



MARSHALL POLICE  
POLICY AND PROCEDURE  
MANUAL  
2015

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## Contents

ORGANIZATIONAL STRUCTURE .....	9
PURPOSE .....	9
POLICY .....	9
DEFINITIONS .....	9
DUTIES AND RESPONSIBILITIES: Chief of Police.....	9
DUTIES AND RESPONSIBILITIES: Police Officer .....	9
MEDIA RELATIONS .....	10
PURPOSE .....	10
POLICY .....	10
DEFINITIONS.....	10
A.    GENERAL GUIDELINES .....	10
B.    PRESS RELEASE .....	11
C.    CONFIDENTIAL INFORMATION.....	11
D.    NON-CONFIDENTIAL INFORMATION.....	12
E.    PHOTOGRAPHY .....	12
F.    RIDE ALONGS .....	13
MUTUAL AID .....	13
PURPOSE .....	13
POLICY .....	13
DEFINITIONS.....	13
A.    ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES .....	14
B.    TASK FORCE INVOLVEMENT.....	14
RULES OF CONDUCT .....	15
PURPOSE .....	15
POLICY .....	15
DEFINITIONS.....	15
A.    CONFORMANCE TO LAWS AND RULES .....	15
B.    UNBECOMING CONDUCT AND JOB PERFORMANCE.....	16
C.    TRUTHFULNESS.....	17
D.    COURTESY .....	17
E.    ABUSE OF POSITION.....	17
F.    OBSTRUCTION OF JUSTICE.....	17
G.    PUBLIC APPEARANCES .....	18
H.    PUBLIC STATEMENTS.....	18

I.	GIFTS, GRATUITIES, AND BRIBES.....	18
J.	REFERRALS- WRECKER SERVICES .....	18
K.	ALCOHOL AND DRUG USE .....	19
L.	CONFIDENTIALITY .....	19
M.	REPORTING FOR DUTY .....	20
N.	INSUBORDINATION AND CONFLICTING ORDERS.....	20
O.	VEHICLES AND EQUIPMENT .....	20
P.	UNAUTHORIZED USE OF COMPUTER SYSTEMS .....	21
Q.	ASSOCIATIONS.....	21
R.	CITIZEN COMPLAINTS .....	22
S.	RESPONSIBILITY OF DUTY .....	22
T.	REQUESTS FOR ASSISTANCE.....	22
U.	PAYMENT OF DEBTS .....	22
V.	RUNNING FOR OFFICE .....	23
	PERSONAL APPEARANCE .....	23
	PURPOSE.....	23
	POLICY .....	23
	DEFINITIONS.....	23
	A.    DRESS CODE.....	24
	B.    GROOMING .....	24
	C.    ACCESSORIES AND TATTOOS.....	24
	D.    EXCEPTIONS.....	25
	LEAVE & TIME OFF .....	25
	PURPOSE.....	25
	POLICY .....	25
	DEFINITIONS.....	25
	A.    GENERAL GUIDELINES .....	25
	B.    VACATION .....	26
	C.    HOLIDAYS .....	26
	D.    COMPENSATORY TIME.....	27
	E.    SICK LEAVE.....	27
	F.    LEAVE WITHOUT PAY .....	28
	G.    FAMILY MEDICAL LEAVE .....	28
	H.    OTHER TYPES OF LEAVE .....	28
	I.    APPROVAL OF LEAVE AND ADDITIONAL TIME.....	29

PURSUIT DRIVING.....	29
PURPOSE.....	29
POLICY.....	29
DEFINITIONS.....	29
A.    GENERAL INFORMATION.....	30
B.    INITIATING A PURSUIT.....	31
C.    RESPONSIBILITIES- PRIMARY MEMBER.....	32
E.    RESPONSIBILITIES- THE CHIEF OF POLICE.....	33
F.    RESPONSIBILITES- COMMUNICATIONS.....	33
G.    TERMINATING THE PURSUIT.....	33
H.    REPORTING.....	34
USE OF FORCE.....	34
PURPOSE.....	34
POLICY.....	34
DEFINITIONS.....	34
A.    USE OF DEADLY FORCE.....	35
B.    USE OF NONDEADLY FORCE.....	35
C.    MEDICAL ATTENTION.....	36
D.    TRAINING.....	36
E.    DOCUMENTATION.....	37
FIREARMS AND AMMUNITION.....	38
PURPOSE.....	38
POLICY.....	38
DEFINITIONS.....	38
A.    CARRYING A WEAPON.....	38
B.    WEAPON STORAGE AND MAINTENANCE.....	39
C.    APPROVED WEAPONS, AMMUNITION, & HOLSTERS.....	39
D.    WEAPON QUALIFICATION.....	40
OLEORESIN CAPSICUM SPRAY PROCEDURE.....	42
PURPOSE.....	42
POLICY.....	42
DEFINITIONS.....	42
A.    SPECIFICATIONS.....	42
B.    DECONTAMINATION AFTER USE.....	42
C.    MEDICAL ATTENTION.....	43

D.    DOCUMENTATION .....	44
IN-CUSTODY OPERATIONS .....	44
PURPOSE .....	44
POLICY .....	44
DEFINITIONS .....	44
A.    TREATMENT OF PERSONS IN CUSTODY .....	45
B.    SEARCHES .....	45
C.    HANDCUFFING.....	46
D.    PRISONER PLACEMENT .....	47
E.    POSITIONAL ASPHYXIATION .....	47
F.    TRANSPORTATION.....	48
G.    ESCAPES .....	49
H.    DETENTION FACILITY .....	49
UNUSUAL OCCURANCES .....	50
PURPOSE .....	50
POLICY .....	50
DEFINITIONS .....	50
A.    HOSTAGE SITUATIONS .....	50
B.    BOMB EMERGENCIES.....	51
C.    HAZARDOUS MATERIAL/CBRN INCIDENTS .....	52
D.    DUTIES OF FIRST RESPONDERS.....	52
ELECTRONIC CONTROL DEVICES .....	53
PURPOSE .....	53
POLICY .....	54
DEFINITIONS.....	54
A.    TRAINING, TESTING, AND QUALIFICATION .....	54
B.    MAINTENANCE RESPONSIBILITIES .....	55
C.    CARRY AND DEPLOYMENT CRITERIA .....	55
D.    TASER DISCHARGE .....	55
E.    DISCHARGE FOLLOW-UP.....	56
F.    REQUIRED REPORTS.....	57
EVIDENCE .....	57
PURPOSE .....	57
POLICY .....	57
DEFINITIONS.....	57

A.	GENERAL INFORMATION .....	57
B.	CRIME SCENE SECURITY .....	58
C.	PHOTOGRAPHY .....	59
D.	SEIZURE- MONEY AND PAPER ITEMS.....	59
E.	SEIZURE- LIQUIDS.....	60
F.	SEIZURE- VEHICLES .....	60
G.	SEIZURE- MISCELLANEOUS ITEMS .....	61
H.	LABELING .....	61
I.	REPORTS .....	62
J.	STORAGE.....	63
K.	EVIDENCE STORAGE ROOM.....	63
L.	SUBMISSION OF EVIDENCE TO LAB.....	64
M.	DISPOSAL .....	65
N.	FINAL RELEASE .....	65
	<b>BLOODBORNE PATHOGEN PRECAUTIONS .....</b>	<b>66</b>
	PURPOSE.....	66
	POLICY .....	66
	DEFINITIONS.....	67
A.	ANTICIPATED RISKS .....	68
B.	PRECAUTIONS AND WORKPLACE CONTROLS .....	68
C.	PERSONAL PROTECTIVE EQUIPMENT .....	69
D.	FIRST AID AND CPR.....	69
E.	SEARCH AND EVIDENCE HANDLING PRECAUTIONS .....	70
F.	BODY FLUIDS AND DECEASED PERSONS .....	70
G.	DECONTAMINATION AND CLEAN UP.....	70
H.	DISPOSAL .....	71
I.	REPORTING AND DISCLOSURE INFORMATION .....	71
	<b>JUVENILE PROCEDURES .....</b>	<b>72</b>
	PURPOSE.....	72
	POLICY .....	72
	DEFINITIONS.....	72
A.	TEMPORARY CUSTODY .....	72
B.	DISPOSITION AFTER CUSTODY .....	73
C.	INTERROGATION .....	74
D.	INTERVIEW .....	75

E.	NON-TESTIMONIAL IDENTIFICATION .....	76
F.	JUVENILE RECORDS .....	76
G.	RECORD KEEPING FOR CITATIONS/JUVENILE RECORDS .....	76
H.	TRAINING & EVALUATION .....	76
VEHICLES & EQUIPMENT .....		77
PURPOSE .....		77
POLICY .....		77
DEFINITIONS .....		77
A.	GENERAL INFORMATION .....	77
B.	MAINTENANCE, ALTERATIONS, AND ACCESSORIES .....	77
C.	ACCIDENTS .....	78
D.	EQUIPMENT ISSUANCE, INSPECTION, & EXCHANGES .....	78
VEHICLE OPERATIONS .....		79
PURPOSE .....		79
POLICY .....		79
DEFINITIONS .....		79
A.	GENERAL INFORMATION .....	79
B.	UNIFORM TRAFFIC ENFORCEMENT .....	80
C.	VEHICLE STOPS .....	81
D.	SPECIAL POPULATIONS .....	82
E.	ROADWAY HAZARDS .....	83
F.	ROADSIDE ASSISTANCE .....	83
G.	ROADSIDE SAFETY CHECKS .....	84
ESCORTS, RELAYS, AND PASSENGER TRANSPORTS .....		84
PURPOSE .....		84
POLICY .....		84
DEFINITIONS .....		84
A.	MEDICAL EMERGENCIES .....	85
B.	USE OF MARSHALL POLICE DEPARTMENT VEHICLES .....	85
C.	PASSENGER TRANSPORT .....	86
D.	RIDE-ALONG PROGRAM .....	86
E.	TRANSPORTATION REQUESTS .....	88
TOWING MOTOR VEHICLES .....		88
PURPOSE .....		88
POLICY .....		88

DEFINITIONS..... 88

- A. VEHICLE REMOVAL PROCEDURES ..... 88
- B. SECURING VEHICLES ..... 89
- C. TRANSPORTATION AND STORAGE..... 89
- D. NOTIFICATION..... 90
- E. VEHICLE INVENTORY ..... 90
- F. VEHICLE RELEASE..... 91



## **ORGANIZATIONAL STRUCTURE**

### **PURPOSE**

The purpose of this directive is to establish the organizational structure of the Department and outline the job duties and responsibilities of each sworn position within the Department.

### **POLICY**

The Marshall Police Department shall be organized into a command structure that establishes formal lines of authority and continuous communication for optimum performance of duties to the service area of the Town of Marshall, North Carolina.

A system of successive, predetermined protocol for specific situations and supervisory delegation of tasks will determine the command authority.

### **DEFINITIONS**

Department: The Marshall Police Department

Chief of Police: The head of the Marshall Police Department

Police Officer: A duly authorized and sworn law enforcement employee of the Marshall Police Department.

### **DUTIES AND RESPONSIBILITIES: Chief of Police**

1. Reports directly to the Marshall Town Council.
2. Exercises such powers and fulfills those responsibilities connected with his/her office as provided by law.
3. Is responsible for planning, organizing, staffing, controlling, coordinating, reporting, and budgeting of the Marshall Police Department
4. Is responsible for ensuring that the Marshall Police Department carries out those assigned duties and responsibilities set forth in the North Carolina General Statutes.

### **DUTIES AND RESPONSIBILITIES: Police Officer**

1. Reports directly to the Chief of Police.
2. Enforces all North Carolina laws consistent with Marshall Police Department policy, and renders courteous service to the citizenry.
3. Maintains proficiency in the preparation of criminal and cases and the presentation of evidence in the courts in accordance with Marshall Police Department policies.

4. Exercise initiative in restoring and maintaining order during emergency enforcement situations consistent with Marshall Police Department policy.
5. Conducts investigations consistent with job responsibility, as assigned by higher authority.
6. Policy, maintaining a high level of proficiency in the technical aspects of law enforcement activities.

## **MEDIA RELATIONS**

### **PURPOSE**

The purpose of this directive is to establish guidelines to assist employees in establishing and maintaining a fair, harmonious, productive, and reasonable working relationship with the communications media at the scene of a crime or disaster.

### **POLICY**

The Marshall Police Department will cooperate in a professional manner, with openness and candor, to inform the public and the news media of events that impact the lives of the citizens of the community. No employee shall willfully delay, hamper, or interfere with any member of the news media who is lawfully gathering information or reporting an event.

Sworn members of the Department shall generally permit media representatives access to the scene in question. Sworn members may restrict or exclude media access from public areas when entrance into the area would compromise the integrity of the scene with regard to evidence or create a hazard of danger for the agent, media representative, or others in proximity to the scene.

### **DEFINITIONS**

Confidential: Information that is protected and secure, not to be distributed to the media, public, or any other entity without consent and authority of the Chief of Police.

Emergency mode: The act of operating a police vehicle with blue lights and sirens activated for the purpose of responding to a situation requiring immediate police attention due to clear and present danger to the public or another officer, the need for an immediate apprehension of a violator, or a serious or violent crime in progress. Failure to respond in such situations would pose a significant risk of serious injury or death and the need for the response outweighs the danger created by the quickness of the response; signal 25.

#### **A. GENERAL GUIDELINES**

1. The Chief of Police shall be the initial media point of contact and are responsible for making all press releases concerning events within the Town of Marshall. Officers may make releases only when authorized by the Chief of Police.
2. Sworn employees shall cooperate equally with all reporters and media representatives.

3. Representatives of the media should not be in a position to interfere with law enforcement operations and should always be positioned outside the established perimeter of the crime scene.
4. If a media representative is being unreasonable in his/her request for information or is obstructing a sworn member from performing his/her legal duties, sworn members are not expected to cooperate with that representative.
5. If there is a question concerning a person's status as legitimate news media personnel, a sworn employee shall request appropriate identification from the individual.
6. News representatives shall only be provided with factual information that has been verified as accurate and shall not express any personal opinions concerning any component of any investigation.
7. All personnel of the Marshall Police Department shall be prompt, courteous and fair in all dealings with media personnel.
8. If at any time a sworn member is unclear on the policy regarding the confidentiality of information, he/she shall immediately contact the Chief of police or his designee.

#### **B. PRESS RELEASE**

1. All news conferences shall be held by the PIO or authorized member of the Department. All press releases involving undercover operations, joint investigations and operations with other agencies, confidential investigations and operations, crisis situations within the agency, or matters other than routine enforcement actions shall be coordinated with the Chief of Police and the Office of the Mayor.
2. Where more than one agency is involved, the agency having primary jurisdiction is responsible for the release or coordinating the release of information.

#### **C. CONFIDENTIAL INFORMATION**

1. No employee shall speak on behalf of or make public any information concerning cases investigated by other departments or law enforcement agencies.
2. No employee shall make public the following information concerning Marshall Police Department activities, arrests or investigations:
  - a. Opinions or other statements as to the character, reputation, guilt, or innocence of a person charged with an offense;
  - b. Opinions or other statements as to the character or reputation of any witnesses;
  - c. Opinions or other statements concerning the identity, credibility, or anticipated testimony of any witnesses;

- d. Admissions, confessions, statements, or alibis attributed to the person charged with an offense;
  - e. The result of any investigative procedure, polygraph examination, or laboratory test involving a person charged with an offense;
  - f. The refusal of a person charged with an offense to submit to any test, except that information concerning refusal to submit to a chemical test for alcohol impairment may be released;
  - g. Opinions or other statements concerning evidence in a case or concerning the theory of the case or arguments to be presented in court;
  - h. Statements concerning physical evidence that is not information of public record;
  - i. Names or any information concerning juveniles who are under investigation or have been taken into custody; or
  - j. Investigative reports, documents, or records that are not public record.
3. A sworn member shall not release the name of a deceased person to the news media prior to notification of the deceased person's family.

#### **D. NON-CONFIDENTIAL INFORMATION**

1. Sworn members may make public the following information concerning activities, arrests, and investigations:
  - a. The name, age, place of residence, employment, marital status or similar background information of a person charged with an offense or named as a defendant in a civil nuisance abatement action;
  - b. The offense or violation charged, the time and place of the arrest, whether weapons were found or used, description of evidence or contraband seized, court dates, and court locations
  - c. The identity of investigating and/or arresting agents involved.
2. Sworn members may release information to news media personnel, provided that such release of information does not jeopardize officer or public safety, a continuing investigation, the apprehension of suspects, or the prosecution of the case.

#### **E. PHOTOGRAPHY**

1. Sworn members shall not prevent photographing of defendants in public places except in courtrooms and adjacent corridors as directed by the trial judge.

2. Sworn members shall not pose an arrested person for news media photographers.
3. Photographers shall not be prohibited from taking photographs of crashed aircraft or vehicles involved in collision or traffic incidents.
4. Media and photography access to fire, natural disaster, or other catastrophic event scenes shall be controlled by the local agency with jurisdiction in which the event occurs. Sworn members may establish an observation point from which media personnel may observe and/or photograph proceedings, provided the point of observation does not expose the media representative(s) to any obvious condition that might endanger their health or safety.

## **F. RIDE ALONGS**

1. Sworn members may permit members of the media to ride with or accompany officers under the following conditions:
  - a. Permission is first obtained from the Chief of Police or his designee;
  - b. Members of the media are not permitted to accompany officers onto private property or into areas subject to a reasonable expectation of privacy; and
  - c. Members of the media may not accompany members of an enforcement team or otherwise be placed in a situation where they may be injured during an enforcement action.
2. No sworn members may operate his/her vehicle in emergency mode or be directly involved in enforcement activity while accompanied by a member of the media or any other civilian personnel.

## **MUTUAL AID**

### **PURPOSE**

The purpose of this directive is to establish the guidelines for requesting and lending aid to other law enforcement agencies.

### **POLICY**

The Marshall Police Department will maintain liaisons with other criminal justice, public safety, and human service agencies in order to ensure informational exchange and coordination of efforts. Sworn members of the Department may assist county, state or federal law enforcement agencies when authorized by this policy.

### **DEFINITIONS**

Pursuant to North Carolina General Statute 160A-288.2: all requests for assistance must be in writing from the Chief of Police to the head of the affected law enforcement agency. Personnel, supplies, and

equipment of the affected agency shall not be used prior to issuance of the request for assistance by the Chief of Police.

Supervisor in Charge: The officer controlling the operation shall assign himself or the Chief of Police as the Supervisor in Charge of the operation. The Supervisor in Charge shall be responsible for supervising the borrowed officer, receiving and accounting for supplies and equipment borrowed, and shall exercise control over the operation and all members involved. The operation shall be conducted consistent with Marshall Police Department policies, rules, and directives.

