1100, or occasionally at 1300 as the situation warrants. It is the responsibility of court security personnel to manage lunch breaks to ensure all deputies/CSO's get a lunch break.
- I. Personnel will report to work and be assigned with a designated post. Handheld radios will be on your person, turned on, and on channel 1 at all times. Court security personnel should conduct a security inspection each day before any judicial proceedings begin. The inspection should cover the following areas:
 - 1. Doors
 - 2. Windows
 - 3. Desks
 - 4. Seats/benches
 - 5. Trash cans
 - 6. Locks
 - 7. Walls
 - 8. Restroom (stalls, trash cans, paper towel holders etc.)
 - 9. Temporary holding cells inside the courthouse will be checked for contraband and damage
 - 10. Court rooms will be inspected for contraband

- J. The morning responsibilities for the security control center post will be as follows:
 - 1. Turn on monitors
 - 2. Turn on x-ray machine after a visual check for any threats
 - 3. Make sure the wands are charged
 - 4. Inspect the trash cans within the front entrance
 - 5. Start the daily log
- K. Sworn law enforcement deputies assigned to the 6th Judicial District Court Complex, the duties are as follows:
 - 1. Arrest, custodial placement or remand of accused, convicted persons within the 6th Judicial District Court Complex pursuant to the 6th Judicial District Court Complex orders, directives or other valid, and then effective, process of other courts possessing jurisdiction over such persons.
 - 2. Provision of security and peacekeeping services at the 6th Judicial District Court Complex and, upon occurrence of certain urgent circumstances, at its nearby parking lot.
 - 3. Roving of all floors in the 6th Judicial District Court Complex and called upon for back-up if needed by other court security personnel.
 - 4. Performance of such other additional or special duties, as assigned by the court security supervisor.
 - 5. It is the duty of the certified deputy assigned to District Court to ensure regular training with civilian court personnel on all security/safety matters.
- L. The court services sergeant, in consultation with the District Court Judges, during special events (i.e. trainings, swearing in ceremonies, etc.), may authorize the personnel to bypass normal security procedures and allow food and drinks. Personnel may not take normally restricted items out of the area of the special event into other areas of the courthouse.

VIII. SECURITY SCREENING:

- A. The purpose of a security screening is to control access into the facility and to prevent the entry of individuals who are in the possession of weapons of any type, firearms, explosives, hazardous materials, drugs or prohibited items. Court security personnel at the main entrance will screen every person seeking access to the facility.
- B. If an individual passing through the magnetometer activates the machine in a specific area, further screening with a hand held electronic wand is concentrated in the specific area. Should the magnetometer or metal detecting wand indicate a presence

of metal in or around the foot/ankle area that area must be visually inspected while clothing is lifted.

- C. Briefcases, packages, and personal effects are to be passed through x-ray scanning units for examination. The x-ray screen displays metal and the outline of most objects to alert to any suspicious item such as knives and guns. To stay consistent with the front entry screening procedures, all file folders, paperwork, briefcases, portfolios and computers will be processed through the x-ray unit. If an item does not fit in the x-ray machine, court security personnel must visually and physically inspect it.
- D. If a suspicious item is detected by the magnetometer or in the x-ray examination, the individual involved will undergo a secondary inspection by court security personnel. The individual will be detained while the security control center is notified by radio for assistance of sworn law enforcement personnel. The Sheriff's Office will intervene in problems of dangerous/prohibited items found during the screening process.
- E. Court security personnel screening individuals will make every effort to avoid purposeless use of the hand held electronic wand. Court security personnel will always demonstrate professional demeanor with persons requesting access to the facility.
- F. The policy of the court prohibits the general public from entering the 6th Judicial District Court Complex with cell phones. Exceptions are judges, law enforcement officers, victim advocates, CYFD, probation officers, attorneys, jurors, Drug Court Team Members and 6th Judicial District Court Complex employees.
 - 1. Cell phones brought inside the 6th Judicial District Court Complex are to be maintained in a silent or vibrating mode.
 - 2. Emergency requests to enter the courthouse with a cell phone may be approved by the court security supervisor on a case by case basis.
- G. Court security personnel will intervene in any case where weapons or dangerous materials are found in the possession of any individual. Court security personnel will notify the Sheriff's Office for assistance to determine the action needed in regards to confiscation or seized items in cases that concern arrests.
- H. Court security personnel will document all incidents of dangerous weapons or materials found and any items confiscated will be identified and marked as "evidence" or "returned". All court security personnel will also document all incidents in the daily log found in the security control center.
- I. Any individual that appears under the serious impairment of drugs or alcohol will be

reported the security control center for the intervention of court security personnel. Court security supervisor will determine the action needed in such cases.

