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## CHAPTER 5

### PROFESSIONAL CONDUCT OF PEACE OFFICERS POLICY MN STAT 626.8457

#### **SECTION 1. POLICY.**

It is the policy of the Winsted Police Department to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

The code of conduct of the Winsted Police Department is designed to promote efficient, discipline, and good relations with the public by setting forth policies and procedures governing the conduct of every member of the police department.

Officers shall maintain a level of conduct in their departmental affairs which is in keeping with the highest standards of the law enforcement profession. Officers shall not participate in any activity, whether on or off-duty, that tends to negatively impact their ability to perform as Law Enforcement Officers by bringing discredit to themselves, other employees or disrepute to the department.

#### **SECTION 2. CONFORMANCE TO LAWS.**

Employees shall obey the laws of the United States, of this state, and of the City of Winsted.

#### **SECTION 3. CONFORMANCE TO THE WINSTED POLICY AND PROCEDURES MANUAL.**

Every member of the police department shall comply with policy and procedures set forth in this manual. Any member violating said policy and procedures shall be subject to discipline in accordance with the "Discipline" section of this manual and the Winsted Personnel Policy Manual.

\*Deviation from the City's Policy & Procedure Manual can occur only when exigent circumstances present themselves to an officer. The following criteria must exist for an officer to deviate from the City's Policy and/or Procedure:

- a. An Officer must be able to articulate why he/she had deviated from the City's Policy and/or Procedure; and
- b. Any deviation from the City's Policy or Procedure must be related to an emergency situation where life is at risk, great bodily harm could be sustained, or serious property damage could occur, should deviation from Policy and/or Procedure not occur.
- c. Any deviation action must be lawful in nature.

#### **SECTION 4. POLICE ACTION BASED ON LEGAL JUSTIFICATION.**

What is reasonable in terms of appropriate police action varies with each situation, and different facts may justify either an investigation, a detention, a search, an arrest, or no action at all. The requirement that legal justification be present imposes a limitation on an officer's action. In every case, an officer must act within the limits of his authority as

defined by law and judicial interpretation, thereby ensuring that the rights of both the individual and the public are protected.

**SECTION 5. ABUSE OF PROCESS.**

Employees shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold information, or make false accusations of a criminal and/or traffic charges and investigations.

**SECTION 6. CONDUCT TOWARD OTHER OFFICERS.**

All officers shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another.

**SECTION 7. RESPONSIBILITIES AND GENERAL CONDUCT ON DUTY.**

Officers shall respond without delay to all calls for police service unless otherwise directed by a supervisor or Chief of Police. Emergency calls for service shall take precedence. However, all calls shall be answered as soon as possible.

**SECTION 8. PROFESSIONAL CONDUCT OF PEACE OFFICERS.**

**PROCEDURE**

This policy applies to all officers of this agency engaged in official duties whether within or outside of the territorial jurisdiction of this agency. Unless otherwise noted this policy also applies to off duty conduct. Conduct not mentioned under a specific rule but that violates a general principle is prohibited.

**A. PRINCIPLE ONE**

Peace officers shall conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Minnesota Constitution, and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

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

**2. Rules**

- a) Peace officers shall not knowingly exceed their authority in the enforcement of the law.
- b) Peace officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants, and preservation of evidence, except where permitted in the performance of duty under proper authority.
- c) Peace officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.

- d) Peace officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction.
- e) Peace officers will not, according to MN STAT 626.863, knowingly allow a person who is not a peace officer to make a representation of being a peace officer or perform any act, duty or responsibility reserved by law for a peace officer.

## **B. PRINCIPLE TWO**

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

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

### **2. Rules**

- a) Peace officers shall carry out their duties with integrity, fairness and impartiality.
- b) Peace officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- c) Peace officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
- d) Peace officers shall take no action knowing it will violate the constitutional rights of any person.
- e) Peace officers must obey lawful orders but a peace officer must refuse to obey any order the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order shall be required to justify his or her actions.
- f) Peace officers learning of conduct or observing conduct that is in violation of any law or policy of this agency shall take necessary action and report the incident to the officer's immediate supervisor who shall forward the information to the CLEO. If the officer's immediate supervisor commits the misconduct the officer shall report the incident to the immediate supervisor's supervisor.

## **C. PRINCIPLE THREE**

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

**1. Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering

disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

## **2. Rules**

- a) Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
- b) Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation, age, or any other protected class of persons.

## **D. PRINCIPLE FOUR**

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

- 1. **Rationale:** A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

## **2. Rules**

- a) Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in c).
- b) No Officer shall arrive at a shift, meeting, training or other police department function with a breath alcohol concentration of over .000 or under the influence of an unapproved controlled substance. No Officer shall consume alcoholic beverages within 8 hours of a scheduled shift or on-call time. Violation of this policy may result in discipline up to and including termination.
- c) Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- d) Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to;

making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.

- e) Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f) Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g) Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.