#### **A. ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES**

1. In the event that Marshall Police Department assistance is deemed necessary, local officials should contact the Chief of Police. Marshall Police Officers are not authorized to commit themselves, other sworn members, or the Department to assist other local agencies. Any and all requests for assistance shall be referred to the Chief of Police.
2. Upon receiving a request for assistance, if time permits, the Chief of Police will assess the situation and ascertain the following:
  - a. Whether the local authorities have utilized all of their own available forces and are unable to control the situation; and
  - b. Whether effective control of the situation is beyond the capabilities of the local authorities; and
  - c. Whether the local authorities are taking appropriate action.
3. Only the Chief of Police or a designated representative shall authorize the actual commitment of a Marshall Police Department sworn member or members to assist other local officials.
4. Any unlawful or unauthorized act on the part of any sworn member will not be excused on the grounds that it was the result of an order or request received from a local officer or civilian official from another law enforcement agency
5. Sworn members shall document any assistance provided under this authority.

#### **B. TASK FORCE INVOLVEMENT**

1. Officers of the Marshall Police Department may be provided opportunities to serve on task forces. As the need for these assignments arise, members of the Department will be notified of the position, the purpose of the task force, the duration of the assignment, and the selection criteria and procedures. Interested sworn members who meet the criteria may apply for the position.
2. A Memorandum of Understanding (MOU) shall be completed for each formal, long term, multi-jurisdictional task force in which the Department has assigned a sworn

member as a dedicated participant.

3. The MOU shall explain the purpose of the task force and outline the authority and responsibilities held by members of the task force team.
4. In the event a sworn member is assigned to assist an official member of a task force, the task force agent or the ranking official over the task force shall maintain command protocol for the duration of the operation.

## **RULES OF CONDUCT**

### **PURPOSE**

The purpose of this directive is to establish guidelines, rules, and regulations for the conduct of personnel while on-duty and off-duty as representatives of the Marshall Police Department.

### **POLICY**

The Marshall Police Department Rules of Personal Conduct and Job Performance shall govern the actions of each employee. Employees shall conduct themselves at all times in a manner that will not reflect negatively upon the professional image of the Department, the individual employee, or any other employee.

### **DEFINITIONS**

Gift: Something that is bestowed voluntarily and without compensation- examples: money, tangible or intangible personal property, a loan, any service rendered, entertainment, or a promise, expressed or implied, to provide any of these; gratuity.

Gratuity: Something that is bestowed voluntarily and without compensation- examples: money, tangible or intangible personal property, a loan, any service rendered, entertainment, or a promise, expressed or implied, to provide any of these; gift.

Illegal order: An order issued by a superior that is not consistent with applicable laws.

### **A. CONFORMANCE TO LAWS AND RULES**

1. Employees shall obey all laws of the United States, the State of North Carolina, and any local jurisdiction. A conviction or violation of any law will be a violation against this directive. If the facts revealed in a thorough investigation indicate that an employee has committed acts that constitute a violation of law, ordinance, or an infraction other than for a parking ordinance, the employee is deemed to have violated this section. A conviction in a court of law is not a requirement for an employee to be found in violation of this directive.
2. Employees who know of or observe violations of laws, ordinances, rules of conduct, or official orders on the part of other departmental employees shall report such incidents immediately to their supervisor. Employees who believe that they possess information

of such gravity that it must be brought to the immediate attention of the Director may do so. An employee shall not make a false complaint against another employee.

3. Employees shall not commit any act or fail to commit any act that would constitute a violation of any of the rules, regulations, directives, orders, or policies of the Department or other binding authority, whether or not they are stated in this directive. Ignorance of Department rules, regulations, directives, orders, or policies shall not justify any violation. Employees shall be responsible for their own actions and shall not unjustly attempt to shift the responsibility for executing or failing to execute a lawful order or duty onto another employee.

## **B. UNBECOMING CONDUCT AND JOB PERFORMANCE**

1. Employees shall conduct themselves at all times, on and off duty, in such a manner as to reflect most favorably upon the Department and in keeping with the high standards of professional law enforcement. Unbecoming conduct shall include any conduct that brings the Department into disrepute, reflects discredit upon any employee of the Department, impairs the operation and efficiency of the Department or of an employee, or violates any Department policy
2. Employees shall maintain sufficient competence to properly perform their duties and to assume the responsibilities of their position. Employees shall perform their duties in a manner that will establish and maintain the highest standards of efficiency in carrying out the function and objectives of the Department. Unsatisfactory job performance includes, but is not limited to:
  - a. Failure to supervise subordinates;
  - b. Lack of knowledge of the application of the laws required to be enforced;
  - c. Inability or unwillingness to perform assigned tasks;
  - d. Failure to conform to standards established for rank, grade, or position;
  - e. Failure to take appropriate enforcement action;
  - f. Absences without leave;
  - g. Unnecessary absences from assigned duty; or
  - h. Failure to attend scheduled court dates without approval of the District Attorney's Office.
3. Repeated poor evaluations of performance and/or repeated infractions of policy, regulations, manuals, or directives will be considered prima-facie evidence for unsatisfactory job performance.



### **C. TRUTHFULNESS**

1. Employees shall not be willfully or intentionally deceptive in any oral communication, report, or testimony.
2. Employees shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.

### **D. COURTESY**

1. Employees shall be courteous to the public and to other employees. Employees shall be tactful in the performance of their duties, must control their tempers, exercise the utmost patience and discretion, and shall not engage in argumentative discussion even in the face of extreme provocation.
2. In the performance of their duties, employees shall not use coarse, violent, profane, obscene, or insolent language or gestures and shall not express any prejudice concerning race, religion, politics, national origin, lifestyle, or similar personal characteristics.

### **E. ABUSE OF POSITION**

1. Employees are prohibited from using their official position, official identification cards, or badges for:
  - a. Intimidation or harassment of anyone for personal reasons;
  - b. Obtaining privileges not otherwise available to them or someone else; or
  - c. Avoiding consequences of illegal acts.
2. Employees are prohibited from lending identification cards or badges or any replica thereof to another person, or permitting identification materials to be photographed or reproduced without the approval of the Chief of Police.
3. Employees shall not solicit petitions, influence, or the intervention of any person outside the Department for purposes of preferential treatment, advantage, advancement, promotion, or change of assignment for themselves or for another employee. Employees shall not knowingly encourage others to take action on their behalf.

### **F. OBSTRUCTION OF JUSTICE**

1. Employees shall not intentionally delay or obstruct the Department's response to a complaint, minimize the importance of a complaint, or interfere with the investigation of a complaint.
2. Employees shall not intentionally interfere with the prosecution of any case in any way.
3. Following the provision of a Garrity rights warning, an employee who refuses to make a

statement to a supervisor or to prepare a report required by a supervisor is subject to disciplinary action for refusal, regardless of the reason.

#### **G. PUBLIC APPEARANCES**

1. Employees shall not authorize the use of names, photographs, or official titles that identify them as employees of the Department in connection with any testimonials or advertisements of any commodity or commercial enterprise without the approval of the Chief of Police.
2. Employees will take no part, directly or indirectly, in sales promotions, solicitations, fund raising campaigns, or similar activities while presenting himself/herself as an employee of the Department, without the prior approval of the Chief of Police. The Director may approve certain non-political community service activities where there is no profit to the Department or to the employee.
3. Employees 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 business such as an attorney, ambulance service, towing service, bondsman, or mortician.

#### **H. PUBLIC STATEMENTS**

1. Employees by speech, writing, or other expression when such speech, writing, or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with disregard for truth or falsity, or would reasonably be expected to effect the operation of the Department.
2. Employees shall not address gatherings, appear on radio or television, prepare any article for publication, act as a correspondent to newspapers or periodicals, or release investigative information or information pertaining to other Department matters without authorization from the Chief of Police.

#### **I. GIFTS, GRATUITIES, AND BRIBES**

1. Employees will not use their position, badge, or uniform to solicit or accept gifts or gratuities that could be interpreted as capable of influencing their judgment in the discharge of duties or that would reflect favoritism by the employee or the Department towards any particular person, group, or business.
2. Gifts, gratuities, and bribes could include money, tangible or intangible personal property, food, beverage, loan, promise, service, or entertainment.

#### **J. REFERRALS- WRECKER SERVICES**

1. Sworn members shall be impartial in using private wrecker services. Sworn members shall request that the sheriff's department telecommunicator contact the next wrecker service on the rotating log.

2. In the case of an emergency (major traffic congestion, persons pinned inside a wreckage, a present danger of fire or explosion, or other emergency situation), a sworn member shall not be required to call the wrecker requested by the motorist or next in the rotation cycle but should call the nearest available wrecker service.
3. A sworn member shall not be required to call wreckers requested by motorists or required by the rotation log when special storage facilities are required for seized or impounded vehicles.
4. All towed vehicles shall be inventoried for property on an evidence/seized property report. Telecommunications should be provided with appropriate information as to the year, make, and model of the vehicle as well as the towing storage location and any applicable release conditions.

#### **K. ALCOHOL AND DRUG USE**

1. While on-duty, employees shall not be under the influence of any impairing substance nor shall they have any odor of impairing substances on their breath. Sworn members shall not ingest any impairing substances while on duty unless in an undercover capacity in performance of official duties. Sworn members serving in undercover capacities should not engage in routine law enforcement duties that would be outside the scope of the undercover duties. Employees shall not possess or store alcoholic beverages in any Department facility or vehicle, except those alcoholic beverages being held as evidence or for training purposes.
2. While off-duty, employees shall refrain from ingesting any impairing substances to the extent that such ingestion results in appreciable impairment that would tend to discredit the employee or Department or to render the employee unfit to report for his next regular tour of duty, including having any amount of impairing substance remaining in his/her system.
3. Employees shall not ingest an illegal controlled substance that is illegal under State or Federal laws. Employees shall not ingest any controlled substances without a prescription or in any amounts above the prescribed dosage. Employees shall not possess or store controlled substances without a prescription in any Department facility or vehicle, except those controlled substances being held as evidence or for training purposes.

#### **L. CONFIDENTIALITY**

1. Employees shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those persons for whom it is intended and only in accordance with established Department procedures.
2. Employees may remove and/or copy official records and reports only in compliance with the State Personnel, and Department procedures.

3. Employees shall not divulge the identity of persons giving confidential information except when properly authorized for the performance of Department duties.

#### **M. REPORTING FOR DUTY**

1. Employees shall report for duty at the time and place required by assignment or orders and shall be capable of performing their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they can immediately assume their duties.
2. A subpoena, order to appear in court or at an administrative hearing, or scheduled court date shall constitute an order to appear for duty. Should a sworn member miss a training session due to a mandatory court appearance or for any other reason, the sworn member is responsible for ensuring that he/she receives the missed training in a timely manner.

#### **N. INSUBORDINATION AND CONFLICTING ORDERS**

1. Employees shall willingly submit to reasonable authority and shall not disregard the expressed or implied directions of a supervisor. Employees shall not, through gestures or defamatory statements, show disrespect to a supervisor or to any other employee.
2. Employees shall obey any lawful order of a supervisory employee, including any order relayed from a supervisor by an employee of the same or less rank. Employees who are given an otherwise proper order that conflicts with a previous directive will inform the supervisor issuing the order of the conflict. If the supervisor issuing the second order does not alter or retract it, the second order stands. Under these circumstances, the supervisor will be held responsible for the conflicting order. The employee shall obey the second order and shall not be held responsible for disobedience of the previously issued directive. Employees shall not obey any order that they know or reasonably should know would require them to commit any illegal act. If in doubt of the legality of the order, employees shall request the issuing supervisor to clarify the order or to confer with a higher authority.

#### **O. VEHICLES AND EQUIPMENT**

1. Employees shall operate Department vehicles in a careful and prudent manner, obeying all laws and Departmental orders pertaining to such operation. Employees shall immediately report the loss or suspension of their driver's license to their supervisor. Employees shall not permit any person not on official Department business to ride in a Department vehicle unless specifically approved by proper authority.
2. Employees shall utilize Department equipment only for its intended purposes in accordance with established procedures and shall not, deliberately or through carelessness, abuse, damage, or lose Department equipment. All Department equipment issued to employees, including manuals, shall be maintained in proper order. Employees shall immediately notify the Chief of Police, of any Department equipment that is lost or stolen. An employee may receive disciplinary action for lost, damaged, or stolen equipment when caused by negligence of the employee.

## **P. UNAUTHORIZED USE OF COMPUTER SYSTEMS**

1. Information obtained from Marshall Police Department computer terminals and equipment shall be for official use only. The Chief of Police shall approve all software used on Marshall Police Department computers.
2. Only authorized employees shall operate computer terminals and equipment. Employees shall not access or attempt to access any Marshall Police Department computer system, including Mobile Data Terminals, without having been assigned a valid password and user identification codes.
3. Maintenance of Marshall Police Department computer terminals and equipment shall only be performed by authorized Town of Marshall personnel and authorized service personnel.
4. Employees shall not use or permit the use of passwords or user identification codes assigned to other employees.
5. Passwords shall be kept confidential at all times. If others learn an employee's password, the employee shall immediately change the password.
6. Employees shall not knowingly enter false information into any Marshall Police Department computer system.
7. Employees shall not install software or computer programs onto their computer without authorization from the Chief of Police. Unauthorized copying of computer software is a violation of federal and state law. Copyright law also holds that multiple loading from one disk to multiple computers is a violation unless allowed by the license.
8. Employees shall not use Marshall Police Department computers to access Internet websites, send or receive emails, or participate in Internet chatrooms or message boards that feature illegal materials, language, or images that are offensive, profane, or sexually explicit in nature unless the materials are a necessary component of an investigation. Should it be necessary to access such information from a Marshall Police Department computer, when possible, sworn members shall notify the Chief of Police prior to accessing the site. Additionally, sworn members shall print all materials accessed and maintain those materials in the investigation file as proof that access was for legitimate, work-related purposes.
9. Also prohibited are materials focused on racial, ethnic, or any other degrading or insulting personal innuendoes or remarks that would bring discredit to the Department. Employees are additionally prohibited from downloading music or movie files onto Marshall Police Department computers.

## **Q. ASSOCIATIONS**

1. Employees shall avoid regular or continued associations or dealings with persons whom they know, or reasonably should know, are under criminal investigation or indictment or

who have a reputation for ongoing involvement in felonious or criminal behavior, except as necessary in the performance of official duties.

2. Employees shall not willfully visit, enter, or frequent a house of prostitution, gambling house, or establishment wherein the laws of the United States, the State of North Carolina, or the local jurisdiction are regularly violated or reputed to be regularly violated, except in the performance of official duties and/or while acting under proper and specific orders from a superior officer.
3. Employees shall not engage in any form of gambling that is in violation of Federal, State, or local laws, except in the performance of official duties and/or while acting under the direct and specific order of a superior officer.

#### **R. CITIZEN COMPLAINTS**

1. Employees shall courteously and promptly accept and record complaints made by citizens against any employee or any Division policy or procedure in accordance with Division rules and regulations.
2. Any employee being investigated for any reason shall cooperate with the investigating officers and shall be subject to the Internal Affairs Investigations provisions detailed in this manual.

#### **S. RESPONSIBILITY OF DUTY**

1. Employees shall not be inattentive or neglectful of their duties. Employees shall not engage in any activities or personal business that would cause them to neglect or be inattentive to duty or that would impair their ability to perform such duty.
2. Employees shall submit all necessary reports on time and in accordance with established ALE procedures.
3. Employees shall be precise and accurate in all written documents and reports.

#### **T. REQUESTS FOR ASSISTANCE**

1. When any person applies for assistance or advice, either by telephone or in person, employees while on-duty shall professionally and courteously accept all pertinent information and shall properly and judiciously act upon such information.
2. Employees, while on-duty or while acting in the capacity of a law enforcement officer, shall furnish their names and other identification to any person requesting that information, except when withholding that information is necessary for the performance of Department duties or is authorized by the Chief of Police.

#### **U. PAYMENT OF DEBTS**

1. Employees shall not undertake financial obligations that they know or reasonable should know they would be unable to meet, and shall pay all just debts promptly. An isolated

incident of financial irresponsibility will not be grounds for dismissal except under unusually severe circumstances.

2. Repeated incidences of financial irresponsibility shall be cause for disciplinary action. Financial difficulty stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline.
3. Employees shall not become financially obligated to subordinates or supervisors.

## **V. RUNNING FOR OFFICE**

1. Any employee who decides to seek political office must inform the Chief of Police through the chain of command. The Chief of Police shall not interfere with the employee's right to seek office.
2. Election to a public office requiring full-time service is presumed to create a conflict with the time required to fulfill duties as an employee of Marshall Police Department and requires a leave of absence or resignation from the Department. If the employee, prior to filing for candidacy, can establish that no such time conflict exists, a leave of absence or resignation will not be required. Any employee seeking this exemption shall file a written request to the Chief of Police, through the chain of command, setting forth any factors or information that verify the lack of a time conflict with a candidacy for political office.
3. The Chief of Police will grant any employee seeking election to a full-time public office a leave of absence without pay when an employee has insufficient vacation or compensatory time. Any leave of absence must begin at the time the candidacy is formally announced or at the time of filing with the Board of Elections, whichever comes first, and shall last until the employee completes the election process.

## **PERSONAL APPEARANCE**

### **PURPOSE**

The purpose of this directive is to establish the rules and guidelines for an employee's personal appearance while on-duty as an employee of the Marshall Police Department.

### **POLICY**

All employees shall maintain a neat and well-groomed appearance while on duty. The personal appearance of the employee shall project a businesslike professional appearance unless the nature of the duties dictates otherwise.

### **DEFINITIONS**

Business attire: Coat and tie for males; dress slacks, skirts, and blouses for females.

Business casual attire: Dress trousers or slacks with appropriate collared shirt and shoes, not to include

blue jeans, t-shirts, and tennis shoes. The Royal Robbins 511 and knit shirt with embroidered badge provided by the Department are considered business casual attire for enforcement purposes.

Class A Uniform: includes dress style shirts (short or long sleeve) and dress style pants (with no cargo pockets), both with sharp creases. Footwear is polished black boots or shoes.

Class B Uniform: includes polo style knit shirts with embroidered badge (both short and long sleeve) and tactical style Royal Robbins 511 pants. Footwear is tactical style shoes or boots.

#### **A. DRESS CODE**

1. While performing routine administrative duties or routine enforcement activities the Class A or Class B uniform may be worn.
2. While appearing in court, at formal ceremonies, public meetings, or professional events, the Class A uniform or business attire shall be worn.
3. While performing special enforcement projects, undercover, or covert operation duties, attire appropriate to the nature of the assignment may be worn. Employees dressed for undercover duties shall not make traffic enforcement stops for motor vehicle violations.

#### **B. GROOMING**

1. Hair, hairpieces, and wigs must be neat, trimmed, combed, and clean.
2. For males, hair or hairpieces must be no longer than the top of the shirt collar at the back of the neck when the employee is standing with his head in a normal posture. For females, hair styles shall be worn in a fashion that is professional in appearance.
3. No hairstyle, regardless of how it otherwise conforms to this policy, will be considered acceptable if it constitutes a safety hazard with respect to an employee's assigned duties or detracts from a professional appearance.
4. Sideburns for male employees shall not extend below the lowest part of the earlobe.

#### **C. ACCESSORIES AND TATTOOS**

1. For male employees, earrings or ear studs are prohibited while on duty.
2. For female employees, earrings may be ear studs or unadorned spherical or disc shapes that do not exceed two (2) inches in diameter or one quarter (¼) inch below the earlobe.
3. Rings, bracelets, and necklaces that jeopardize safety will not be permitted.
4. Tattoos and body piercings may not be openly displayed while on duty.