IX. SECURITY CONTROL CENTER:

- A. The security control center will be operational from 0800 to 1700 hours, Monday through Friday and will have double coverage during threat levels II and III. The Sheriff's Office will ensure adequate manpower coverage.
- B. The security control center exercises command and control functions in support of court security operations and during critical incidents may function as the command post for the Sheriff's Office.
- C. The security control center, a central point for control and coordination of court security operations, has video surveillance of vulnerable areas in the facility and personnel assigned shall coordinate and monitor action to respond to any problem in the facility.
- D. Access to the security control center is limited to court security personnel and Sheriff's Office personnel.
- E. The security control center will be kept clean. The desk area visible to the public will be kept clean and free from loose items that can be used as a weapon.
- F. In the event of a disturbance in the courtroom, remands ordered, security problems or potential danger reported by court personnel or as observed in surveillance monitors, the security control center will immediately dispatch court security personnel and sworn personnel to the scene.
- G. Court security personnel will also be immediately dispatched in the event of a duress alarm. Caution will be exercised to ensure that court security personnel are dispatched to the correct location of the duress. Despite a normal situation displayed on the monitors, court security personnel will be dispatched to clarify the situation or the nature of the problem. Personnel in the security control center will relay information by radio to the court security personnel responding to apprise them of a potentially dangerous situation, the exact location and other factors that require the exercise of caution. Monitoring by video cameras will continue until a resolution of the problem is reached.
- H. Personnel in the security control center will monitor video displays on courtrooms, entrances to the facility, and critical areas of the facility at all times. Court security personnel will be dispatched by radio to any problem observed in the area and the incident recorded. In the event of a fire alarm or when ambulance service is needed,

the security control center will contact dispatch and the Sheriff's Office.

- I. Court security personnel on patrol will inform the security control center by radio of any security problem, incident, or disturbance occurring inside the facility. The security control center will ensure a coordinated response by court security personnel and will maintain a record of the time, date and description of what occurred. The security control center will continue monitoring the situation until the problem is resolved.
- J. All video footage is stored and protected. The Sheriff's Office, court security personnel or other authorities may request a review of video film obtained on a particular time, date and location. Request for video footage will be authorized by the court services sergeant. Technical assistance to accomplish the review will be provided by security control center personnel.
- K. Personnel in the security control center will monitor, control and provide access to the gun storage box after the individual is recognized as a legitimate law enforcement officer.

X. PUBLIC ACCESS:

- A. Members of the public seeking access to the 6th Judicial District Court Complex will enter the building through the main entrance and will be fully screened for prohibited items, weapons, hazardous materials, food/drinks (from the outside) and firearms. After passing through the magnetometer, the hand-held electronic wand may be used for additional screening. Packages and personal effects carried by people entering the facility will undergo inspection by x-ray.
- B. Persons wearing caps, hats etc., will be tactfully requested to remove their headgear for a visual inspection and asked to keep them off while in the 6th Judicial District Court Complex. Based on the circumstances, individuals wearing turbans or headgear worn for religious purposes will be handled by court security personnel with respect. Court security personnel will use rubber gloves to inspect any object containing suspicious substances, drugs or drug paraphernalia.
- C. Large coats or jackets, fanny packs and backpacks will undergo examination at x-ray station without exception. Bulky outerwear of any type will undergo x-ray examination and pockets and lining felt to detect extraneous materials or objects.
- D. Prohibited items found on a person seeking access to the 6th Judicial District Court Complex will prevent entry to the facility until disposed of.
- E. Any individual attempting to enter the 6th Judicial District Court Complex with dangerous weapons and/or materials and prohibited items will be denied access to the