#### **E. PRINCIPLE FIVE**

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

**1. Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.

#### **2. Rules**

- a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.
- b) No peace officer shall ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person to do anything reasonably calculated to incite a person to violence.
- c) Peace officers shall promptly advise any inquiring citizen of the agency's complaint procedure and shall follow the established agency policy for processing complaints.

#### **F. PRINCIPLE SIX**

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

**1. Rationale:** For a community to have faith in its peace officers, officers must avoid conduct that does or could cast doubt upon the impartiality of the individual officer or the agency.

## 2. Rules

- a) Peace officers shall not use their official position, identification cards or badges for: (1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.
- b) Peace officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
- c) Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- d) Unless required for the performance of official duties, peace officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- e) Peace officers shall:
  - not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection with advertisements for any product, commodity or commercial enterprise;
  - maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
  - not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

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

## G. PRINCIPLE SEVEN

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

1. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities.
2. **Rules**
  - a) Unless required by law or policy a peace officer shall refrain from becoming involved in official matters or influencing actions of other peace officers in official matters impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.



- b) Unless required by law or policy a peace officer shall refrain from acting or influencing official actions of other peace officers in official matters impacting persons with whom the officer has or has had a business or employment relationship.
- c) A peace officer shall not use the authority of their position as a peace officer or information available to them due to their status as a peace officer for any purpose of personal gain including but not limited to initiating or furthering personal and/or intimate interactions of any kind with persons with whom the officer has had contact while on duty.
- d) A peace officer shall not engage in any off-duty employment if the position compromises or would reasonably tend to compromise the officer's ability to impartially perform the officer's official duties.

## **H. PRINCIPLE EIGHT**

Peace officers shall observe the confidentiality of information available to them due to their status as peace officers.

1. **Rationale:** Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to maintain public faith in the officer's and agency's commitment to preserving such confidences.
2. **Rules**
  - a) Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
  - b) Peace officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
  - c) Peace officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

## **I. APPLICATION**

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

## **SECTION 9. GRATUITIES.**

It is improper for offices to solicit or accept from any person, business, or organization any gift for the benefit of the officers or department, if it may reasonably be inferred that the person, business or organization:

- A. Seeks to influence action of an official nature or seeks to affect the performance of non-performance of an official duty; or
- B. Has an interest which may be substantially affected directly or indirectly by the performance or non-performance of an official duty.

For the purpose of this rule, the word “gift” shall include money, tangible or intangible personal property, loan promise, service or entertainment.

#### **SECTION 10. ENDORSEMENTS AND REFERRALS.**

Officers shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, bondsman, mortician, etc.)

#### **SECTION 11. ALCOHOL AND DRUGS.**

##### **A. USE OF DRUGS**

Officers shall not use any controlled substances, narcotics or hallucinogens except when prescribed by a physician or dentist. When the use of prescribed substances on duty affects the officer’s physical or mental capacity, the officer shall notify his superior officer.

##### **B. ALCOHOL OR DRUGS IN POLICE INSTALLATIONS**

Officers shall not store or bring into any police facility or vehicle alcohol beverages or non-prescription drugs except those which are to be held as evidence or inventoried as found property, personal property or recovered goods. By definition, “non prescription” excludes commercially available, over-the-counter chemicals which are for the use of the individual officer such as aspirins, over-the-counter cold tablets and similar substances.

##### **C. USE OF ALCOHOL/ON-DUTY**

Officers shall not consume alcoholic beverages while on-duty. Officers shall not appear for duty or be on-duty, while under the influence of intoxicants to any degree, or have an odor or intoxicants on their breath.

##### **D. USE OF ALCOHOL/OFF-DUTY**

Officers, while off-duty, shall not consume alcoholic beverages in a public place or establishment while wearing any part of the Winsted Police Uniform recognizable to the public. Officers shall also refrain from consuming such beverages to the extent that it results in obnoxious or offensive behavior, which would tend to discredit the department or render them unfit to report for their next department assignment or tour of duty.

E. See Drug and Alcohol Policy and Principal Four above.

#### **SECTION 12. WORK SHIFTS FOR SWORN OFFICERS.**

The work shift of patrol officers shall consist of approximately 16 (sixteen) eleven hour days per month. Days and hours worked shall be set by the Chief of Police. No switching of days will be permitted unless prior approval has been granted by the Chief of Police. Shifts worked shall be 1700 hours – 0400 hours; unless set differently by the Chief.

**SECTION 13. POLICE OFFICER AVAILABILITY.**

If an emergency or disaster should arise, it may require calling off-duty officers into on-duty status. Officers contacted in such a situation shall respond without delay, to the Police Department for their assignment.

**SECTION 14. OFFICER RESPONSE.**

Officers shall respond without delay to all assigned calls for police service unless otherwise directed by a superior officer. Emergency calls for service shall take precedence. However, all calls shall be answered as soon as possible consistent with normal safety precautions and traffic laws. When on-call, an officer will respond to all emergency calls without delay. All emergency calls will be responded to without delay. All non-emergency calls will be responded to at the beginning of a shift, unless immediate response is requested by Complainant.

**SECTION 15. MEALS AND BREAKS.**

Officers are allowed one 45 minute break for meals and two (2) twenty minute breaks for coffee, per eleven hour shift. All breaks are subject to call.