## **D. EXCEPTIONS**

1. When performing enforcement, undercover, or covert operation duties, attire appropriate to the nature of the duties may be worn. With the approval of the Chief of Police and if the covert nature of the duties dictate, an employee may be permitted to wear earrings or display tattoos.

## **LEAVE & TIME OFF**

### **PURPOSE**

The purpose of this directive is to clarify the types of leave available to employees and to establish the guidelines for each type.

### **POLICY**

Marshall Police Officers, as Town of Marshall employees, receive vacation, sick, and compensatory time off from duty in accordance with the guidelines and regulations established in the Town Personnel Manual. Additionally, Department employees are afforded opportunities to participate in other leave programs contingent upon the Department being able to provide adequate services to the town in the absence of that employee.

### **DEFINITIONS**

Bona fide reason: An explanation for needing Emergency Services Leave from standard enforcement duties based on real or eminent danger to life or property.

Family: In reference to death, spouse, parents, brothers, sisters, children, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, and grandchildren.

Immediate family: In reference to illness, spouse, parents, children, or other dependents living in the household.

Limited Duty Status: A designation based on an employee's restricted ability to perform standard duties of his/her position based on a medical condition that has been sufficiently documented by a medical professional; temporary disability.

Military leave: The period of time during which an employee is granted leave from the Marshall Police Department when called to perform active military service.

Temporary disability: A medically documented, recoverable condition that, for a short period of time, limits an employee's ability to perform standard duties.

## **A. GENERAL GUIDELINES**

1. Employees taking authorized time off for vacations, holidays, or regular days off shall be subject to report to duty at any time at the discretion of the Chief of Police.
2. All employees shall request approval for authorized time off directly from the Chief of

Police, either in person, by telephone, or through written communication such as an e-mail message. The request must be made at least two weeks in advance of the first date of the requested leave.

3. Time off is not authorized except and until the employee has received personal verbal or written approval from the Chief of Police

## **B. VACATION**

1. Vacation time is earned per month based on Town of Marshall Personnel Policies.
2. A maximum of 33% of Department employees may be granted vacation leave at any one time. An exception shall be allowed to this policy during the Christmas season at which time not more than 66% of Department employees may be granted vacation leave at one time.
3. Vacation time may be granted when an employee is ill.
4. Vacation leave will be granted as scheduled for the year by the supervisor; however changes may be made at the employee's request provided such change does not adversely affect the operation of the district or violate rules or policies of the Marshall Police Department. Supervisors shall prepare vacation leave schedules each January for the current year. Choice of vacation dates are based on seniority where possible; however, the schedule shall be created to allow any employee desiring vacation during June, July, or August to receive at least one (1) week during those months.
5. Unscheduled vacation leave shall be granted by the Chief of Police provided a written or verbal request is submitted as soon as possible prior to the beginning date and circumstances permit the employee's absence.
6. Vacation leave shall not be charged for holidays or regular days off when the leave period extends over holidays or regular days off.
7. Employees shall not be granted vacation leave in excess of the amount accrued. Upon termination from Marshall Police Department employment, any vacation leave taken but not earned shall be deducted from the employee's final paycheck.
8. Vacation leave up to 240 hours may be carried forward to a new calendar year. If an employee is credited with more than 240 hours, the amount in excess of 240 shall be transferred to sick leave. No employee shall begin a new calendar year with more than the maximum 240 vacation hours.

## **C. HOLIDAYS**

1. The State Personnel Commission determines official state holidays.
2. Official state holidays are New Year's Day, Martin Luther King, Jr.'s Birthday, Good

Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving and Christmas.

3. Employees may not always be granted time off on official holidays; however, they may be granted compensatory time off and additional pay benefits.

#### **D. COMPENSATORY TIME**

1. Compensatory time off shall be given whenever possible in lieu of monetary compensation for overtime hours worked.
2. A sworn member shall be allowed to take compensatory time upon request unless the Chief of Police determines the department will not be able to provide necessary services of acceptable quality and quantity to the public without that sworn member's being on-duty. The Chief of Police shall then allow the sworn member to take compensatory time at any other time he/she requests that will not unduly disrupt the functioning of the district.
3. Employees who resign or are terminated shall be paid for any accumulated compensatory time as determined in accordance with Town of Marshall Personnel Policy.

#### **E. SICK LEAVE**

1. Sick leave may be granted for the following circumstances:
  - a. For illness that prevents performance of duties;
  - b. To an employee quarantined due to a contagious illness;
  - c. When there is a death in the employee's family;
  - d. Medical appointments;
  - e. For absences due to illness in the immediate family; or
  - f. For the actual period of temporary disability connected with childbearing or recovery there from; a doctor's certificate shall be required verifying this period of temporary disability.
2. Sick leave taken shall be documented.
3. When an employee is sick on holidays or on regular days off, these days will not be charged as sick leave, but will be counted as holidays and regular days off.
4. Upon resignation, sick leave is not allowable as terminal leave payments when an employee departs from town employment.

5. The Chief of Police may require a doctor's certificate for any employee taking sick leave days. Feigning illness is a violation of the Marshall Police Department Code of Conduct and disciplinary action shall be administered accordingly.

#### **F. LEAVE WITHOUT PAY**

1. The Chief of Police may grant an extended leave of absence without pay for educational purposes, vacation, or for other reasons deemed justified by him.

#### **G. FAMILY MEDICAL LEAVE**

1. An employee desiring to take family or medical leave should request such leave through channels at least thirty (30) days in advance when practical. The employee may be required to provide reasonable proof of leave taken for adoption or foster care. The employee may be required to provide doctor's certification of leave taken due to serious illness of the employee, employee's child, spouse, or parent. The employee must notify his/her supervisor if he/she will not return to work after the leave period; this may be considered a resignation.
2. Employee Options for family and medical leave are as follows:
  - a. Birth: For the birth of a child, the employee (applies to both parents) may choose to exhaust available vacation and/or sick leave, or any portion, or go on leave without pay; sick leave may be used only during the period of disability;
  - b. Adoption: For the adoption or foster care of a child, the employee may choose to exhaust available vacation leave, or any portion, or go on leave without pay;
  - c. Illness of Child, Spouse, Parent: For the illness of an employee's child, spouse, or parent, the employee may choose to exhaust sick and/or vacation leave, or any portion, or go on leave without pay; or
  - d. Employee's Illness: For the employee's illness, the employee shall exhaust available sick leave and may choose to exhaust available vacation leave, or any portion, before going on leave without pay. If the illness extends beyond the sixty (60) day waiting period required for short-term disability, the employee may choose to exhaust the balance of available leave or begin drawing short-term disability benefits.

#### **H. OTHER TYPES OF LEAVE**

1. Other types of leave with pay, such as military leave, civil leave, and parental leave may be granted consistent with state laws and regulations set forth in Section 5 of the State Personnel Manual.
2. Employees shall submit a written request to the Chief of Police.

## **I. APPROVAL OF LEAVE AND ADDITIONAL TIME**

1. The following guidelines for additional time apply:
  - a. The amount of time that the employee may be allowed is left in the discretion of the Chief of Police.
2. Considerations of employees requests for leave include:
  - a. Nature of work: Not all jobs within the Division permit the rearrangement of work schedules;
  - b. The quality of the employee's job performance;
  - c. Indications for the Chief of police that department performance can be maintained in the employee's absence.

## **PURSUIT DRIVING**

### **PURPOSE**

The purpose of this directive is to establish the guidelines for the non-routine operation of Department vehicles.

### **POLICY**

Vehicle pursuits are inherently dangerous; the necessity for apprehension of an individual should be weighed carefully against the probability of apprehension of the subject and the potential for damage, injury, or death that could result from pursuit action. Sworn members are at all times subject to the provisions of the North Carolina General Statutes and the Marshall Police Department Policy and Procedure Manual.

### **DEFINITIONS**

Pursuit: An active attempt by one (1) or more sworn officers in police vehicles to apprehend a suspect or violator of the law operating a motor vehicle, while that person is attempting to avoid capture by using high-speed driving or other tactics, such as driving off the roadway, making sudden maneuvers, or maintaining a legal speed while willfully failing to yield to the sworn member's signal to stop.

Emergency response: The act of one (1) or more sworn officers operating police vehicles with blue lights and sirens activated for the purpose of responding to a situation requiring immediate police attention due to a clear and present danger to public or officer safety, a need for immediate apprehension of a violator, or a serious and/or violent crime in progress. Failure to respond in such situations would pose an additional risk of injury or death to others and the need for emergency response outweighs the danger to the public created by the response.

Extraordinary Division Vehicle Operations: Pursuit activity or an emergency response.

General Statute 20-135.2A: Seat Belt Use Mandatory: Each occupant of a passenger motor vehicle manufactured with seat belts shall have a seat belt properly fastened about his or her body at all times when the vehicle is in forward motion on a street or highway in this State.

General Statute 20-145: When Speed Limit not Applicable: The speed limitations set forth in this article shall not apply to vehicles when operated with due regard for safety under the directive of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any violation. This exemption shall not however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

General Statute 20-156: Exceptions to the Right of Way Rules: The driver of a vehicle upon a highway shall yield right of way to police... vehicles, when the latter are operated upon official business and the drivers thereof giving warning signals by appropriate light and by bell, siren, or exhaust whistle audible under normal conditions from a distance not less than 1000 feet. This provision shall not operate to relieve the driver of a police vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequences of any arbitrary exercise of such right of way.

Marked vehicle: A police vehicle equipped with permanent emergency light, siren, police vehicle identification decals and painted with standard police colors.

Pursuit interdiction technique: The act of interceding with a suspect vehicle by pushing, ramming, or striking the vehicle in an attempt to get the vehicle stopped.

Primary unit: The police vehicle in a position directly behind a suspect/violator vehicle that is being pursued or overtaken.

Secondary unit: The police vehicle in a position directly behind the Primary Unit.

Unmarked vehicle: A police vehicle with no vehicle identification decals that indicate it is a law enforcement vehicle. It may be equipped with portable or concealed emergency lights and sirens.

## **A. GENERAL INFORMATION**

1. All employees shall wear seatbelts in accordance with NCGS 20-135.2A while operating Marshall Police Department-issued vehicles.
2. Sworn members should respond to routine calls for service by adhering to all traffic laws and speed limit regulations. For emergency response activity, sworn members should utilize audible and visual signals (blue lights and sirens) and should proceed with proper regard for the safety of other motorists and innocent bystanders.
3. Marshall Police Department vehicles are both marked and unmarked police vehicles and should therefore not engage in pursuit activity unless both audible and visual signals (blue lights and sirens) are operating. The unmarked unit shall relinquish primary and secondary responsibilities to the first and second marked law enforcement vehicles involved in the pursuit. The unmarked vehicles shall discontinue pursuit and follow at a

safe and reasonable distance so as to avoid collisions with the suspect or pursuit

vehicles. Marshall Police Department sworn members should assist the primary and secondary pursuit vehicles once the pursuit has ended.

4. Sworn officers shall use extreme caution when pursuing vehicles through traffic control devices including stop signs, stoplights, or caution/flashing lights. If necessary, come to a complete stop prior to proceeding through the intersection.
5. Sworn officers shall not pursue suspect vehicles the wrong way on divided highways or one way streets.
6. Sworn members shall not leave the state in pursuit of a law violator without approval of the Chief of Police.
7. Roadblocks are not authorized for use by Marshall Police Department sworn members. Sworn members shall not use a pursuit interdiction technique such as ramming, running roadblocks, or vehicle paralleling.
8. If the Chief of Police is on-duty at the time of a vehicle pursuit, he should be notified immediately of the pursuit. If the Chief of Police is not on-duty, the primary sworn member has discretion for pursuit-related decisions until such time as the pursuit is relinquished to a marked vehicle from another agency. Any sworn member involved in a pursuit in any capacity must notify the Chief of Police within twenty four (24) hours.
9. If the pursuit results in injury or significant property damage, the Chief of Police must be contacted as soon as possible.

## **B. INITIATING A PURSUIT**

1. Pursuit driving is allowed only under the following circumstances:
  - a. When there is reasonable belief that the suspect presents an imminent and clear threat to the safety of others;
  - b. The suspect has committed or is attempting to commit a violent felony crime or a serious misdemeanor crime that is likely to cause injury or death;
  - c. The suspect is operating a motor vehicle in a manner which is clearly dangerous to the public;
  - d. The suspect is being sought for involvement in a previous violent felony incident;
  - e. The suspect has demonstrated dangerous behaviors indicating intoxication or impaired driving; or
  - f. In emergency responses to calls for service when a fellow sworn member or other law enforcement officer requests assistance.

2. Prior to undertaking a pursuit action, a sworn member must consider the following factors:
  - a. Likelihood of successful apprehension;
  - b. Degree of risk created by the pursuit;
  - c. Volume, speed, and direction of traffic;
  - d. Nature of the area: residential, commercial, school zone, open highway, etc.;
  - e. Environmental factors that may reduce visibility such as weather and darkness;
  - f. Road conditions: construction, poor repair, extreme curves, ice, etc.;
  - g. Sworn member's driving skills;
  - h. Familiarity with area roads; and
  - i. Perceived age of the suspect.

### **C. RESPONSIBILITIES- PRIMARY MEMBER**

1. Immediately following the initiation of a vehicle pursuit, the primary member must notify Sheriff's Department Communications and provide the following information:
  - a. The suspect vehicle's location (road or highway of travel);
  - b. The direction of travel;
  - c. The vehicle description including license plate number;
  - d. Occupant information if applicable;
  - e. Speed involved; and
  - f. The reason for the pursuit.
2. The primary member shall not overtake or pass a suspect vehicle unless authorized by the Chief of Police.
3. Sheriff's Department Communications shall be kept informed of any changes that occur during the pursuit. This is the responsibility of the primary member until such time as a secondary officer is involved.



#### **D. RESPONSIBILITIES- SECONDARY OFFICER**

1. The secondary officer involved in the pursuit shall assume responsibility for keeping Sheriff's Department Communications informed of the pursuit activity.
2. The secondary officer shall follow the pursuit at a distance that is reasonable for the conditions and to avoid any contact with the suspect vehicle or primary pursuit vehicle in the event of a collision.
3. The secondary officer shall not pass either the primary or suspect vehicle while engaged in pursuit except in a case of mechanical failure or request from the primary officer that the secondary officer assume the primary pursuit position.

#### **E. RESPONSIBILITIES- THE CHIEF OF POLICE**

1. The Chief of Police is responsible for reviewing the incident and verifying that the guidelines of this directive are followed for pursuit activities.
2. The Chief of Police shall ensure the proper reporting guidelines are followed.

#### **F. RESPONSIBILITIES- COMMUNICATIONS**

1. Communications is responsible for advising other law enforcement units of the pursuit, coordinating marked car intervention into the pursuit, and to assist in coordinating back-up units to strategic locations.
2. Communications personnel shall give pursuit communications utmost priority and make efforts to minimize radio traffic for any communications not related to the pursuit.

#### **G. TERMINATING THE PURSUIT**

1. A pursuit shall be terminated when:
  - a. If instructed by a more senior officer of the Marshall Police Department or the Chief of Police;
  - b. There is unreasonable danger to the public or involved officers if the pursuit is allowed to progress;
  - c. If the suspect vehicle's location is no longer known or the distance between the suspect vehicle and the sworn member's vehicle is so great that the pursuit is futile;
  - d. If there is a person injured during the pursuit and there are no police or medical personnel able to render assistance; or
  - e. If advised of unanticipated condition, event, or circumstance which would substantially increase the risk to the public safety inherent in the pursuit.
2. If the suspect vehicle stops prior to a marked vehicle entering the pursuit, the primary

member shall take all precautions to ensure that the suspect realizes the unmarked vehicle is law enforcement.

3. Should any vehicle involved in the pursuit be involved in a collision, sworn members should take the appropriate actions to notify and request the necessary first responders.

## **H. REPORTING**

1. Following a pursuit, the primary member must complete and file an Extraordinary Division Vehicle Operation Report.
2. The report shall be reviewed for compliance with policy and assessed for any employee training needs.

## **USE OF FORCE**

### **PURPOSE**

The purpose of this directive is to establish Department guidelines and procedures regulating the use of force by Marshall Police Department employees.

### **POLICY**

The Marshall Police Department recognizes and respects the value and special integrity of each human life. In vesting Department sworn members with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of the Department that all sworn members shall use only that force which is objective and reasonable to effectively bring an incident under control, while protecting the lives of the sworn member or another person. Sworn members shall use physical force in arrest and custody situations only in strict conformance with the United States Constitution, the Constitution and Laws of North Carolina, and this policy.

This manual, Chapter 8 of Title 14A of the North Carolina Administrative Code, and all policies, rules, regulations, directives, and procedures of the Marshall Police Department and the Town of Marshall, North Carolina are for internal use only, and do not enlarge any employee's civil or criminal liability in any way, nor do they enlarge any supervisor's or civilian administrator's civil or criminal liability in any way with respect to training or other supervisory or administrative responsibilities of every kind and nature. These should not be construed as the creation of a higher standard or safety or care in any legal or evidentiary sense, with respect to third party claims. Violations of this manual, Chapter 8 of Title 14A of the North Carolina Administrative Code, and all policies, rules, regulations, directives, and procedures of this department, if proven, can be used solely as the basis for disciplinary action against an employee by this department, and then only in a non-judicial administrative proceeding.

### **DEFINITIONS**

The following definitions are for the limited purpose of this Directive and may not apply in all cases:

Deadly Physical Force: The application of any instrument that is likely to produce death or serious physical injury under the circumstances of its use.

Serious Physical Injury: A bodily injury that creates substantial risk of death; causes serious, permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

Reasonable Belief: The facts or circumstances the officer knows, or reasonable should know, are such as to cause an ordinary or prudent person to act or think in a similar way under similar circumstances.

Warning shots: The discharge of a firearm by a sworn member without the intent of striking the suspect or inflicting bodily harm.

#### **A. USE OF DEADLY FORCE**

1. Sworn members shall use deadly physical force only in conformance with the Constitution and laws of North Carolina.
2. General Statute 15A- 401(d)(2) states in pertinent part: A law enforcement officer is justified in using deadly force upon another person only when it is or appears to be reasonably necessary thereby:
  - a. To defend himself/herself or a third person from what he/she believes to be the use or imminent use of deadly physical force; or
  - b. To affect an arrest or to prevent the escape from custody of a person who he/she reasonably believes is attempting to escape by means of a deadly weapon or who by his/her conduct or any other means indicates that he/she presents an imminent threat of death or serious physical injury to others unless apprehended without delay.
3. Instruments of deadly physical force include but are not limited to firearms, ASP batons, or automobiles.
4. Prior to using deadly force, a verbal warning must be given, if feasible.
5. Warning shots are strictly prohibited.
6. The killing of an animal is justified for self-defense or to prevent harm to the sworn member or another person.
7. Nothing in this subdivision constitutes justification for willful, malicious, or criminally negligent conduct by any person that injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

#### **B. USE OF NONDEADLY FORCE**

1. Where deadly force is not authorized, a sworn member should assess the situation in

order to determine which non-deadly technique or weapon will best de-escalate the incident and bring it under control in a safe manner.