- F. building. That includes unauthorized cell phones, cameras, lighters, knives, scissors, sharp instruments, heavy chains, spike belts, drugs or potentially dangerous substances or weapons. Court security personnel will be prohibited from holding any of the above prohibited items for the public. This includes but not limited to wallets and other personal items of the public.
- G. No one will be permitted to enter the facility with potentially lethal or dangerous weapons or prohibited items. Any individual found with prohibited items will be permitted to leave the premises to store items/property inside of their vehicle. Prior to entering the building any firearms discovered by screening will be confiscated. The security control center will be immediately informed and sworn personnel will intervene to clarify the matter.

XI. CONFISCATIONS AND LOST AND FOUND ITEMS:

- A. The security control center will serve as a central point for information on “lost and found” items. Any item turned in as found or confiscated from anyone will be logged in and secured by security control center. Items lost inside the facility will be returned to owner once identification is made on said lost items. Items not recovered will remain in security control center for approximately one week.
- B. Thereafter lost and found items will be tagged into evidence under found property. Inventory log with description for all items will remain in the security control center for proper documentation.
- C. Items confiscated by court security personnel will be returned to the owner unless it is needed as evidence or is contraband which is illegal to own under state or federal laws. Evidence and contraband will be logged into the Sheriff’s Office property room on the same day the property was taken into custody.
- D. Items considered potential weapons such as small knives, scissors, and similar sharp objects abandoned outside of the facility will be confiscated and disposed of.

XII. HANDLING OF INMATES OR PRISONERS:

- A. Court security personnel will ensure that inmates are separated from the public at all times when being transferred or moved between points inside the facility.
- B. No physical contact will be permitted between any inmate, Judge, court staff and members of the public during hearings or proceedings. Court security personnel will coordinate with transport personnel to assist as necessary and will be responsible for patrolling the courtrooms to correct any problem concerning the control of inmates during a hearing.

- C. Court security personnel will take immediate corrective action if any inmate is postured in a public area or restricted area inside the facility.
- D. In the event of an evacuation of the building, the closest court security personnel to prisoner and transport personnel will assist in the handling of inmates or prisoners to insure the most secure and available evacuation route deemed necessary during the evacuation of building.
- E. Should a prisoner escape while at District Court, the court security personnel will do as follows:
 - 1. Immediately notify the security control center of location, direction and description of prisoner. Judges should also be notified immediately.
 - 2. Immediately contact dispatch of the escape and request assistance in the search and apprehension of the escapee.
 - 3. Notify dispatch with the inmates' description, direction and any pertinent information to assist the apprehension of the escapee.
 - 4. The court security personnel shall submit a complete report on the escape as soon as practical.
- F. Handling disturbed or violent subjects:
 - 1. The handling of a mentally ill or violent subject is often dangerous and difficult. The risk for law enforcement personnel increases for the mental health and condition of a disturbed or violent person is unknown. The situation can become highly unpredictable.
 - 2. No less than two court security personnel under the direction of sworn personnel will respond in these cases. Court security personnel will have in their possession authorized non-lethal equipment to be used in such cases. (Tasers and handcuffs).
 - 3. The security control center will continue to monitor the situation by video if possible and will notify the Sheriff's Office to assist in the custody/disposition of the subject involved.

XIII. HOLDING CELLS

- A. All inmates will be placed in holding cells before and after their court appearance, unless they are ready for immediate transport.

- B. Inmates will be kept restrained in the holding cells.
- C. No smoking will be allowed in the holding cells.
- D. No visitors will be allowed into the holding cells except for legal representation.
- E. Adults and juvenile inmates will be kept separate from each other and not permitted to intermingle.
- F. Male and female inmates will be kept separate from each other and not allowed to intermingle.
- G. The holding cells will be searched by court security personnel or the transporting personnel prior to placing inmates in the holding cell and after they are removed from the holding cell.