The procedure for checking out is a follows:

- A. Notify the dispatcher, by radio, computer or telephone. Provide Dispatch with the phone number you can be reached at.
- B. When at all possible, have the portable with you.
- C. Clear by radio
- D. Log the exact time, checked out and cleared, the number to be reached and reason, i.e., Pantry-break.

Avoid checking out with regularity, time, place, etc., that you establish a perceivable pattern.

**SECTION 16. APPROPRIATE ACTION.**

When a person applies or request assistance or advice, or makes complaints or reports either by telephone or in person, all pertinent information will be obtained and will be properly and judiciously acted upon by the officer who has that responsibility.

**SECTION 17. EXPENDITURE OF CITY FUNDS.**

No expenditure of money shall be made or debt incurred in the name of the City of Winsted or the police department unless authorized by the Chief of Police.

**SECTION 18. INSUBORDINATION.**

Officers shall, at all times, obey the lawful orders of superior officers.

**SECTION 19. ATTENTION TO DUTY.**

- A. Officers shall not conduct personal or private business while on duty.

- B. Officers shall be occupied with police business during their tour of duty, and shall devote their time and attention to the business of the department.
- C. Officers shall report back in service immediately upon completion of a call or assignment.

**SECTION 20. OFFICER BACK-UP.**

Upon an officer requesting a back-up for assistance, such back-up officer shall respond in a timely manner and take appropriate action toward aiding his fellow officer.

**SECTION 21. PATROL VISIBILITY.**

Because the visible elements of a police vehicle operating in the city is a deterrent to crime and traffic violations, on-duty officers shall devote the majority of their shift patrolling city streets, unless otherwise instructed by a supervisor or the Chief.

**SECTION 22. SLEEPING ON DUTY.**

Employees shall remain awake while on duty. It is an employee's responsibility to be fit for duty when he/she reports for his/her shift.

**SECTION 23. COURTESY.**

Officers shall be courteous to the public. Officers shall be tactful in the performance of their duties, shall control their tempers, and exercise the utmost patience and discretion, and shall not engage in argumentative discussion. In the performance of their duties, officers shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin or similar characteristics.

**SECTION 24. SNOWFALL – STREET DEPARTMENT.**

A Public Works employee is to be called at home and notified of road conditions, according to the following conditions and times:

- A. If there is 2" or more of fresh snow and/or it is snowing, notify at 0400 hrs.
- B. If an emergency exists and a plow is needed to gain access for police, fire or ambulance.

**SECTION 25. RESPONSIBILITY OF OFF-DUTY OFFICERS.**

Off-duty officers have peace officer authority relating to crime committed within their jurisdiction, and shall take appropriate action as necessary. Off-duty officers shall have some means of identification on their person (badge or identification card) if they do take action. Such identification will be displayed to the person whom action is being taken against.

**SECTION 26. AUTHORITY OUTSIDE JURISDICTION.**

(Minnesota Statute 629.40)

Subd. 1 In any case wherein a peace officer may by law, either with or without a warrant arrest a person for or upon a charge of any criminal offense committed within his/her jurisdiction, and the person to be arrested escapes from

or is out of the county, city or town, the officer may pursue and apprehend the person to be arrested anywhere in the state.

Subd. 2 When any peace officer shall, in obedience to the order of a court, or proper police authority, or in fresh pursuit as provided in Subdivision 1, be outside of his/her jurisdiction he is serving in this regular line of duty as fully as though he was within his/her jurisdiction.

## **SECTION 27. IMPARTIAL POLICING POLICY.**

### **A. PURPOSE**

This policy is intended to reaffirm our department's commitment to impartial/unbiased policing and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in a fair and equitable manner to all.

### **B. POLICY**

#### **1. POLICY**

- a. Investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by officers will be based on a standard of reasonable suspicion of probable cause in accordance with the Fourth Amendment of the United States Constitution. Officers must be able to articulate specific factors, circumstances and conclusion that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, non-consensual searches and property seizures.
- b. Except as provide in paragraph (3), officers shall not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion of probable cause.
- c. Officers may take into account the descriptions in paragraph (2) of a specific suspect(s) based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals. This information may be used in the same manner officers use specific information regarding age, height, weight, etc. About specific suspects.

#### **1. PREVENTING PERCEPTION OF BIASED POLICING – PROCEDURAL GUIDELINES**

In an effort to prevent the perception of biased law enforcement, officers shall utilize the following guidelines.

- Be respectful and professional.
- Introduce or identify yourself to the citizen and state the reasons of the contact as soon as practical, unless providing this information will compromise officer or public safety.

- Ensure that the detention is no longer than necessary to take appropriate action for the suspected offense.
- Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact, including relevant referrals to other agencies when appropriate.
- Provide your name and badge number when requested, preferably in writing or on a business card.
- Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).

### **C. SUPERVISION AND ACCOUNTABILITY**

Supervisors shall ensure that all personnel in their command are familiar with the content of this policy and are operating in compliance with it.