2. A sworn member is authorized to use Department approved non-deadly force techniques and issued equipment for resolution to incidents to:
  - a. Protect a fellow member or another individual from physical harm;
  - b. Restrain or subdue a resistant individual;
  - c. Bring an unlawful situation safely and effectively under control; or
  - d. Effect an arrest or prevent escape of a person in custody when the sworn member reasonably believes the person has committed a criminal offense unless the sworn member knows the arrest is not authorized.
3. Sworn members are not permitted to use non-deadly defensive weapons unless trained and certified as proficient in use as determined by Division training procedures.
4. Authorized non-deadly weapons include flashlights, oleoresin capicum (OC spray), ASP batons, TASER electronic control devices, and other weapons that may be issued or approved by the Division. All non-deadly weapons shall be reviewed, inspected, and approved for use by a qualified weapons instructor prior to issuance and at biennial non-deadly weapons proficiency training. The weapons instructor shall take possession of any unsafe Department-issued non-deadly weapon and coordinate the repair or replacement of that weapon. A record of each weapon approved for Department use shall be maintained. This record shall include type and specification information for each weapon.

#### **C. MEDICAL ATTENTION**

1. Following a use of force incident, the sworn member should immediately determine the physical condition of the individual and if needed, render first aid or request that Emergency Medical Services respond for aid.

#### **D. TRAINING**

1. Sworn members shall receive Basic Law Enforcement Training (BLET) certification and be trained in Department Use of Force procedures and policies prior to the issuance of any lethal or non-lethal weapon.
2. Only sworn members demonstrating proficiency in authorized weapons shall be authorized to carry and use those weapons in an on-duty capacity.
3. In-service training on Use of Force policies shall be conducted annually. Proficiency training and re-qualification for firearm use shall also be conducted annually under the supervision of a firearms instructor who has been certified by the North Carolina Criminal Justice Education and Training Standards Commission. Proficiency training and re-qualification for TASER electronic control device use shall also be conducted

annually under the supervision of a specialized instructor who has been certified by the North Carolina Criminal Justice Education and Training Standards Commission. Training on less-than-lethal weapons shall occur at least once every three (3) years under the supervision of a certified tactics instructor.

4. All training shall be documented by the sworn member and shall be maintained in the sworn member's training file.
5. Any sworn member not achieving at least the minimum qualifying score on Use of Force training shall be given remedial or refresher training. The sworn member must achieve acceptable scores prior to returning to regular duty.

#### **E. DOCUMENTATION**

1. A Use of Force Report shall be completed for each occasion:
  - a. That results in the discharge of a firearm in the performance of duty, intentional or accidental, not related to training;
  - b. In which a sworn member uses weaponless physical force to arrest a resistant subject;
  - c. In which a sworn member uses any less lethal weapon, including OC spray, in order to control the subject;
  - d. In which a sworn member points a firearm at a subject;
  - e. In which a sworn member takes an action that results in, or is alleged to have resulted in, the injury or death of another person; or
  - f. Deadly force is used on an animal.
2. All Use of Force/Assault Reports shall be submitted within three (3) calendar days. The Chief of Police will review the report for policy violations and training issues.
3. Any member involved in any force incident that results in serious personal injury or death shall be assigned to administrative duties or administrative leave pending an internal investigation or administrative review. The member shall also be ordered to submit to a drug test. The Chief of Police or his designee shall immediately begin to collect information pertinent for a preliminary investigation. The Chief of Police shall assume direction and control of the investigation immediately. If there is evidence indicative of criminal charges being filed against the member, the Chief of Police shall immediately notify the Marshall Town Council and may request an inquiry by the State Bureau of Investigation (SBI). The member shall not be forced or coerced into any unwanted conversation with the SBI. The member may be placed on investigative placement with pay pending the completion of the administrative investigation. If the investigation reveals no violation of policy or law, the Chief of Police may return the member to full active duty following a post-incident debriefing.

## **FIREARMS AND AMMUNITION**

### **PURPOSE**

The purpose of this Directive is to establish Department guidelines for the issuance, approval, and use of ammunition and firearms for on-duty as well as off-duty purposes.

### **POLICY**

As sworn law enforcement officers of the State of North Carolina, Marshall Police Department sworn members are permitted to carry and use weapons issued and/or approved by the Department in the course of their duties. Sworn members shall only carry or use Department issued or approved weapons or ammunition. Personally owned weapons or ammunition may be carried or used in primary, off-duty, secondary, or back-up, capacities. Sworn members are not required to carry secondary weapons but may do so at their discretion. All firearms shall be fully concealed when the nature of the assignment requires that the weapon be concealed.

### **DEFINITIONS**

Cruiser safe mode: Manner in which a rifle is stored with bolt forward, chamber empty, and safety engaged.

Off-Duty: Time during which an employee is authorized to be free from the responsibility of performing routine Marshall Police Department duties.

#### **A. CARRYING A WEAPON**

1. While fulfilling official duties, sworn members shall carry firearms; except:
  - a. When governing authority prohibits wearing a weapon (prison, jail); or
  - b. When, in the personal judgment of the sworn member working in an undercover or covert capacity, wearing a weapon would jeopardize his/her safety or the safety of others.
2. A sworn member who is off-duty or not fulfilling official duties of the Department may carry Marshall Police Department issued firearms. Any sworn member electing to carry an Marshall Police Department issued firearm while off-duty must have his/her official badge and identification holder identifying him/her as a sworn member of the Marshall Police Department in his/her possession.
3. Sworn members, in conformance with General Statute 14-269, are authorized to possess and carry a concealed firearm throughout the State of North Carolina while off-duty. This statute applies to issued service weapons as well as authorized personal firearms. A sworn member is not authorized to carry a Department-issued or approved handgun pursuant to a concealed carry permit unless the weapon has been approved and

he/she has successfully qualified with it. Non-approved firearms may not be carried at any time; sworn members are not authorized to carry non-approved handguns pursuant to a concealed carry permit.

4. Sworn members shall not use or handle weapons at any time in a careless or imprudent manner. Weapons shall be used in accordance with local, state, and federal laws.
5. Sworn members shall not consume or have remaining in his/her body any alcohol previously consumed or be under the influence of any alcoholic beverage or other impairing substance (prescription medication or otherwise) while possessing a firearm away from his/her own premises. The exception to this policy would be undercover agents under the supervision of a cover agent while conducting undercover operations.
6. Off-duty use of force incidents with any firearm shall be reported immediately to the Chief of Police with the same reporting procedures as with an on-duty use of force incident.
7. Prior to issuance of a Department firearm, sworn members shall be presented with and instructed on all directives and policies related to the use of a firearm.

## **B. WEAPON STORAGE AND MAINTENANCE**

1. All sworn members shall keep their issued and approved weapons clean and in excellent working condition. Any defects or malfunctions shall be reported immediately to a supervisor. Carrying a defective weapon is strictly prohibited. Sworn members shall immediately replace any ammunition that is suspected of being faulty.
2. If issued or personally owned approved handguns are stored in a Marshall Police Department vehicle during non-working hours, the weapon should be secured, and hidden from general view.
3. The shotgun or rifle may be available for use when a sworn member is on duty or for training, inspections, cleaning, or maintenance purposes. When stored, issued rifles or personally owned approved shotguns or rifles must be secured in cruiser safe mode in the Marshall Police Department.
4. While on-duty, a sworn member shall not remove any handgun from the holster or shotgun from the vehicle except for authorized use, inspection, or other authorized purpose. While off-duty, sworn members shall not make a display of a firearm or remove it from the holster or vehicle except as authorized by law. A sworn member shall not permit any person, other than another law enforcement officer, to use a Marshall Police Department issued firearm.
5. Firearms should be stored securely and away from children, in compliance with applicable NC Statutes, when sworn members are at home and off-duty.

## **C. APPROVED WEAPONS, AMMUNITION, & HOLSTERS**

1. Upon successful qualification, sworn members must carry a Department-

issued/approved handgun as his/her primary weapon.

2. As an off-duty, secondary or back-up weapon, sworn members may carry approved personally owned handguns that are no smaller than .38 caliber and no larger than .45 caliber. They shall be produced by a reputable manufacturer and be in excellent working order. The internal and external mechanisms shall not be altered or tampered with except as provided in the manufacturer's owner's manual. Custom grips are permitted.
3. Approved personally owned rifles and shotguns shall be produced by a reputable manufacturer and be in excellent working order.
4. Personally owned shotguns and rifles may be carried in the Department vehicle and used for agency operations if the weapon is in compliance with the appropriate approval, registration, and qualification process. Shotguns must be of pump or semi-automatic action, firing 12-gauge ammunition. Rifles must be bolt action or semi-automatic.
5. Ammunition for qualifying with weapons that are not Marshall Police Department issued must be supplied by the sworn member if the ammunition caliber for that weapon differs from that issued by the Department. Personal ammunition must be approved by a firearms instructor and must be from a commercial manufacturer.
6. The primary weapon must be carried on the strong side in a black leather or Kydex holster with at least one security device. If a sworn member wishes to use a holster other than the one issued by the Department, the use must be approved by a certified firearms instructor who is a sworn member of the Marshall Police Department. Cross-draw shoulder holsters are prohibited.
7. Prior to qualification with a firearm, the firearm will be inspected by a certified firearms instructor who is a full-time sworn member to ensure the weapon is safe for use. Any weapon deemed unsafe will not be approved for qualification or use. A certified firearms instructor who is a full-time Marshall Police Department sworn member shall take possession of any unsafe Department-owned weapon and coordinate the replacement or repair of that weapon. When a personally-owned weapon is deemed unsafe, the authority to carry that weapon shall be revoked until such time as a certified firearms instructor or armorer who is a full-time Marshall Police Department sworn member deems the weapon fit for use.
8. Any weapon, ammunition, holster, or rifle accessories not provided by the Department shall be approved by a certified firearms instructor with concurrence from the Chief of Police. The weapon must comply with Department caliber requirements and shall be inspected for proper mechanical operation by a certified firearms instructor or armorer who is a full-time Marshall Police Department sworn member.

#### **D. WEAPON QUALIFICATION**

1. Sworn members, who wish to carry personal firearms, on-duty or off-duty, must register the weapon by submitting a written request to the Chief of police. Sworn members may request to carry one (1) handgun in addition to the one that is issued, one (1) rifle, and



one (1) shotgun that are personally owned. The sworn member may not carry any personally owned firearm until he/she has successfully qualified with that firearm according to Department standards.

2. Sworn members must qualify with any approved personally owned firearm on at least an annual basis. The course for qualifying will be the same (or as similar in nature as the type of firearm will allow) as currently required for the Marshall Police Department issued firearm. Failure to qualify shall automatically suspend the sworn member's authorization to carry the personally-owned firearm until a satisfactory score has been achieved.
3. Pursuant to rules promulgated by the NC Criminal Justice Education and Training Standards Commission, sworn members shall qualify with ammunition of the same caliber and being the ballistic equivalent of the ammunition approved for duty use by the Marshall Police Department. Sworn members shall not use, for any on-duty purpose, any ammunition type that he/she has not used for qualification.
4. Full-time sworn members must receive a minimum qualification score of 70% to be deemed proficient in each firearm. Reserve sworn member must receive a minimum qualification score of 70% to be deemed proficient in each firearm. The proficiency training and firearm qualification shall be observed by a certified firearms instructor and documented on the form F-9A, Firearms Qualification Record. All Marshall Police Department firearms qualification sessions (In-Service, Remedial) must be approved by the Chief of Police. In-Service firearms qualifications must be attended by at least one (1) certified firearms instructor; remedial firearms qualifications must be attended by at least two (2) certified firearms instructors. Division.
5. Full-time sworn members scoring lower than 70% must participate in the remedial training process. Pursuant to regulations promulgated by the NC Criminal Justice Education and Training Standards Commission, sworn members must achieve a qualifying score in no more than three (3) attempts in a single day for each course of fire for each weapon. Individuals who fail to qualify in any attempt shall receive remedial training. Any sworn member who fails to qualify on a single day shall surrender the weapon and shall not be allowed to carry the weapon under law enforcement authority until he/she is able to achieve a qualifying score. A notice of revocation should be forwarded through the chain of command to the Chief of police as soon as possible and remedial training should be scheduled as soon as possible.
6. Sworn members whose authorization to carry a weapon has been revoked will be reassigned to administrative duty for a maximum of thirty (30) days. Within that time period, the sworn member must arrange with an area firearms instructor for remedial training.
7. If the sworn member has not achieved a qualifying score at the end of the thirty (30) days, he/she shall be terminated from employment for failing to maintain certification standards.

# **OLEORESIN CAPSICUM SPRAY PROCEDURE**

## **PURPOSE**

The purpose of this directive is to establish the guidelines for the administration and aftercare procedures required with the use of oleoresin capsicum spray, also known as OC spray.

## **POLICY**

The use of oleoresin capsicum spray is a form of non-deadly force. When practical, OC spray should be used in place of striking any subject with any body part or weapon in order to avoid sustained injuries to the subject, the sworn member, or a third person.

## **DEFINITIONS**

Contamination: The presence or reasonably expected presence of potentially harmful or infectious materials on an item or surface.

Decontamination: The use of physical or chemical means to remove, deactivate, or destroy potentially harmful or infectious materials on an item or surface to the point where the item or surface is rendered safe for handling, use, or disposal.

### **A. SPECIFICATIONS**

1. The Marshall Police Department authorizes the use of the OC spray.
2. Employees authorized to use OC spray must be successfully trained and certified in the product and participate in in-service training related to the use of non-deadly force weapons and techniques.
3. Prior to the issuance of OC spray, sworn members shall be presented with and instructed on all directives related to:
  - a. The use of OC spray; and
  - b. The use of force.

### **B. DECONTAMINATION AFTER USE**

1. After spraying a subject, the sworn member must monitor the subject's physical condition for up to forty-five (45) minutes or until the subject is relinquished to detention center personnel.
2. After handcuffing and searching the subject, the sworn member should instruct the subject to:
  - a. Stay as still as possible;
  - b. Try not to rub his/her eyes;

- c. Breathe as normally as possible; and
  - d. Relax as much as possible.
3. A sworn member must decontaminate the subject at the scene of the arrest at a time when the safety of the member and the subject are not in jeopardy. Decontamination includes:
  - a. Moving the subject into an uncontaminated area;
  - b. Facing the subject into the wind;
  - c. Spraying the subject's face and eyes with water; and
  - d. Patting the subject's face dry with paper towels.
4. The sworn member must ask the subject if he/she suffers from any medical problems and contact medical personnel if necessary.
5. If circumstances permit, the sworn member should wait fifteen (15) minutes before transporting the subject in a Department vehicle to allow for the natural evaporation of the OC spray.
6. While transporting the subject, the sworn member shall provide ventilation by opening the window and/or directing the air conditioning vent toward the subject's face.
7. Upon arrival at a detention center or chemical analysis site, the sworn member shall inform the detention center personnel that the subject has been sprayed with OC spray and allow the subject to flush his/her face and eyes with cool water. A non-oil based soap or detergent may be used to remove the spray from the skin. Do not use commercial eyewash or eye drops during this decontamination process.

### **C. MEDICAL ATTENTION**

1. Unless a detention center requires that medical personnel check a subject who has been sprayed with OC spray, a subject who has been sprayed will not usually require medical attention.
2. The subject should be monitored the entire time the subject is in the sworn member's custody.
3. Subjects who meet any of the following criteria shall be taken for immediate medical attention:
  - a. Gagging or breathing difficulties that persist beyond two (2) to four (4) minutes;
  - b. Loss of consciousness, profuse sweating without reason;

- c. Suffers from the effects of OC spray for longer than forty-five (45) minutes; or
- d. Appears very sick following the use of the OC spray.

#### **D. DOCUMENTATION**

1. A Use of Force Report shall be completed for each occasion that OC spray is used in the line of duty.
2. The Use of Force Report shall be forwarded to the Chief of police for review within three (3) calendar days.

### **IN-CUSTODY OPERATIONS**

#### **PURPOSE**

The purpose of this directive is to establish the guidelines for the treatment and transportation of individuals who are in custody or being detained by sworn members of the Marshall Police Department

#### **POLICY**

When an individual is in custody, it is the responsibility of the arresting or transporting member to assume responsibility for providing security to prevent escape of the prisoner and to prevent injury or death to Department personnel, other officers who may be involved, and civilians.

#### **DEFINITIONS**

Arresting member: The sworn member who physically takes a person into custody and places that person under arrest.

Positional asphyxiation: A potentially fatal positional effect that may occur when the position of the body interferes with the mechanical and/or muscular components of respiration; in all cases of positional asphyxiation, one or more contributory factors explain the person's inability to correct his/her own positioning; examples: alcohol/drug intoxication, concussion, head injury, obesity entrapment, restraints, or physical disability.

Prisoner: A person who has been deprived of liberty and movement and kept under involuntary restraint, confinement, and/or custody.

Restraining device: Any device used to restrict the movement of prisoners; examples include handcuffs, flex-cuffs, Ripp Hobble, or seatbelts.

Transporting member: The sworn member who has a prisoner in custody and takes that prisoner from one place to another.

## **A. TREATMENT OF PERSONS IN CUSTODY**

1. Prisoner custody is the responsibility of the arresting and transporting members. Sworn members may delegate custody responsibility to other sworn members but never to a civilian.
2. Transporting members must observe all laws and Department directives and treat prisoners humanely at all times.
3. Prisoners should be secured with restraining devices such as handcuffs but shall not be subject to unreasonable restraint.
4. Weapons or objects that could be used as weapons should be kept away from prisoners at all times.
5. It is the transporting member's responsibility to ensure immediate medical treatment when injuries occur before or during arrest. Medical attention should also be obtained when symptoms of illness are evident or when the prisoner complains of illness or injury. If a sworn member knows or suspects that a detainee has swallowed drug evidence, the detainee shall be taken to a medical facility for evaluation.
6. If medical attention is necessary, the sworn member should immediately seek medical attention through the Sheriff's Department Communication Center. The sworn member shall be governed by the decision of the Emergency Medical Services personnel regarding the need for hospitalization. The sworn member shall remain with the arrested person unless urgent medical circumstances exist or relieved by another member. In the event the arrested person is admitted to the hospital, the member shall contact the Chief of Police concerning additional security measures.
7. If medical attention or hospitalization is required, the sworn member should inform hospital staff if the arrested person constitutes a danger to self or others.
8. The transporting member shall be responsible for the security of the prisoner's personal property or the property under the prisoner's control at the time of the arrest. It is the sworn member's responsibility to ensure that such property is inventoried and stored safely until it can be returned to the arrested person or released to the appropriate official at a detention center.

## **B. SEARCHES**

1. Sworn members may frisk or search persons in accordance with the Constitution and laws of North Carolina when a sworn member has articulable reasons to fear for his/her safety. Sworn members shall take possession of all weapons and items of evidentiary value.
2. All individuals in custody shall be searched for officer safety purposes prior to being placed in a Marshall Police Department vehicle for transport purposes.
3. All searches shall be made with all possible regard for decency, out of public view, and,

if possible, a witness should be present.