XIV. BOMB THREATS OR BOMB EMERGENCIES

A. Bomb threats:

1. A bomb threat is a condition when a suspected bomb/explosive device has been reported but not located.

B. Bomb emergency:

1. A bomb emergency is a condition when a suspected or actual bomb/explosive device has been located or when an explosion occurs.

C. Bomb threat situations:

1. A bomb threat situation frequently involves the report of a suspected bomb or explosive device that has not been found. Other circumstances exist where an explosive device is actually found or an explosion occurs. These situations require a joint response by court security personnel and the evacuation of inmates. The primary objective is the management of the problem to prevent loss of control and to minimize panic. The situations described below fall under the category of a bomb threat.

D. Suspicious and/or unfamiliar package, bag or other object

1. When a suspicious and/or unfamiliar package, bag or other object is found by an employee or someone else inside the facility and is reported to court security personnel.

2. Action required:

- a) The security control center will monitor the situation by video if possible.
- b) The security control center in coordination with the court security supervisor will responsible for notifying the chain of command, dispatch, and the court administrator or his designee immediately of the circumstance.
- c) Court security personnel will clear and isolate the area where the suspicious package or object is found and perimeter control of the area will be established to keep people out.

DO NOT HANDLE OR TOUCH THE OBJECT IF FOUND.

DO NOT OPERATE ANY POWER SWITCHES.

DO NOT USE OR ALLOW ANYONE TO USE A CELL PHONE.

DO NOT ACTIVATE THE FIRE ALARM.

- d) Based on the assessment and the recommendations of the Sheriff's Office, court security personnel will evacuate the building. The court security personnel and the bomb threat evacuation plan will be implemented. Transport along with one court security personnel will assist in the evacuation of the inmates from the facility. Court security personnel will immediately evacuate people from the area where the device is found. The security control center will record all activities, including the time, date and circumstances of the evacuation.
- e) If an evacuation takes place the decision to reoccupy the facility will be made by the Sheriff's Office incident commander. District court judges, court employees, law enforcement officials and attorneys will be the first to re-enter the facility before the general public.

- f) In the event of evacuation DO NOT CLOSE DOORS WHEN EVACUATING.

E. Phone threats of a bomb

- 1. Court security personnel receiving the telephone threat will keep the reporting party on the line and apply the following:

Stay calm and keep your voice calm.

Talk to the caller to obtain as much information as possible.

Take notes. Pay Attention to Details. Ask as many questions as possible:

When will it explode?

Where is it right now?

What does it look like?

What kind of bomb is it?

Where did you leave it?
Did you place the bomb?
Who is the target?
Why did you plant it?
What is your address?
Where are you calling from?
What is your name?

Listen to the caller's voice. See if you can identify:

Speech patterns (accent, tone).
Emotional state (angry, agitated, calm, etc.)
Background noise (traffic, people talking and accents, music & type, etc.)
Age and gender.

Write down other data:

Date and time of call.
How threat was received (letter, note, telephone)

2. If the report on the bomb threat does not provide information on the location of the device the Sheriff's Office will coordinate the threat plan.
 3. Under the circumstances described above, the court security personnel will assist employees in searching their work areas and report any suspicious or strange package, objects or device found immediately to security control center or incident command post. If anything, fitting the description of a suspicious package, object or device is found inside the building the Sheriff's Office will take charge and implement action.
- F. An explosion of an unknown source takes place inside the building or in the proximity.
1. Action Required:
 - a) Court security personnel responding will immediately focus on assisting anyone injured and in isolating the area where the explosion occurred. The scene of the explosion will be protected.
 - b) Threat Level III procedures will be implemented and action to determine if another bomb exists will be implemented by the Sheriff's Office and/or assisting agency. Court security personnel will be advised by security control center of the situation and the need to evacuate inmates in the facility. The Sheriff's Office will approve the evacuation of the building based on the situation.
 - c) Letters or envelopes received at the main entrance will be inspected by court security personnel. If they appear irregular or suspicious court security personnel

- d) will contact the Sheriff's Office immediately. No suspicious correspondence will be delivered to recipients until inspection is conducted.

XV. EMERGENCY FIRE EVACUATION:

- A. The purposes of these procedures are to address an emergency fire evacuation at the 6th Judicial District Court Complex. These procedures will address-alarms, fire extinguishers, evacuation signage, central command and communications, notification processes, monitor duties and responsibilities, instructions for court security personnel and meeting locations.
- B. The 6th Judicial District Court Complex has an audible alarm that can be set off if any emergency arises.
- C. Fire extinguishers are also located at specific locations throughout the facility.
- D. Under normal situations, occupants of 6th Judicial District Court Complex will be notified of an emergency through the alarm system. Upon emergency evacuation notification employees, as well as other occupants, should begin evacuation procedures immediately.
- E. Any hesitation to evacuate the building can result in serious injury and possible death. It must be understood that an alarm must never be considered a test, a false alarm or a drill.
- F. It is strongly recommended, as an added precaution, that Judges remove their robes before leaving the building.
- G. Employees are required to obey the order for emergency evacuation. When the alarm sounds, all employees should leave their office doors open and proceed to evacuation routes. Evacuation plans are posted throughout the complex. All staff of the 6th Judicial District Court Complex and court security personnel should become familiar with these plans.
- H. Each area has posted floor plan signage designating areas for persons needing assistance in the evacuation process. When an alarm sounds, all persons needing assistance must proceed to the designated area and wait for further instructions from the court security personnel.
- I. The floor plans identify evacuation routes for each area of the 6th Judicial District Court Complex. The floor plans also identify locations of pull stations, strobes, fire extinguishers cabinets and evacuation route maps.

- J. During a fire evacuation the security control center will serve as the incident command post.
- K. A telephone list of personnel to contact in the event of an emergency is located in the security control center. In the event there is an actual emergency the court security personnel must alert the entire facility and occupants.
- L. The security control center “check-off list” must be completed when making contact with court security personnel or 6th Judicial District Court Complex personnel to ensure all personnel have checked in.
- M. If there are special circumstances that are in any particular area, this must be made available to security control center so rescue efforts of injured persons, persons unable to evacuate on their own can be assisted by court security personnel.
- N. Duties and Responsibilities of court security personnel in an Emergency Evacuation:
 - 1. Court security personnel will have designated duties during an emergency or fire evacuation. Those duties and responsibilities are designated beginning at the security control center and the exterior of 6th Judicial District Court Complex property.
 - 2. Court security personnel in the security control center will continue monitoring the 6th Judicial District Court Complex and will continue radio contact with court security personnel, dispatch and Sheriff’s Office personnel.
 - 3. Court security personnel will open all doors assisting in the evacuation of persons from the 6th Judicial District Court Complex clearing the exits in a calm and professional manner. Court security personnel will make sure the building is cleared of any person(s).
 - 4. One court security personnel will assist other agency personnel in the evacuation of prisoners/inmates to the sally port for evacuation.

XVI. HOSTAGE SITUATIONS:

- A. A hostage situation exists when persons are taken by force and held under the control of another person or persons until certain conditions demanded are met. The primary objective of court security personnel in these cases is the preservation of the life of people taken hostage. A secondary objective is the resolution of the problem with a minimal amount of danger to law enforcement officers responding and to others in the vicinity.
- B. The safety of the hostage or hostages is of the utmost concern. Court security personnel will immediately isolate the area affected by the hostage situation.

- C. The security control center will immediately contact the Sheriff's Office and Central Dispatch.
- D. The security control center will monitor the situation relaying all information to dispatch.
- E. The court security personnel and law enforcement will establish a perimeter to control the ingress and egress of people into the area where hostages are being held. Court security personnel will assist as requested. People leaving the area will be questioned to obtain information on the situation.
 - 1. The following information will be needed:
 - a) How many hostage takers are involved?
 - b) How many persons are being held hostage?
 - c) What weapons are involved if any?
 - d) What is the description of hostage taker/s?
 - e) What is the description (if possible) of person/s being held hostage?
- F. The Sheriff's Office will use the security control center as a command post if feasible. Video surveillance of the affected area will be enhanced and activities such as communications by radio, telephone, times, date, evacuations made, people injured, and agencies involved recorded.
- G. Court security personnel are responsible for insuring that all district court employees and the public are accounted for.