4. A sworn member shall search a person of the opposite sex only when an immediate search is necessary to ensure the safety of the prisoner, member, or third parties, or to preserve evidence that would otherwise be destroyed or moved from the scene. If a sworn member of the same sex is not available, only a pat-down search shall be conducted unless circumstances warrant an immediate, more thorough search.
5. All searches must be conducted in accordance to the Constitution and the laws of North Carolina. Any searches of vehicles or persons should be conducted in a thorough but expedient manner without allowing the vehicle or person to be moved to another location unless officer safety issues dictate moving to another location.
6. A pat-down search may be delayed until the arrival of a second officer. If a second officer is not available or there is an issue of officer safety, a pat-down search should not be delayed.
7. Strip searches should only be performed based on probable cause and articulable facts that have been verified by the investigating member.
8. Body cavity searches should only be performed by trained medical professionals in a medical facility. Under most circumstances, search warrants must be obtained prior to a search of this nature.
9. All searches of a prisoner of the opposite gender shall be documented in the member's incident report narrative. Any strip searches or transports to medical facilities for body cavity searches should be documented in the investigation report.
10. All property and evidence seized as a result of a search shall be documented on a recovered/found property report. An inventory of property shall be taken in reference to any property removed from any searched vehicle.

### **C. HANDCUFFING**

1. Sworn members should handcuff all persons under arrest or in custody, regardless of the charge, prior to being transported in the Department vehicle.
2. Prisoners should be handcuffed with their hands behind their backs, with the cuffs "double locked" and only tightened to the extent necessary to prevent escape.
3. Sworn members may use discretion in handcuffing an arrested person with the hands in front if there is reason for that positioning, such as obesity or physical impairment.
4. Restraining measures, such as a Ripp Hobble restraint device or flex-cuffs used around the ankles, may be used in addition to handcuffing when dealing with combative persons. Spit hoods may be used in the discretion of the sworn member when necessary.
5. In extraordinary circumstances, sworn members may make exceptions to the

handcuffing policy. These exceptions may include but are not limited to situations of persons who are sick, injured, disabled, handicapped, elderly, or whose physical condition may be aggravated by handcuffing.

6. Sound professional judgment should be used when exceptions are made and alternate safety precautions should be taken to guard against injury or escape.
7. A detainee shall never be handcuffed to any immovable object not specifically designed and intended for such use.
8. If a sworn member's safety is threatened at the immediate scene, a sworn member may transport a prisoner to a safe location prior to handcuffing.
9. Physically or mentally handicapped persons may require special care and attention. Sworn members shall use their own discretion in determining what, if any, restraining devices shall be used on handicapped prisoners and whether or not the Department vehicle is appropriate for transportation purposes.
10. Handcuffs are not to be removed from arrested persons until they are delivered to the detention facility with exception of such temporary removals as:
  - a. During probable cause hearing, if directed by a Magistrate;
  - b. When necessary during medical treatments;
  - c. When performing psychophysical tests for DWI; or
  - d. Other purposes as deemed necessary by the arresting member.
11. Handcuffs should be removed only for the completion of a necessary function. If a subject is combative, the handcuffs shall not be removed and tests shall be omitted.

#### **D. PRISONER PLACEMENT**

1. If a sworn member is transporting a prisoner without assistance, the prisoner shall be placed in the right front seat of the vehicle or in the back seat of a caged vehicle.
2. When it is necessary to transport two (2) prisoners, one (1) shall be placed in the right front seat and the other in the right rear seat. Both prisoners shall be handcuffed and their seatbelts fastened. Another sworn member or law enforcement officer should ride in the left rear seat when transporting two (2) prisoners.

#### **E. POSITIONAL ASPHYXIATION**

1. An arrested individual who exhibits any of the characteristics associated with positional asphyxiation and engages in strenuous physical activity may potentially suffer from positional asphyxiation if placed face down for any reason. The face down or prone position causes the abdomen, chest walls, and diaphragm muscles to hyperextend and constrict normal functioning, possibly leading to a fatal inability to breathe.

2. Sworn members shall never transport anyone in a face down, prone, or face down bound (hog-tied) position. Sworn members shall ensure that even persons who are uncontrollable to the point of requiring additional restraint for transportation shall be properly seated. If persons being transported must be restrained by being bound or strapped down with plastic ties, it is the sworn member's responsibility to ensure that the person is not face down.

## **F. TRANSPORTATION**

1. Prior to transport, the sworn member shall make efforts to positively determine the identity of the prisoner by reviewing the driver's license, vehicle registration, or other identifying documents.
2. Sworn members shall transport prisoners directly to the detention center without delay and shall not accompany a prisoner to the prisoner's home, place of employment, or other facility prior to going to the detention center. The only exception to this policy would occur if a prisoner needs immediate medical attention, in which case, the sworn member may take the prisoner to an emergency medical facility for treatment.
3. All prisoners shall remain seated and restrained with a seatbelt prior to and during transport. Once a prisoner is secured in the vehicle, the doors shall be locked to prevent the prisoner from escaping or someone from the outside enabling the prisoner to escape.
4. When it is necessary for a male member to transport a female prisoner without a third party witness, the sworn member shall:
  - a. Notify the sheriff's department telecommunicator on duty at the time of the arrest, the odometer reading, place of intended incarceration, and the estimated time of arrival at that location;
  - b. Notify the telecommunicator of the time and odometer reading immediately upon arriving at the place of intended incarceration.
5. Sworn members have discretion to allow communication between prisoners and third parties including but not limited to family members, attorneys, other prisoners, or bail bondsmen.
6. Under no circumstances shall the arrested person be allowed out of the sight of the arresting or transporting member. If a sworn member must leave the vehicle, he shall not leave the keys in the vehicle or the vehicle running.
7. As diversionary incidents remove focus from the transporting of a prisoner, a transporting member shall not stop and respond to law enforcement needs except for situations in which there are no other available members, the risk to third parties is clear and grave, and the risk to the prisoner would be minimal.



8. Sworn members shall not engage in extraordinary vehicle operation while transporting prisoners unless a life-threatening situation occurs.
9. Under normal conditions, sworn members shall not make stops during transport to the detention facility. For long distance transports, however, it may be necessary to provide restroom opportunities for prisoners. If these stops are needed, sworn members shall alternate the locations of the stops and never be out of immediate proximity of the prisoner.
10. The transportation of a passenger in a Department vehicle while transporting a prisoner is discouraged. If the situation requires the transport of a third party who is a passenger, the sworn member shall exercise every reasonable precaution to ensure the safety of him/herself, the passenger, the prisoner, and other highway users.

#### **G. ESCAPES**

1. If a prisoner escapes while being transported, the transporting member shall immediately notify the appropriate sheriff's department telecommunications center and the Chief of Police as soon as possible.
2. Immediate efforts should be made by the sworn member involved, when feasible, to recapture the escapee.
3. The sworn member's Investigative Report, or citation shall include a detailed narrative of the arrest and subsequent escape and shall be reviewed by the Chief of Police to verify that in-custody operations policies and procedures were followed.

#### **H. DETENTION FACILITY**

1. Prior to arriving at a detention facility with a prisoner, the transporting member shall advise the facility if the prisoner has mentioned any medical conditions, suicidal tendencies, or violent behavior.
2. When arriving at the detention facility, sworn members shall follow the guidelines of the facility in securing any weapons and/or firearms prior to entering the booking area. Sworn members shall also follow the facility's guidelines for removing the restraining devices from the prisoner.
3. Sworn members should provide the detention facility with as much information as necessary with regard to the identity of the prisoner and the circumstances surrounding the arrest.
4. Prisoners turned over to jail personnel become the jailer's responsibility and following completion of the booking procedures required by the detention center, sworn members are free to resume regular duties.

## UNUSUAL OCCURANCES

### PURPOSE

The purpose of this directive is to establish basic operational guidelines of procedures and responsibilities when responding to unusual occurrences. The Division has adopted the North Carolina Emergency Operations Plan as the official plan in response to unusual events.

### POLICY

The Marshall Police Department is organized to act as an independent organization during emergency or intensive situations.

### DEFINITIONS

Activation status: Deployment which follows a sworn member being placed on Signal 11 status; at the time of receiving activation notification, sworn members should have a period of four (4) hours in which to be en route to their assigned destination.

Crisis situation: Any incident involving violence or potential acts of violence in which law enforcement is at a distinct disadvantage and subject to extreme danger, and/or any situation in which an individual poses a danger to himself/herself or others. Examples include but are not limited to suicide attempts, hostage situations, sniper attacks, or barricaded or armed subjects.

Hostage situation: The taking and holding of a person against his/her will by another for the purpose of facilitating an escape or fulfilling a demand.

Pandemic: Infectious disease outbreaks that occur over very large areas, cross international borders, and usually involve large numbers of people.

Unusual occurrence: Any situation outside of routine Department operations, generally of an emergency nature, that result from disasters both natural and man-made and civil disturbances. Examples of natural disasters include but are not limited to, floods, hurricanes, earthquakes, explosions, and/or tornadoes. Examples of civil disturbance include but are not limited to, riots, hostage situations, and/or bomb emergencies.

#### A. HOSTAGE SITUATIONS

1. The Department does not maintain hostage negotiation teams or hostage negotiators. When a sworn member encounters a crisis situation, he/she should immediately notify communications and request the assistance of trained personnel from an agency of local jurisdiction or the North Carolina State Bureau of Investigation. The SBI can be reached through their Operations Center at 1-800-334-3000.
2. The sworn member should attempt to avoid confrontation and contain the situation until the arrival of trained tactical and/or hostage negotiation personnel. The sworn member should work to evacuate bystanders, assist any injured persons, and secure the scene. If there is insufficient time for the hostage team to arrive and the situation becomes an

immediate threat to human life, the sworn member shall coordinate immediate action necessary to stabilize the situation.

3. The sworn member should provide communications dispatchers with as much information as possible, including any information known about the hostage taker(s), an estimated number of law enforcement units needed to establish an appropriate perimeter, and the safest access route to the scene. Fire, ambulance, and rescue assistance should be requested as the situation dictates. Information about possible hostage identities should not be released over non-secure lines and media access should be limited.
4. The local law enforcement agency supervisor or the SBI should take command and control of the situation upon their arrival. The sworn member should provide these agencies with as much information as possible to allow them to quickly initiate control of the situation. The sworn member may assist the SBI with establishing a field command post, inner and outer perimeter, and should remain present at any field command post to ensure that the Department response is coordinated with other agencies.
5. Unless specifically authorized, Department personnel will not participate in any pursuit arising out of a crisis situation.
6. Sworn members should follow the Use of Force when deciding whether deadly or non-deadly force options should be utilized to contain a hostage situation.
7. Once the situation is resolved, sworn members should be debriefed, including pros and cons of Department action and recommendations to enhance agency proficiency. A written report of the incident shall be forwarded to the Chief of Police within forty-eight (48) hours.

## **B. BOMB EMERGENCIES**

1. Bomb emergencies are the responsibility of the law enforcement agency of local jurisdiction or the State Bureau of Investigation.
2. If Department assistance is requested prior to an explosion, Department personnel may respond to assist with crowd control and/or the search for explosive devices. Responding personnel should not use radio and cellular phones in the immediate area as radio waves may detonate bombs. Radio transmissions should not be allowed within 100 feet of the location. Media antennas should remain at least 300 feet away from the suspected area.
3. If an area is to be evacuated, everyone within 100 yards of the area shall be moved. Department personnel cannot force an evacuation under bomb threat circumstances but should make efforts to convince surrounding persons of the wisdom of evacuation.
4. If called following an explosion, Department personnel should participate with assisting

the injured, establishing perimeters and roadblocks, crowd control, and assistance to fire and rescue personnel as needed.

5. The agency of local jurisdiction or the State Bureau of Investigation shall conduct investigations of bomb emergencies.
6. Once the situation is resolved, sworn members should be debriefed, including pros and cons of Department action and recommendations to enhance agency proficiency. A

written report of the incident shall be forwarded to the Chief of Police within forty-eight (48) hours.

### **C. HAZARDOUS MATERIAL/CBRN INCIDENTS**

1. In response to a local request (fire and emergency management), the Department will assist with the control and movement of vehicles and individuals. Control and removal of hazardous materials are the responsibility of state environmental services and local authorities (fire and emergency management).
2. The first official at any incident scene shall be in command until relieved by a superior officer. Command of the incident scene should be placed under the control of local officials (fire, and emergency management) as soon as practical.
3. When local authorities request assistance from State agencies and the operation involves two or more working state agencies or a Governor's Declaration of Emergency, coordination of all state activities becomes the responsibility of the Secretary of Public Safety. The Area Coordinators of the Division of Emergency Management have been delegated the authority to act on behalf of the Secretary of Public Safety.

### **D. DUTIES OF FIRST RESPONDERS**

1. The preservation of human life is the single most important function of a member who is first to arrive at an incident scene. Property damage and preservation of the site are a secondary consideration.
2. In situations where chemical, biological, radiological, or nuclear (CBRN) substances or hazardous materials are suspected, treat life-threatening injuries immediately. Do not delay advanced life support if individuals cannot be moved. When possible, and with as little exposure and contact as possible, injured persons should be moved from the incident scene. First aid should be administered until medical personnel arrive. Non-injured individuals should also be detained away from the scene and isolated pending decontamination.
3. When approaching a suspected hazardous situation, the member shall stop their vehicle at a minimum of 1,000 feet from the incident scene to evaluate the situation and review the following:

- a. **Survey the Scene:** Determine if the incident is a hazardous situation. Use a defensive approach to check for downed power lines, hazardous material placards on transportation vehicles, hazardous material labels on non-bulk packages, shipping papers, and Hazard Identification Symbols. Conduct quick interviews of knowledgeable individuals such as drivers, train crewmembers, pilot, etc. Refer to the Emergency Response Guidebook (ERG) to assist in determining the hazard and the appropriate response. Never enter a scene which involves downed power lines. Lines should be considered energized unless on scene utilities personnel have determined they are safe.
- b. **Secure the Scene:** Protect the general public. Use available civilians and other personnel to deny entry to all but response personnel. Never place civilians in any danger zones and replace the civilians with officers as soon as possible. Use the ERG to determine exclusion zones and evacuation distances.
- c. **Notify Appropriate Authorities:** Contact the Highway Patrol Communications Center; call 911 or other available communications systems immediately. It is the responsibility of the first officer on the scene to make proper notification of the incident and to secure appropriate resources for the emergency. Provide all available information via chain of command to promptly notify the Chief of Police.
- d. **Aid to Victims:** Never attempt entry into a hazardous situation unless human life is at risk and then only if your safety is not in jeopardy. Refer to the ERG. The ERG is to be carried in the passenger compartment of Enforcement vehicles at all times.
- e. **Decontamination:** A member who has been contaminated with or exposed to CBRN substances or hazardous materials should remain in the containment (triage) area for decontamination purposes. If contaminated, follow the directions of the emergency medical personnel at the scene. Follow up with a visit to a physician. Do not leave the triage area until assured that all contaminants have been removed.
- f. **Additional Safety/Awareness Precautions:** Avoid physical contact with the hazardous substance. Exposure that may endanger you can occur through contact, inhalation, ingestion or absorption. Hazardous materials may be colorless and odorless. Eliminate open flames and the possibility of sparks from smoking, flares, electricity, etc. Shut off automobile engines. Never enter the “hot zone” in an automobile. Do not eat, drink or smoke in the area. Do not use food or drinking water that may have been in contact with material from the incident.

## **ELECTRONIC CONTROL DEVICES**

### **PURPOSE**

The purpose of this directive is to establish Department guidelines and procedures for the use of electronic control devices (ECD) by authorized members of the Marshall Police Department.

## **POLICY**

The policy of the Marshall Police Department is to use only the reasonable amount of force necessary to safely and humanely control physically aggressive subjects, and/or those subjects threatening or attempting suicide who pose a threat to law enforcement or members of the general public. Though the agency values the preservation of life, less lethal weapons, including the TASER, are not intended to resolve situations necessitating the justifiable use of deadly force.

## **DEFINITIONS**

TASER: Less-lethal Conducted Energy Weapon manufactured by TASER International, Inc that uses gas propelled wires to conduct energy to a remote target, thereby controlling and affecting the central nervous system of the body. The Advanced TASER sends out short duration, high voltage electrical waves that overpower the normal electrical signals within the nerve fibers. The M26/X26 does not rely solely on pain to achieve compliance; electronic control device.

Drive Stun: A secondary function of the TASER is to stun a subject by making direct contact with the body after the air cartridge has been expended or removed.

Air Cartridge: A replaceable cartridge for the TASER which uses compressed nitrogen to dispense two barbed probes on thin connecting wires sending a high voltage/low current signal into a subject.

Deadly Force: The application of any instrument that is likely to produce death or serious physical injury under the circumstances of its use.

Use of Force: The level of force used in a given circumstance is determined by the severity of the incident and the force needed to overcome the aggressive act or subdue the subject in question.

Less-Lethal Force: That force which is less likely to result in death or serious injury than force commonly considered deadly.

Serious Physical Injury: A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement, or results in long-term loss or impairment of the function of any bodily member or organ.

Reasonable Belief: The facts or circumstances the officer knows, or reasonably should know, are such as to cause an ordinary or prudent person to act or think in a similar way under similar circumstances.

### **A. TRAINING, TESTING, AND QUALIFICATION**

1. A sworn member may be authorized to carry and use an electronic control device, (ECD or Taser) only after he/she has successfully completed training.
2. The initial training shall consist of written tests, drills, and functional demonstrations recommended by the manufacturer. This training includes a live exposure to the effects of the device as recommended by the manufacturer.
3. All training sessions are to be administered by a Certified ECD Instructor.
4. All sworn members authorized to carry an ECD are required to successfully complete in-service training at least annually. This training will include the agency's use of force

policies and demonstration of proficiency with the device. In-service ECD training shall not require re-exposure to the live device but does require deploying two (2) live cartridges. In-service ECD training shall be documented on the individual member's training record by the instructor or his/her designee.

5. Sworn members who fail to demonstrate safe handling techniques and/or fail to demonstrate proficiency with the device shall not be authorized to carry or use the device until remedial training is successfully completed.

## **B. MAINTENANCE RESPONSIBILITIES**

1. Sworn members are not authorized to modify the ECD in any manner or to remove the digital power magazine.
2. A malfunctioning or damaged ECD must be returned to the Chief of Police for repair or replacement.

## **C. CARRY AND DEPLOYMENT CRITERIA**

1. Although the ECD is used to control or enforce compliance from a subject who is resisting a lawful police action, good judgment is required at all times. An ECD is considered a low level use of force, on par with OC spray, and may be used when verbal tactics have failed or are likely to be ineffective or there is reasonable expectation that it would be unsafe to approach the suspect. As in any situation involving the use of force, the sworn member must be able to articulate compelling reasons for using the ECD.
2. The ECD will be carried on the opposite side from the duty weapon in a cross draw type holster approved by the Chief of Police.
3. Circumstances permitting, a sworn member preparing to deploy the ECD shall issue a verbal warning such as "Taser, Taser, Taser" to the subject and other sworn members/officers present that a Taser is being deployed. The term used in talking about Tasers will be 'deploy'; the terms 'shoot' or 'fire' shall not be used.
4. A Marshall Police Department-issued ECD shall not be carried off-duty.

## **D. TASER DISCHARGE**

1. The ECD can be used in the Drive-Stun Mode by placing the front of the device (cartridge removed or after cartridge has been deployed) against the body of the subject and activating the ECD. The subject will experience localized pain which will not incapacitate but may assist officers in gaining control and taking custody of the subject.
2. The ECD is more effective when the cartridge is deployed and the probes make direct contact with the subject in Probe Mode. Proper application will result in temporary immobilization of the subject and provide the officer a window of opportunity to gain control and to take the subject safely into custody.
3. The ECD will be used to control a dangerous or violent subject when deadly force is not justified or there is a reasonable expectation that it will be unsafe for sworn members to

approach or come within contact range of a suspect.

4. When the ECD is deployed, the subject target area is lower center mass of the body or the leg area. At no time should the ECD be deployed using the head or neck area as an intentional target.
5. The ECD shall not be used on a subject who is in control of a motor vehicle that is in gear or in motion.
6. The Department utilizes non-flammable OC spray but the ECD shall not be used on anyone being actively sprayed or who is in the vicinity of flammable liquids, gases or any other highly combustible materials that may be ignited by the device, including any subject that may have been exposed to high combustible substances or liquids such as gasoline or OC spray of an unknown or flammable base.
7. No more than one (1) sworn member should deploy an ECD against a subject at a time.
8. When deploying an ECD, a sworn member should use it for one standard cycle and evaluate the situation. The number and duration of subsequent cycles should be the minimum necessary to gain compliance of the subject.
9. An ECD shall not knowingly be used against pregnant females.
10. Proper consideration and care must be taken when deploying an ECD on subjects who are in an elevated position such as from a roof or ledge or in other circumstances where a fall may cause serious injury or death.
11. The ECD shall not be used punitively or in any other unjustified manner.

#### **E. DISCHARGE FOLLOW-UP**

1. When the subject is under control, the sworn member may remove the ECD probes, which are considered to be medical sharps, using universal precautions.
2. If probes are imbedded in the subject's vital tissue such as eye, groin, face, neck, etc., sworn members shall not remove probes but shall request Emergency Medical Services (EMS) to transport the injured subject to the closest designated medical facility for treatment.
3. After the probes are removed, a sworn member shall perform an initial assessment of the subject for any condition or injury which may require medical attention. The subject should continue to be observed and evaluated for a reasonable period after use of the ECD.
4. If the subject is committed to a detention facility, authorities at the receiving facility shall be notified that an ECD was deployed on the subject and advised of any injuries sustained or if follow-up treatment will be required. Detention Center staff



should monitor any such subject for a reasonable period of time after arrival at the Detention Center.

## **F. REQUIRED REPORTS**

1. Any sworn member discharging (accidentally or intentionally) an ECD for any purpose other than testing and training shall immediately notify his/her supervisor and complete a Use of Force Report.
2. In addition to the Use of Force Report, a Supervisory Taser Use Report shall be submitted to the Chief of Police.
3. If possible, photographs should be made of any marks or injuries made by the ECD. Photographs may be taken at the scene, medical facility or detention facility but should be taken as soon as possible after the incident. Any photographs should be considered as evidence and stored in the evidence room. Copies should be submitted with the Use of Force report.
4. The Chief of Police or his designee may take possession of the ECD for CD download. . In addition, the Chief of Police or his designee shall take possession of the expended air cartridge(s) and recovered Anti-Felon Identification (AFID) tags which shall then be submitted into evidence. They should be maintained until the disposition of the court case, and destroyed in compliance with any court order or expiration of any appeal period. The cartridge and AFID tags may be maintained longer if necessary for civil purposes.

## **EVIDENCE**

### **PURPOSE**

The purpose of this directive is to establish the guidelines for handling, storing, and disposing of evidence.

### **POLICY**

The Marshall Police Department shall maintain strict measures for the identification, collection, presentation, security, and disposal of evidence and property. These efforts shall be for the purposes of supporting investigations, helping guarantee successful prosecution at trial, facilitating timely return of property to its rightful owners, and establishing the Department's reputation as an honest and reputable agency worthy of the public's confidence and trust.

### **DEFINITIONS**

None at this time.

## **A. GENERAL INFORMATION**

1. Sworn members shall concern themselves with the enforcement of federal and state laws and the local ordinances properly adopted by the Marshall Board of Alderman. The investigation of other incidents should be referred to the appropriate law enforcement

authorities.

2. Should the situation dictate the processing of fingerprints, DNA, or investigation beyond the normal scope of duty, the Chief of Police or his designee shall contact the SBI or other appropriate agency with the capability of processing the crime scene. If the SBI is needed during regular business hours, the local SBI office should be contacted. If assistance is needed after regular business hours, the SBI may be contacted at 1-800-334-3000. Should the SBI or other appropriate agency process the scene, the sworn member shall make arrangements to receive a copy of the report generated by the processing agency.
3. Employees shall not convert to their own use, manufacture, destroy, remove, or tamper with any evidence or other material found in connection with an investigation or other Marshall Police Department action, except as provided by law.
4. Items are subject to seizure by sworn members pursuant to a search warrant, administrative inspection, or plain view doctrine if there is probable cause to believe that it:
  - a. Is stolen or embezzled;
  - b. Is contraband or otherwise unlawfully possessed;
  - c. Has been used or is possessed for the purpose of being used to commit or conceal the commission of a crime; or
  - d. Constitutes evidence of an offense or the identity of a person participating in an offense.
5. Sworn members shall document any occasion that involves the transfer of evidence from one sworn member to another, one location to another or one agency to another, so as to maintain an unbroken chain of custody.
6. If a third party owns the seized item(s), efforts shall be made to contact that person to notify them of the seizure and the procedures for possibly reclaiming their property following disposition of the case.
7. Any property seized through criminal processes or asset forfeiture proceedings shall be accounted for and disposed in accordance with applicable state and federal laws or administrative rules.

## **B. CRIME SCENE SECURITY**

1. The lead sworn member shall make every effort to secure and protect the crime scene. It is the lead sworn member's responsibility to ensure that the scene is not compromised and evidence is not tampered with or altered.
2. The lead sworn member is additionally responsible for keeping excess personnel or bystanders out of the area while it is being processed for evidence.

### **C. PHOTOGRAPHY**

1. Any photographs or sketches taken of the general scene should be taken prior to any evidence or potential evidence being moved. The scene in the photograph or sketch should accurately portray the actual scene for court testimony purposes. As soon as possible, all photos should be labeled with date, time, location, item photographed, and photographer.
2. Photographs should be stored with the sworn member's investigative report in a manner that will prevent the photographs from being bent, torn, or damaged.
3. A scale should be included in the frame for photographs of any item/area to be used for comparison purposes in the SBI laboratory.
4. Sworn members utilizing digital imagery shall be issued the following equipment:
  - a. A Department issued digital camera,
  - b. A flash memory card,
  - c. A flash/memory card reader, and
5. When sworn members utilize digital imagery, the following guidelines will be followed to ensure the integrity of the digital images:
  - a. A flash/memory card will only contain digital images from one case.
  - b. The image quality setting on the camera will be set to "normal" and the image resolution to "large."
  - c. No images shall be deleted during the crime scene photography process. A Sworn member may review the captured digital images via the camera's monitor prior to leaving the crime scene to ensure that all necessary photographs have been obtained. No type of device or software may be connected to the digital camera which would allow for alteration of the images stored within the camera's flash/memory card.
  - d. Digital images should only be deleted from the flash/memory card after the images have been downloaded and saved.

### **D. SEIZURE- MONEY AND PAPER ITEMS**

1. Sworn members should attach evidence labels to issued envelopes and use sealed envelopes, plastic bags, or other suitable container to secure all money and evidence documents such as identification cards, driver's licenses, etc.
2. When seizing money, sworn members are to count it twice and write the denomination, total dollar amount, and date on the front of an evidence envelope in the presence of a

witness, preferably another sworn member, and the person releasing the money.

3. Place all the money in an evidence envelope or container and seal. The sworn member and witness shall sign the seal and cover the signatures and seal with clear tape. The sworn member shall initial the front of the envelope next to the dollar amount. The witness shall also initial and date the total dollar amount on the front of the evidence envelope.
4. Fund amounts outlined above apply only to evidentiary seizure monies.

#### **E. SEIZURE- LIQUIDS**

1. When seizing liquids that cannot be resealed (examples: mixed drinks, glass or open containers of beer), sworn members shall form an opinion of the contents by sight, smell, container, etc. The contents shall then be poured out in the presence of the owner. For incidents of arrest, the disposal shall be noted on the citation.
2. When seizing liquids that can be resealed or are unopened, these liquids shall not be poured out and shall be labeled individually with evidence labels or tags unless the District Attorney has approved the pouring out of unopened alcohol.
3. When seizing large quantities of malt beverages, sworn members may package the beverages by case, box, or other container readily available. Sworn members shall describe the contents (examples 50 355-ml cans Budweiser, 162 355-ml bottles Miller Lite, etc.) and attach evidence labels to the outer container. The container should be sealed or closed if possible.

#### **F. SEIZURE- VEHICLES**

1. Sworn members may seize motor vehicles, boats, airplanes, and all other conveyances used to transport non-tax paid alcoholic beverages in violation of the ABC laws pursuant to North Carolina General Statute 18B- 504 (a) (1) or any of North Carolina's laws related to illegal controlled substances. All conveyances, including vehicles, vessels, or aircraft, which are used or intended for use to unlawfully conceal, convey, or transport, or in any manner to facilitate the unlawful concealment, conveyance, or transportation of property described in North Carolina General Statute 90-112 (a) (1) and (2). Motor vehicles used in the conduct of a lottery within the purview of G.S. 14-291.1, Selling number tickets, shall be liable to be seized by any court of competent jurisdiction or by any person acting under its warrant.
2. A sworn member may seize a suspect vehicle without a warrant if he/she has probable cause to believe the vehicle contains evidence of a crime or has been used in the commission of a crime.
3. If a vehicle subject to seizure has not been seized as part of an arrest or search, the sworn member must apply to a judge for an order authorizing seizure of the vehicle.
4. An order for seizure may be issued only after criminal process has been issued for an ABC law or controlled substance violation in connection with that vehicle.

5. The seizing member in the order shall describe the vehicle to be seized and shall state the facts establishing probable cause to believe the vehicle is subject to forfeiture.
6. A seized vehicle must be transported to a secured location for storage.

#### **G. SEIZURE- MISCELLANEOUS ITEMS**

1. For seizures involving computers or computer equipment, sworn members should follow proper shut down procedures prior to disconnecting any of the computer's wiring.
2. Sworn members should seize all parts of a computer system necessary for basic input and output, including computer, monitor, keyboard, and possibly printer. Sworn members must be able to reconstruct the system so that it will operate in the lab for evidence extraction.
3. If possible, sworn members shall take photographs of computer connections and wiring to ease reassembly. All cables, devices, and ports shall be labeled prior to disconnection. Vacant ports shall also be indicated either through labels or through a sketch of the computer port system so that the analyst will immediately recognize if components are missing or improperly connected.
4. Computer systems shall be transported in such a way as to cause minimal shifting or movement during travel. The systems should be maintained in a relatively dust-free and climate controlled environment.
5. All disks and software materials should be labeled and stored in non-plastic containers.
6. For seizures involving firearms, sworn members should immediately verify that the weapon is unloaded. All magazines and ammunition shall be stored in a separate sealed envelope.
7. Any other seized items shall be labeled with evidence tags or labels and placed in the secured storage area.

#### **H. LABELING**

1. When seizing items, sworn members shall securely attach evidence labels and tags to the evidence in plain view. Labels should be visible and should clearly indicate that the package is evidence and should not be moved or tampered with in any way.
2. Evidence labels and tags should include the following:
  - a. Case number as generated by the case sworn member;
  - b. Item number;
  - c. Date and time;

- d. Description of evidence contained in labeled box or envelope; and
- e. First and last name of case sworn member.

## **I. REPORTS**

1. Depending on the nature of the violation, information concerning how evidence came into a sworn member's possession should be documented.
2. The Report of Seized Property shall be used to record and report the seizure of any property connected with any arrest or investigation.
3. The form shall be completed at the time of any property seizure unless circumstances surrounding the seizure (examples: hostile crowd or volatile situation) warrant completion of the report at a more appropriate time. When possible, the seized property report should be signed by the property owner. If the property owner refuses to sign, the sworn member should write Refusal on the form.
4. Completion of a seized property report does not relieve the sworn member of the responsibility of furnishing the owner with an inventory of seized property at a later date.
5. Sworn members are to be equipped with the form at all times so that seizures can be recorded upon their occurrence.
6. The Report of Seized Property shall be completed with pertinent information such as items, quantity, and property description at the time of the seizure. Other information, such as value, may be completed at a later time.
7. At the time of property seizure, the sworn member, upon completing the seized property report, shall issue the second copy as a receipt of property seized to one of the following:
  - a. Defendant, property owner, or permittee;
  - b. Person from whose possession the property was taken;
  - c. Owners' employee or sworn member, if present; or
  - d. Person believed to be the owner or user.
8. If the sworn member finds none of the above listed subjects available, he/she shall securely affix the second copy of the seized property report to the premises/vehicle from which the evidence was seized. The sworn member shall then be responsible to secure the premises/vehicle prior to leaving the scene.
9. A Report of Towing, shall be completed in the event that a vehicle is towed for storage. These forms should be maintained in the police department office.

## **J. STORAGE**

1. The Report of Seized Property shall be completed and the evidence labeled prior to storage.
2. The Chief of Police or his designee is designated as the primary evidence custodian.
3. Evidence is to be logged in and stored in a secure personal evidence locker, department evidence room or other evidence storage facility approved by the Chief of Police.
4. Sworn members are to record the exact location of the stored evidence and any movement thereof on an seized property Report form.
5. It shall be the responsibility of the sworn member seizing evidence to ensure that the evidence is secure from the time of seizure through the time of disposal.
6. Sworn members are to maintain proper safeguards to ensure the chain of custody on evidence is not broken.
7. A sworn member, after seizure of a vehicle, shall arrange transportation and safe storage of the vehicle.
8. When seizing and impounding a vehicle, a sworn member shall conduct an inventory of the vehicle and its contents to protect the sworn member and the Marshall Police Department from claims of lost, damaged, or stolen property.
9. The inventory is to encompass all areas and containers within the vehicle that could contain valuables and weapons including:
  - a. The interior, including glove compartment, console, and trunk; and
  - b. Containers, such as luggage or briefcases, that may also contain valuables or weapons;
  - c. Sworn members shall also be mindful of the possibility of the existence of hidden compartments.
10. Sworn members shall not try to break open locked containers for the purpose of inventory and shall take reasonable measures to avoid unnecessary damage to the vehicle and to any container located therein.
11. Sworn members shall list the contents and containers found in the seized vehicle on the Report of Seized Property.

## **K. EVIDENCE STORAGE ROOM**

1. The Chief of Police shall establish and maintain an evidence storage area in the police department to accommodate the sworn members of that office. The evidence storage

room shall remain locked at all times.

2. The entrance to the storage area shall be secured with two (2) deadbolt locks, one that uses a supervisor's key and the other that uses sworn member's key. Both the sworn member and supervisor shall lock the evidence storage room door when leaving the area.
3. If a sworn member is removing evidence for court proceedings, the sworn member shall document the removal of evidence from the storage area and return the evidence as soon as practical following the court proceedings.

#### **L. SUBMISSION OF EVIDENCE TO LAB**

1. The case sworn member is responsible for submitting items to the laboratory for forensic processing.
2. Packaging of evidence for the SBI laboratory should be according to the SBI guidelines found in the SBI Laboratory Manual. If a sworn member is unsure of the proper packaging for particular evidence, he/she should contact the SBI lab for clarification.
3. To submit evidence to the State Bureau of Investigation laboratory, or any other laboratory, for analysis, sworn members shall utilize one of the following:
  - a. United Parcel Service;
  - b. United States Post Office; or
  - c. Personal delivery.
4. Sworn members shall document the following information on the Seized Property Report in the "Chain of Custody" section:
  - a. Method used for transporting evidence to the lab;
  - b. Name of sworn member relinquishing evidence for analysis; and
  - c. Name of laboratory technician receiving evidence.
5. The appropriate request forms shall accompany any submissions to the lab. If delivered by personal service, a sworn member should ensure that lab personnel sign the request form and the sworn member keep the back copy for their records. For mailed submissions, sworn members should use certified mail with return receipt requested.
6. Upon return of evidence, sworn members shall document the following information in the "Chain of Custody" section:
  - a. The method used to return evidence (United States Postal Service or United Parcel Service); and



- b. Name of lab technician relinquishing evidence to sworn member after the analysis.
7. All results from the laboratory shall be returned to the sworn member in writing.

#### **M. DISPOSAL**

1. Prior to disposal or destruction of evidence, a sworn member must allow for the following time periods to expire for criminal charges:
  - a. Ten (10) days have elapsed from the date the court judgment is entered; and
  - b. The presiding judge has signed the order.
2. Disposal or destruction of seized evidence must be witnessed by the Chief of Police or his designee and documented on the Report of Seized Property. If evidentiary materials are retained for training purposes, the court order authorizing retention should accompany the materials and the transfer of property to the department should be documented on the report of Seized Property. The only item of contraband allowed to be retained for training purposes is non-tax paid alcoholic beverages (moonshine). Any retained items of evidence shall be stored at the Marshall Police Department.
3. Containers of evidence with liquid contents, such as mixed drinks, spirituous liquor, cans of beer, bottles of wine, etc. shall be poured into rest room sinks, floor drains, etc. Empty containers shall be placed in proper receptacles.
4. Paper items or documents such as gambling devices, punch boards, playing cards, pull tabs, etc, shall be torn up, shredded, or incinerated, unless otherwise instructed.
5. Seized operator's licenses and identification cards shall be torn up or shredded. To retain the document for educational purposes, approval must be obtained in writing from the Chief of Police.
6. Controlled substances are to be flushed down a drain or burned, depending upon quantity.
7. Disposition of other items of evidence shall be as ordered by the trial judge.
8. All items of no further evidentiary value shall be disposed within six (6) months following the expiration of legal requirements. Disposition of items shall be documented by the sworn member and the witness to the disposal shall initial and date their concurrence.

#### **N. FINAL RELEASE**

1. Sworn members shall release evidence only under the following conditions:
  - a. Based on a signed Order or Forfeiture, or Release Order from the court authorizing release;

- b. At the written directive of the District Attorney; or
  - c. Upon release of the Final Order and expiration of appeal period.
2. The releasing member must verify the identity of the person attempting to claim evidence and must ensure the person has the authority and right by law to possess the released evidence.
  3. The person receiving evidence will be required to complete the Chain of Custody section of the Report of Seized Property.
  4. Money transfers shall be done only upon completion of the case and adjudication by the court.
  5. Transfers to Clerk of Court will be made in person (cash), or through checks, money orders, or cashier's checks.
  6. Receipts of cash transfers shall be obtained and shall be attached to the Report of Investigation, to become part of the investigative record.
  7. Transfers to Marshall Police Department will be by check from the Clerk of Courts Office and should also include supporting documentation or a court order turning funds over to the Marshall Police Department.
  8. When any sworn member leaves the Marshall Police Department permanently or for an extended leave of absence, the Chief of Police must verify and receive inventory of all evidence and seized property held by the sworn member. The Chief of Police may either retain custody of the evidence, or transfer custody to another sworn member if he/she is an assisting sworn member in the case(s).