XVII. HIGH RISK TRIALS/SPECIAL OPERATIONS:

- A. A high-risk trial is one in which by the media exposure or the popularity of the defendant or victim of the crime the risk of security related "emergencies" may arise.
- B. A special operation is one in which requires cooperation between multiple organizations to accomplish a specific task or accomplish a specific goal.
- C. In a high-risk trial or special operation the sergeant in charge of court services should be notified. The sergeant will discuss the task or goal with the chain of command and determine a course of action.

- D. Department personnel designated in charge during a high-risk trial or special operation will confer with the trial Judge and bailiff to discuss how to proceed with a security plan.
- E. These plans will vary from trial to trial and the different judges which may preside. These plans may be written or informal.

LUNA COUNTY SHERIFF	RULES AND REGULATIONS
SUBJECT: Social Host Ordinance	NUMBER: 2-39
EFFECTIVE DATE: Jan. 1, 2020	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED: Sheriff Kelly Gannaway
	NMSA

Purpose: The Board of Supervisors has made a legislative finding that the Social Host Ordinance (SHO) is necessary to protect the public health, safety, general welfare and quiet enjoyment of residential property. Additionally, the ordinance is to facilitate the enforcement of laws prohibiting the service of alcoholic beverages to underage persons and the consumption or possession of alcoholic beverages by underage persons.

- I. Law Enforcement Response.
 - A. When a call for service is initiated or if a Deputy discovers a possible Social Host Situation, the Deputy shall notify the communication center of the situation, and if necessary, utilize additional resources.
 - B. Once contact is made and it is determined there is a Social Host Ordinance violation, the Deputy must secure the scene and determine the safety and welfare of underage partygoers. No underage partygoers who are under the influence of an alcoholic beverage shall be permitted to leave the premise on their own volition.
 - C. If the responding Deputy(s) determines an underage partygoer needs medical assistance, the Deputy shall secure the scene, and then summon paramedics.
 - D. If any Deputy determines a criminal violation has occurred, a criminal investigation separate of the SHO violation shall be initiated.
 - E. All underage partygoers shall be identified, and their parent(s)/guardian(s) shall be summoned to take custody of their child/ward.
 - F. The responding Deputy shall identify the homeowner/property owner and if possible obtain a statement.
 - G. If possible, the investigating Deputy shall take photos/video and collect evidence. No formal police investigation is required in a SHO violation, but

the investigating Deputy should make adequate notes in the County CAD system or on the citation.

- H. A citation shall be issued to the responsible person in compliance with Ord. 95, Section VIII.
- I. The communications center or administrative service shall calculate the costs expended by the county to seek recovery of these costs in compliance with Ord. 95, Section IX.

II. Prohibited Acts or Violations

- A. It is unlawful for any responsible person to host, conduct, aid, allow, permit, or condone an underage gathering or unruly gathering at any private residence or other private property.
- B. A responsible person who hosts and event or gathering as described in Ord. 95, Section V does not have to be present at the event or gathering to be held responsible for civil penalties and/or costs.
- C. Exceptions – this ordinance does not apply to conduct between an underage person and their parent(s) while present in a private residence or other private property.

III. Civil Violations

- A. Civil actions require a lesser threshold of burden of proof as compared to criminal matter. The burden of proof shall be beyond the preponderance of evidence. When filing the case with the Office of the County Manager, the investigating officer shall ensure the burden of proof is met.
- B. A hearing officer should adhere to the violation/fine schedule outlined in Ord. 95, Section VI.
- C. The revenue generated by SHO fines are restricted by ordinance. They shall be appropriated only for activities associated with the Ordinance.

IV. Hearing

- A. If necessary, the citation issuing Deputy shall make himself or herself available to give testimony at an appeal hearing. Testimony can be oral, physical, photographic, expert, or demonstrative evidence.
- B. The investigating agency shall make available access to all evidence at the request or subpoena of the hearing officer. An exception may occur if the request would interfere with an on-going criminal investigation.