## **BLOODBORNE PATHOGEN PRECAUTIONS**

### **PURPOSE**

The purpose of this directive is to establish the guidelines and procedures to be used when an employee of the Marshall Police Department faces potential exposure to bloodborne pathogens and disease.

### **POLICY**

It is the policy of the Marshall Police Department to provide employees with the safest possible work environment that limits exposure to recognized hazards that may cause death or serious physical injury. The Marshall Police Department shall provide personal protective equipment, adequate training in work practices and procedures, and ensure that sworn members who are exposed to bloodborne diseases are provided with confidential medical treatment. Each sworn member has the responsibility to control exposure and prevent the spread of bloodborne pathogens. Fear of contracting a communicable disease does not relieve sworn members from the obligation to perform their duties.

## **DEFINITIONS**

AIDS: Acquired immunodeficiency syndrome

Blind search: Any method of searching places, vehicles, or individuals in which the employee blindly inserts his hand into a place that cannot be seen; clothing pockets, beneath car seats, beneath furniture, etc.

Blood: Human blood, human blood components, and products from human blood.

Bloodborne pathogens: Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include but are not limited to hepatitis B (HBV) and human immunodeficiency virus (HIV).

Body fluid: Any fluid from the body including blood, semen, vaginal discharge, tears, saliva, perspiration, vomit, urine, or feces.

Contaminated: The presence or the reasonable anticipated presence of blood or other potentially infectious materials on an item or surface.

Contaminated laundry: Laundry that has been soiled with blood or potentially infectious materials or may contain sharps.

Contaminated sharps: Any contaminated object that can penetrate the skin, including but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

Decontamination: The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Exposure incident: A specific eye, mouth, other mucous membrane, non-intact skin or parenteral contact with blood or other potentially infectious materials that results from the performance of an member's duties.

Hand washing facility: A facility providing an adequate supply of running potable water, soap, and single-use towels or hot air drying machines.

HBV: Hepatitis B virus

HIV: Human immunodeficiency virus

Licensed health care professional: A person whose legally permitted scope of practice allows him or her to independently perform the activities required by Hepatitis B vaccinations, post-exposure evaluation, and follow-up.

Occupational exposure: Reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of a sworn members's duties.

Parenteral: Piercing mucous membranes or other skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

Personal protective equipment: Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes not intended to function as protection against a hazard are not considered personal protective equipment.

Source individual: Any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee.

Sterilize: The use of physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Universal precautions: An approach to infection control; According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and their bloodborne pathogens.

Workplace practice controls: Controls that reduce the likelihood of exposure by altering the manner in which a task is performed; example: prohibiting recapping of needles by a two-handed technique.

#### **A. ANTICIPATED RISKS**

1. All Marshall Police Department sworn members have a reasonably anticipated risk of exposure to blood or other potentially infectious materials.
2. Exposure hazards include but are not limited to:
  - a. Administering first aid (ex. CPR, bandaging wounds, etc.);
  - b. Conducting blind searches of suspects;
  - c. Handling, packaging, and storage of evidence;
  - d. Handling deceased persons;
  - e. Processing accident and crime scenes;
  - f. Decontaminating equipment and vehicles; or
  - g. Effecting the arrest and control of suspects.

#### **B. PRECAUTIONS AND WORKPLACE CONTROLS**

1. Universal precautions shall be observed to prevent contact with blood or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

2. All employees shall wash their hands and any other contaminated skin as soon as possible following contact with blood or other potentially contaminated material. If a hand washing facility is not readily accessible, employees shall then use alcohol or germicidal towelettes and proceed to a hand washing facility as soon as possible. Sworn members shall be provided with an adequate supply of alcohol or other germicidal towelettes.
3. Latex gloves shall be worn at all times when it can be reasonably anticipated that an exposure to blood or infectious materials is possible. Hands shall be washed immediately after the removal of gloves.
4. An employee who has contaminated fluids splashed in the eyes shall immediately wash the eyes with eyewash and as soon as possible proceed to a facility where equipment for the continued flushing of the eyes is available.
5. Employees shall not bend, recap, shear, break, or remove needles or other sharps unless a mechanical device is used to reduce the likelihood of a needle-stick by a contaminated needle or other sharp implement.
6. Contaminated needles or other sharps shall be placed in labeled, puncture resistant containers.
7. Employees shall not eat, drink, smoke, apply lip balm, or handle contact lenses in areas where occupational exposure to bloodborne pathogens may occur. Food and drink may not be stored in places where blood or other potentially infectious materials are kept.
8. Leak-proof containers must be used to prevent leakage during the collection, processing, storage, transport, or shipping of potentially hazardous materials. The container must also be labeled with a biohazard symbol and color-coded prior to shipping. All contaminated equipment must be decontaminated prior to servicing. If the equipment cannot be decontaminated, the contaminated portions must be labeled and the persons likely to come into contact with the equipment must be notified of the presence of contaminants prior to shipping.

### **C. PERSONAL PROTECTIVE EQUIPMENT**

1. Personal protective equipment shall be worn whenever it can be reasonably anticipated that occupational exposure may occur.
2. Sworn members shall maintain adequate supplies of protective equipment readily available for use and shall notify the immediate supervisor when such equipment is depleted or in need of replacement

### **D. FIRST AID AND CPR**

1. All sworn members who administer first aid or CPR when there is a reasonably anticipated contact with blood, mucus membranes, or non-intact skin shall wear latex gloves.

2. Issued pocket masks shall be utilized in all CPR and mouth-to-mouth resuscitation efforts, if available.
3. In the event of massive arterial bleeding, combative bleeding persons, or other circumstances in which blood or other body fluids may be splashed about, personnel should wear gloves, masks, eye shields, and raincoat.

#### **E. SEARCH AND EVIDENCE HANDLING PRECAUTIONS**

1. Sworn members are encouraged to use very careful judgment before placing their hands inside an individual's pockets, clothing, etc. Outside pat-down procedures should be carefully conducted in order to locate any potentially sharp objects within an individual's clothing.
2. Sworn members conducting searches of bloodied individuals should wear latex gloves.
3. Sworn members are discouraged from conducting "blind searches" in vehicles, residences, etc.
4. Any hypodermic syringe will be treated as a potential source of exposure to an infectious disease. Sworn members who seize any hypodermic syringe that has the needle exposed shall immediately place the seized item into an approved puncture proof container prior to transportation. The syringe shall not be removed from the container except by mechanical means that do not require touching the syringe.

#### **F. BODY FLUIDS AND DECEASED PERSONS**

1. All body fluid spills will be regarded as potentially infectious.
2. Latex gloves, protective eyewear and facemasks shall be worn whenever contact with body fluid spills is likely. Sworn members shall use protective facemasks and make every effort to avoid having body fluids splashed on them.
3. Emergency Medical Service personnel frequently call upon sworn members to provide supplemental manpower in the removal or injured or deceased persons. Sworn members will continue to provide such assistance when requested; however, they will first consult with Emergency Medical Services personnel about appropriate precautions and shall adhere to those precautions in addition to these guidelines.
4. Sworn members shall adhere to the decontamination procedure after dealing with body fluid spills of injured or deceased persons.

#### **G. DECONTAMINATION AND CLEAN UP**

1. Contaminated fluids should be washed off with hot soapy water. Sworn members should clean equipment such as flashlights, handcuffs, etc. immediately after exposure,

with a freshly mixed solution of one (1) part household bleach to ten (10) parts water applied with a spray bottle. Lysol aerosol spray is also an effective virucidal against most infectious diseases. Latex gloves should be worn during the decontamination of equipment.

2. Contaminated clothing shall be removed immediately and isolated in a plastic bag until laundered or dry-cleaned. Heavily contaminated clothing shall be placed in a hazardous materials bag or plastic bag labeled with biohazard labels to notify laundry or cleaning personnel.

## **H. DISPOSAL**

1. The contaminated disposable items shall be secured in the hazardous materials disposal bag provided to the sworn member.
2. The hazardous materials disposal bag shall be placed in the hazardous materials disposal container in the district headquarters.
3. Sharps or syringes shall be placed in the Sharps Collection Container at the Department Office through a method that does not require touching the sharps.
4. In the event that a body fluid spill occurs within an Department vehicle, the sworn member should follow normal decontamination procedures and should not use household bleaches or cleaners.
5. Marshall Police Department vehicles contaminated with large amounts of blood should be taken to a garage for decontamination. A biohazard label must be obtained from the Chief of Police and attached to the vehicle in a conspicuous location to alert garage or other personnel to the potentially infectious material. The label shall contain information relating to the type and location of hazardous material in the vehicle. Garage personnel will decontaminate the vehicle prior to returning it to service.
6. A sworn member who has an exposure incident shall take all applicable precautionary post-exposure measures and notify his/her immediate supervisor without delay.

## **I. REPORTING AND DISCLOSURE INFORMATION**

1. An occupational bloodborne pathogen exposure in and of itself is not reportable. An exposure which results in a reportable work injury (ex: needle stick or laceration) or illness (diagnosed) should be recorded on OSHA Form 200. A copy of the OSHA Form 200 should be forwarded to the Chief of Police.
2. In accordance with North Carolina General Statute 130A- 143, all information and records that identify a person who has AIDS virus infection or who has or may have a disease or condition of this directive shall be strictly confidential. This information shall not be released to anyone without prior written approval from the Chief of Police.

# JUVENILE PROCEDURES

## PURPOSE

The purpose of this directive is to establish the guidelines appropriate for handling enforcement matters involving juvenile offenders.

## POLICY

All sworn members of the Marshall Police Department strive for consistent enforcement of all federal and state laws and all ordinances adopted by the Marshall Board of Aldermen.

It is the policy of the Department to react to juveniles with the least coercive action consistent with preserving public safety, order, and individual liberties. Enforcement action involving juveniles should comply with the North Carolina Juvenile Codes (Chapter 7B of the North Carolina General Statutes).

## DEFINITIONS

Custodian: The person or agency that has been awarded legal custody of a juvenile by a court.

Delinquent juvenile: Any juvenile while less than sixteen (16) but at least six (6) years of age that commits an offense that would be a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, if committed by an adult.

Detention: The secure confinement of a juvenile pursuant to a court order.

Guardian: A person appointed and supervised by the court, empowered with custody, control, and care of the juvenile.

Juvenile: Any person who has not reached his/her eighteenth (18) birthday and is not married, emancipated, or a member of the armed forces of the United States.

Temporary custody: The taking of physical custody and providing personal care and supervision until a court order for secure or non-secure custody can be obtained.

Undisciplined juvenile: A juvenile who, while less than sixteen (16) but at least six (6) years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian, or who is regularly found in places where it is unlawful for a juvenile to be, or who has run away from home for a period of more than twenty-four (24) hours; or a juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

### A. TEMPORARY CUSTODY

1. A sworn member may take a juvenile into temporary custody without a court order under the following circumstances:
  - a. If grounds exist for the arrest of an adult in identical circumstances under NCGS 15A-401(b);



- b. If there are reasonable grounds to believe the juvenile is an undisciplined juvenile;
  - c. If there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that he/she would be injured or could not be taken into custody if it were first necessary to obtain a court order; or
  - d. If there are reasonable grounds to believe that the juvenile is an absconder from any residential facility operated by the State or from an approved detention facility.
2. When a sworn member encounters a juvenile without a court order, he/she should select the least restrictive course of action that is appropriate to the situation and the needs of the juvenile. These options include:
- a. Release the juvenile;
  - b. Release the juvenile after counseling with the juvenile;
  - c. Release the juvenile to the juvenile's parent, guardian, or custodian;
  - d. Refer the juvenile to community resources;
  - e. Issue a citation;
  - f. Seek a petition; or
  - g. Seek a petition and requesting a secure custody order.
3. A sworn member who has taken a juvenile into temporary custody may not hold the juvenile more than twelve (12) hours or for more than twenty-four (24) hours if any of the twelve (12) hours fall on a Saturday, Sunday, or legal holiday unless a petition or motion for review has been filed and an order for secure or non-secure custody has been entered.

## **B. DISPOSITION AFTER CUSTODY**

1. The sworn member should notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of their right to be present with the juvenile until a determination has been made as to the need for secure or non-secure custody.
2. The sworn member can release the juvenile to a parent, guardian, or custodian if continued custody is unnecessary.
3. If the juvenile is alleged to be delinquent or undisciplined, the sworn member can contact a juvenile court counselor for consultation or to draft a complaint.
4. If the juvenile is alleged to have been abused, neglected, or dependent, the sworn

member shall report this information to the Department of Social Services.

5. If a sworn member takes a juvenile who is an absconder from DPS Division of Juvenile Justice residential facility or State detention facility, or community commitment placement, the sworn member must contact the administration of the juvenile detention facility from which the juvenile absconded or the local Juvenile Court Counselor's Office to coordinate return to the nearest juvenile detention center. That facility is responsible for coordinating transport for the return of the juvenile to the facility if sworn members are unable to provide transport.
6. When a sworn member receives a secure custody order, he/she may then, accompanied by another sworn member or local officer, transport the juvenile to the nearest approved detention facility without unnecessary delay.
7. When a sworn member is transporting a juvenile under arrest by secure custody order, the procedures described in In-custody Operations shall be followed. A juvenile shall not be transported in the same vehicle with an adult under arrest.

### **C. INTERROGATION**

1. The sworn member must explain to the juvenile the applicable juvenile justice system procedures.
2. The atmosphere of a custodial juvenile interrogation should be as nonthreatening as possible. It is recommended that no weapons be visible, the number of officers involved be limited to as few as necessary, and the duration of the interview be as brief as possible.
3. Any juvenile in custody must be advised of his/her constitutional rights and his/her rights pursuant to Chapter 7B of the North Carolina General Statutes by reading their rights prior to questioning.
4. Any juvenile in custody must be advised:
  - a. That he/she has the right to remain silent;
  - b. That any statement he/she makes can be and may be used against him/her;
  - c. That he/she has the right to have a parent, guardian, or custodian present during questions; and
  - d. That he/she has a right to consult with an attorney and that one will be appointed for him/her if the juvenile is not represented and wants representation.
5. When the juvenile is less than fourteen (14) years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as

well as the juvenile must be advised of the juvenile's rights; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

6. When a juvenile is fourteen (14) to seventeen (17) years of age, the juvenile may waive having a parent, legal guardian, or custodian present for the interview. A person eighteen (18) years of age or older may decide whether to have the parent, legal guardian, or custodian present at the interview.
7. The interrogation of a juvenile suspect will be for a reasonable length of time to include breaks if needed.
8. If the juvenile indicates in any manner and at any stage of questioning he/she does not wish to continue, the sworn member shall cease questioning.
9. Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

#### **D. INTERVIEW**

1. A juvenile can be interviewed (No Miranda/non-custodial) without a parent, guardian, or custodian present; however, the parent, guardian, or custodian should be notified, if practical, that an interview is necessary or is being conducted. If a juvenile requests that his/her parent be present, this should be allowed or if a parent requests to be present, this also should be allowed.
2. If a sworn member needs to interview a juvenile at school, he/she should adhere to all school board policies concerning law enforcement interview of students in school.
3. If a sworn member needs to interview a juvenile who is in secure custody (in a youth development center, detention center, or community commitment placement), the sworn member shall contact the Facility Director with the purpose of the interview to arrange a time that maximizes the safety and security of the facility. It is preferable that interviews occur outside of school hours. If the juvenile is being interviewed as a witness or as a victim, the Facility Director is responsible for notifying the juvenile, the juvenile's parent/legal guardian/custodian, and the juvenile's Court Counselor at least 24 hours prior to the interview in the event the parent/legal guardian/custodian wishes to participate. Parent/legal guardian/custodian notification by sworn members is required with the interview of a juvenile as an alleged perpetrator. In the event the juvenile requests the presence of a parent/legal guardian/custodian, sworn members should honor the request. A juvenile may request the presence of a juvenile justice staff member during the interview; however, juvenile justice staff members are not permitted to volunteer to be present for the interview. At no time shall any juvenile justice staff that may be accompanying the juvenile for the interview participate in the interview or advise the juvenile. The purpose of juvenile justice staff member's presence is to provide support to the juvenile.

## **E. NON-TESTIMONIAL IDENTIFICATION**

1. Non-testimonial identification procedures shall not be conducted with any juvenile without a court order unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult, in which case the procedure for an adult shall apply under the provisions of Chapter 7B of the North Carolina General Statutes.
2. The one exception to this rule is a one on one show-up conducted within a reasonably short period of time after the crime.

## **F. JUVENILE RECORDS**

1. The procedures for juvenile records are in accordance with the provision of Chapter 7B of the North Carolina General Statutes.
2. Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court in accordance with 28 NCAC 01A.0301, Designated Agencies Authorized to Share Information, and 28 NCAC 01A.0302, Information Sharing Among Agencies:
  - a. Juvenile or the juvenile's attorney;
  - b. Juvenile's parent, guardian, custodian, or the authorized representative thereof;
  - c. District Attorney or Prosecutor;
  - d. Court counselors; and
  - e. Law enforcement officers sworn in this state.

## **G. RECORD KEEPING FOR CITATIONS/JUVENILE RECORDS**

1. The court disposition of cases involving juveniles is not a matter of public record. Charges brought against juveniles may be prepared on the AOC petition form filed by juvenile court counselors when warranted.
2. Any time a citation is written to any person under the age of sixteen (16), the citation must be maintained separately from any adult pending or adjudicated citations.

## **H. TRAINING & EVALUATION**

1. All sworn members must participate in annual training on juvenile justice issues.

# **VEHICLES & EQUIPMENT**

## **PURPOSE**

The purpose of this directive is to establish the guidelines for Marshall Police Department vehicles in reference to vehicle maintenance, accidents, and the equipment issued to each sworn member for the performance of duties.

## **POLICY**

The Department provides each sworn member access to a vehicle and equipment for use in the performance of official duties. It is each sworn member's responsibility to maintain the vehicle and the equipment in conditions that facilitate the performance of duties.

No employee has the authority to alter in any way any Marshall Police Department-issued or Marshall Police Department-owned property without the consent of the Chief of Police. This includes but is not limited to additions, deletions, or reconfigurations to any Town-owned or maintained property including but not limited to vehicles, communications devices, weapons, equipment, and apparel.

## **DEFINITIONS**

None at this time.

### **A. GENERAL INFORMATION**

1. Each sworn member shall have access to a Marshall Police Department vehicle.
2. Marshall Police Department vehicles shall only be driven for duty purposes. Members assigned to limited duty functions may not drive Marshall Police Department vehicles unless given permission by the Chief of Police.
3. With the exception of special purpose vehicles, all Marshall Police Department vehicles shall be equipped with operational emergency lights and sirens.

### **B. MAINTENANCE, ALTERATIONS, AND ACCESSORIES**

1. Sworn members shall take advantage of preventative maintenance work and seek other repairs as needed to ensure the proper functioning of all vehicle components and accessories and to keep exterior and interior surfaces clean and in good condition.
2. All Marshall Police Department vehicles shall be serviced (gas, oil, and lubrication), repaired, and maintained at approved private garages.
3. Minor emergency repairs costing \$100 or less do not require prior authorization and may be made at commercial garages that bill the Town of Marshall whenever such repairs are necessary.
4. After having repairs, maintenance or other service performed on issued vehicles, officers shall keep a signed copy of the service ticket or invoice.
5. Marshall Police Department vehicles shall not be painted or altered in any way without

prior authorization from the Chief of Police. Marshall Police Department vehicles shall not be decorated, including decals and bumper stickers, in any way without authorization of the Chief of Police. No additional accessories may be placed on Marshall Police Department vehicles without prior written authorization from the Chief of Police.

6. Marshall Police Officers are responsible and will be held accountable for the condition of all vehicles they operate. Failure to maintain these vehicles in accordance with this directive will result in appropriate disciplinary action being taken against the affected officer.
7. All communication devices, vehicle-installed or hand-held, shall not be modified or programmed by an outside source without consent from the Chief of Police.

### **C. ACCIDENTS**

1. All accidents involving Marshall Police Department vehicles that result in serious personal injury shall be immediately reported to the Chief of Police. All other accidents involving Marshall Police Department vehicles shall be reported to the Chief of Police no later than the next business day.
2. All motor vehicles accidents should be investigated by the appropriate local authority or the North Carolina State Highway Patrol. Marshall police officers should request the investigation to be documented on a DMV-349 form.

### **D. EQUIPMENT ISSUANCE, INSPECTION, & EXCHANGES**

1. Initial equipment issued to an employee shall be documented on a Equipment Record Report. Additional equipment issuances shall be documented on an Supplemental Equipment Record. Transfers of equipment to another employee or relinquishment shall be documented on this report as well.
2. Body armor shall be worn when a sworn member is participating in a raid, search, or when responding to prior information indicating the officer might be involved in gunfire. Sworn members are encouraged but not mandated to wear soft body armor while performing other duties.
3. Sworn members shall be held responsible for maintaining in good condition all issued equipment.
4. The Chief of Police shall maintain a complete record of all items issued to an employee. The Chief of Police shall be responsible for ensuring each employee under his/her supervision is provided with the necessary equipment and maintains it in good condition.
5. The Chief of Police shall inspect items of equipment to determine if they are serviceable prior to requesting a reissuance or exchange.
6. Stored equipment shall be checked for operational readiness annually.

7. Items of equipment lost or damaged by employees while performing official duties will be replaced. The Chief of Police shall document any loss, report it to the town clerk, and include a written request for replacement of the item and a recommendation as to whether or not the employee should be required to reimburse the Town of Marshall for the cost of the item.
8. The Chief of Police shall take appropriate disciplinary action when items of equipment are lost or damaged through negligence.
9. An inventory shall be conducted under the direction of the Chief of Police to ascertain that all appropriate items issued to the employee has been relinquished.

## **VEHICLE OPERATIONS**

### **PURPOSE**

The purpose of this directive is to establish the guidelines for vehicle and traffic enforcement operations.

### **POLICY**

The Marshall Police Department's sworn members are sworn law enforcement officers and may conduct vehicle stops and traffic enforcement operations when they have articulable suspicion that a vehicle, driver, or other occupants are in violation of the law. Sworn members are at all times subject to the provisions of North Carolina General Statutes, particularly Chapter 20, and the Marshall Police Department Policy and Procedure Manual directives.

### **DEFINITIONS**

Vehicle enforcement response: An active attempt by one or more sworn members operating police vehicles to overtake and capture a suspect or violator of the law operating a motor vehicle, while that person is making no willful attempt to avoid capture. This applies to the time from the observation of an offense until the point in time that the police vehicle has moved into a position behind the suspect/violator vehicle. If the suspect/violator vehicle yields to the lights and/or sirens, the encounter ends as a traffic enforcement response. If the suspect/violator fails to yield to the lights and siren, the encounter escalates to a pursuit.

#### **A. GENERAL INFORMATION**

1. Marshall Police Department sworn members have jurisdiction for addressing criminal matters. Sworn members of the Marshall Police Department routinely conduct visible traffic patrol functions. Sworn members shall use their discretion in making decisions to initiate traffic stops. Traffic stops should primarily be initiated for felony grade incidents, serious misdemeanors such as DWIs, and other occurrences that endanger the lives of the public.
2. Sworn members may stop vehicles when they have articulable suspicion the vehicle, driver, or other occupants are in violation of the law. Each sworn member must be able

to state facts on which he based his decision to stop the vehicle.

3. At all times, sworn members shall use all reasonable precautions to assure their safety and that of others when making enforcement contacts and performing other enforcement actions.
4. Sworn members shall be constantly alert to the possibility of assault during enforcement contacts and take reasonable steps to protect themselves at all times.
5. Sworn members shall be professional and courteous to all occupants of stopped vehicles.
6. Blue warning lights and/or sirens shall be activated during all enforcement contacts which could potentially create hazardous situations or conditions, or any other time when ready identification of the vehicle and the sworn member is required and can be so made. Vehicles parked along the roadway should be well off the traveled surface, and at night, the headlights shall be turned to low beam so as not to blind approaching motorists.
7. When responding to emergency situations, sworn members shall put on their reflectorized safety vests at the earliest time possible when exposed to or directing traffic unless officer safety would be compromised. This policy shall not prohibit a prompt officer response when an incident demands attention to prevent injury, death, or loss of property.

## **B. UNIFORM TRAFFIC ENFORCEMENT**

1. Uniform traffic enforcement of motor vehicle laws is intended to deter motorists from committing violations and to encourage voluntary compliance with traffic laws. Sworn members shall use good judgment when considering what type of enforcement action to take. Sworn members should consider all circumstances and conditions existing at the time of the violation before deciding on the appropriate course of action.
2. Sworn members should enforce impaired driving laws. Violators will ordinarily be arrested once a sworn member has developed the opinion that the violator is appreciably impaired. The determination to arrest will be made after considering the driver's actions with the vehicle, the driver's demeanor, statements, appearance, and the outcome of field sobriety tests. Sworn members may charge drivers of vehicles with an impaired driving offense in accordance with NCGS 20-138.1, 20-138.2, and/or 20-138.3.
3. Sworn members shall issue citations to violators who have operated their vehicles at a speed that creates a significant danger to persons and property. The sworn member should consider factors such as road design, time of day, and location.
4. For hazardous violations, sworn members shall consider the severity of the violation, the location, and the potential for injury to persons or property.
5. For non-hazardous violations including those related to equipment, sworn members shall



consider the nature of the violation. Many non-hazardous violations are not known to the operator and will be corrected when brought to the operator's attention. Most non-hazardous violations can be appropriately handled with verbal warnings.

6. For incidents of all-terrain vehicles being operated on a roadway, sworn members shall take appropriate enforcement action.
7. With few exceptions, commercial vehicle violations will be considered in the same manner as private vehicles. In some cases, sworn members should consider that the type of vehicle and cargo may create a significantly more hazardous situation than a car under similar conditions. Some laws only apply to special vehicles, such as the State law requiring a blood alcohol concentration of .04 for commercial vehicle Driving While Impaired charges.
8. Sworn members may use discretion in multiple violations and may cite as many as is appropriate. However, sworn members should normally arrest or cite for the most serious violations and consider warnings for others. In cases involving pursuits or Driving While Impaired charges, sworn members should not feel compelled to charge every violation.
9. For newly enacted laws and regulations, grace periods are typically established during which time warnings are appropriate. After the grace period, sworn members shall use their discretion dependent upon the nature of the violation and Marshall Police Department policy.
10. Bicycle operators and pedestrians are subject to many of the same laws as motor vehicle operators. Sworn members should consider the severity of the violations as well as public safety issues when deciding whether or not to cite an individual with pedestrian or bicycle violations.
11. Sworn members should take appropriate action against individuals found to be operating a motor vehicle without a driver's license or while their driver's license is revoked, suspended, or expired.
12. Since sworn members investigate collisions for traffic enforcement purposes, sworn members may issue traffic citations resulting from collisions. The Chief of Police or his designee will investigate collisions involving Marshall Police Department vehicles only as internal matters and pursuant to Marshall Police Department policy.

### **C. VEHICLE STOPS**

1. Sworn members must make every effort to ensure that persons being stopped are able to clearly identify the sworn members as law enforcement officers. These efforts include but are not limited to:
  - a. Activating blue lights, sirens, and/or modulating headlights;
  - b. Identifying yourself over the public address system;

- c. Displaying the Marshall Police Department badge and identifying yourself to the occupants after approaching the vehicle;
  - d. Wearing Marshall Police Department apparel or enforcement uniform. Sworn members shall not stop vehicles unless appropriately dressed and shall never stop a vehicle while operating an undercover vehicle or platform vehicle.
2. Sworn members shall tell persons stopped for enforcement purposes the reason they were stopped and the action to be taken (warning, citation, arrest, etc.).
3. When a motorist has been stopped, the Marshall Police Department vehicle should be parked to the rear of the person's vehicle and shall be positioned so as to afford the greatest degree of protection to the sworn members, the motorist, any vehicle occupants, and/or bystanders.
4. Sworn members shall be sensitive to the legitimate public concern associated with "blue light bandits". Sworn members shall give consideration to drivers who are attempting to follow recommended guidelines for ensuring that the presence of a law enforcement officer is verified prior to stopping.

Citations may be written at the location best suited to the existing circumstances but a sworn member shall never stand between the Marshall Police Department vehicle and the stopped vehicle when issuing a citation.

#### **D. SPECIAL POPULATIONS**

1. Sworn members should exercise discretion and ordinarily abstain from physical arrest of nonresidents of North Carolina unless they have committed offenses that would result in suspension or revocation of their driving privilege under North Carolina law. Out of state residents can be arrested if they
  - a. Reside in a state that is not a member of the Nonresident Violator Compact and have committed a misdemeanor,
  - b. Reside in a state that participates in the Nonresident Violator Compact and the violation would result in the revocation or suspension of their driving privilege under North Carolina law or the nonresident violator refuses to sign the reciprocal agreement for a misdemeanor offense.
2. Generally, juveniles who have committed a traffic offense should not be taken into custody. Their parent, custodian, or guardian should be notified and the juvenile released into their custody. The sworn member may seek a juvenile petition. In all cases where a juvenile is taken into custody, the sworn member is responsible for notifying the juvenile's parents as soon as possible. All juvenile custody situations will be handled in accordance with North Carolina General Statute 7B.
3. Members of the United States Congress will, in all cases except treason, felony, and breach of the peace, be immune from arrest during their attendance at the session of their

respective house, in going and returning from their respective house, and for any speech or debate in either house. No state or local official, either appointed or elected, is exempt from any federal, state, or local laws. This provision applies to the Governor, Lieutenant Governor, Attorney General, State Supreme Court Justices, members of the state legislature, and all county and municipal officials. The issuance of a citation or physical arrest is permissible for these individuals when appropriate.

4. Armed Forces personnel, for the purposes of this directive, will include regular members of the Army, Navy, Air Force, Marines, Coast Guard, and reservists on active duty. Military personnel whose permanent residence or permanent duty station is located outside North Carolina will be treated as non-residents of North Carolina. All others will be treated as residents.
5. Sworn members shall treat foreign diplomatic and consular personnel with respect and due regard for the privileges and immunities to which they are entitled under international law. Sworn members should not adopt a “hands off” approach toward traffic or criminal law enforcement actions involving diplomats. Foreign diplomatic and consular personnel who violate laws will be cited and allegations of serious crimes will be fully investigated and promptly reported to the United States Department of State. The State Department will seek waivers of immunity in the face of criminal charges, will remove individuals from the United States who are engaged in criminal activity, and will revoke the driving privileges from individuals who repeatedly violate the traffic code. For more information on diplomatic and consular personnel immunity specifics, refer to the Consular Identification Pocket Card issued to each sworn member.

#### **E. ROADWAY HAZARDS**

1. Sworn members who recognize hazards such as debris in the roadway should use discretion and due regard for safety before attempting to remove the material from the roadway.
2. If necessary, sworn members should contact the Highway Patrol or North Carolina Department of Transportation to facilitate the removal of debris from the roadway.

#### **F. ROADSIDE ASSISTANCE**

1. Sworn members of the Marshall Police Department should provide services indirectly related to traffic matters and should offer assistance when they witness individuals requiring roadside assistance that are not currently being aided. Services may include general assistance, emergency assistance, providing directions, and making appropriate contacts to aid the individual in procuring needed services.
2. Sworn members should render emergency assistance to stranded motorists when necessary. Sworn members should notify the Sheriff's Department Communications Center as to the nature of the emergency and request fire, rescue, or towing services as necessary. The sworn member should serve as liaison for the motorist to ensure appropriate response and to assist as possible until emergency services arrive.
3. For those individuals needing general roadside assistance, sworn members should make

a reasonable effort to procure services or make contact with appropriate agencies on the individual's behalf. This could include contacting SHP Communications for a Highway Patrol unit. For individuals needing minor repairs such as tire changes or obtaining fuel, sworn members may assist the individual or make appropriate contacts to procure assistance for the individual.

4. Stranded motorists should not be left unattended in dangerous situations. Consideration of the needs of the motorists, weather conditions, location, time of day, and other calls for service must be made when determining the appropriate way to assist stranded motorists. Sworn members should notify Sheriff's Department Communications of the location and nature of the stranded motorist and assist the motorist in making contact with a taxi or alternative means of transportation. Sworn members may transport stranded motorists to the nearest appropriate location with telephone and shelter if conditions necessitate such transportation.

### **G. ROADSIDE SAFETY CHECKS**

1. Marshall Police Department sworn members may assist other agencies in roadside safety checks including but not limited to Click It or Ticket, Booze It and Lose It campaigns, seatbelt, and DWI checkpoints.
2. Requests for assistance in these types of operations should be in writing to the Chief of Police.

## **ESCORTS, RELAYS, AND PASSENGER TRANSPORTS**

### **PURPOSE**

The purpose of this directive is to establish the guidelines for using Marshall Police Department vehicles to escort emergency vehicles and the use of Department vehicles as relay vehicles for the purposes of medical emergency transport. This directive also establishes the procedures and regulations to be used when transporting authorized passengers in an Marshall Police Department vehicle.

### **POLICY**

It is the policy of the Marshall Police Department to provide escorts and medical relays only when absolutely necessary. A sworn member should make efforts to not interfere with the duties of first responders or other medical personnel. It is also the policy of the Marshall Police Department to allow off-duty sworn law enforcement officers from other agencies to ride as passenger observers with a sworn member to foster relationships between respective agencies and to allow civilians to ride as passenger observers with a sworn member for legitimate civic or educational purposes.

### **DEFINITIONS**

Escort: The act of using any Marshall Police Department vehicle to lead an ambulance or other emergency vehicle in an effort to assist with navigation to a hospital or emergency medical facility.

Relay: Using a Marshall Police Department vehicle as an emergency vehicle to transport an individual

to a hospital or emergency medical facility.

#### **A. MEDICAL EMERGENCIES**

1. Sworn members shall not escort ambulances or other emergency vehicles unless justified by extraordinary circumstances. Exceptions may be made when a driver of an emergency vehicle cannot reach a hospital or other destination without assistance.
2. A sworn member may only make emergency medical relays when an actual emergency situation exists.
3. Emergency relays will be conducted only when:
  - a. There is an imminent danger of death or additional injury to the person being treated;
  - b. Ambulance transport is not available;
  - c. Delay in transport of an individual is likely to lead to further injury or death.
4. An emergency relay may be conducted only when there is no alternative means of transportation available that could as effectively perform the service.
5. Sworn members shall avoid providing escort service to civilian drivers of civilian vehicles during emergency situations. Sworn members shall either make arrangements for an emergency vehicle to transport the individual or perform an emergency relay if allowable following the above conditions.

#### **B. USE OF MARSHALL POLICE DEPARTMENT VEHICLES**

1. All drivers and passengers in vehicles shall wear seatbelts or safety restraints unless the nature of an illness or injury would prove to aggravate the condition. Efforts shall be made to use child safety seats or restraints when transporting children.
2. Only certain persons are authorized to drive Department owned vehicles. These persons include:
  - a. An on-duty sworn member;
  - b. Any sworn law enforcement officer while assisting an on-duty sworn member;
  - c. A mechanic while road testing the vehicle or delivering a vehicle to a sworn member or to a garage;
  - d. A civilian while transporting a sworn member who is incapacitated by illness or injury to a hospital or emergency medical facility;
  - e. Non-sworn Town of Marshall employees when authorized by the Chief of Police; or
  - f. A civilian while working under the auspices of the Department.

3. Marshall Police Department vehicles shall not be used to escort funeral processions without authorization from a supervisor.

### **C. PASSENGER TRANSPORT**

1. Employees shall not transport unauthorized persons in Marshall Police Department vehicles. Authorized persons may be transported when circumstances require. Authorized persons include:
  - a. Accident victims;
  - b. Stranded motorists;
  - c. Witnesses;
  - d. Officers of the Court;
  - e. Prisoners;
  - f. On-duty sworn law enforcement officers acting within the scope of their official duties;
  - g. Participants in the ride-along program; or
  - h. Other persons when required in the line of duty.
2. The Chief of Police may authorize other passengers to ride in Department vehicles. Authorized passengers shall be required to sign the appropriate Ride-Along Waiver.

### **D. RIDE-ALONG PROGRAM**

1. Off-duty sworn law enforcement officers from other agencies may ride along as passenger observers with sworn members for the purpose of observing Marshall Police Department procedures and to promote relations between respective agencies. Interested citizens may ride along as passenger observers with sworn members for legitimate civic or educational purposes.
2. All persons wishing to participate in the ride-along program must be 18 years of age or older. They must be pre-authorized by the Chief of Police and must complete an Ride-Along Waiver.
3. Participants in the ride-along program shall be assigned to ride with sworn members of the same gender. If a sworn member of the same gender as the participant is not available to conduct the ride-along, the participant shall be assigned to ride with two (2) sworn members.
4. Participants in the ride-along program shall not be allowed to accompany sworn

members inside a residence or inside any portion of a business that is not open to members of the public while sworn members execute a search warrant or make an arrest.

5. Participants must be dressed appropriately, presenting a neat and clean appearance, when reporting for the ride-along assignment. T-shirts, faded jeans, sandals, torn, discolored, or dirty clothing are considered inappropriate. The Chief of Police shall deny participation to any person who is inappropriately dressed or who reports for the ride-along in a condition which would compromise the safety or best interests of the agency, assigned sworn member, or the participant.
6. Participants, whether they are civilians or off-duty sworn law enforcement officers, shall be considered observers only, and shall be under the direct supervision of the assigned sworn member during the ride-along. Participants shall remain in the Department vehicle at all times except when authorized to leave by the assigned sworn member.
  - a. Civilian participants shall not engage in any law enforcement activity unless requested to come to the assistance of the sworn member pursuant to NC General Statute 15A-405.
  - b. Off-duty sworn law enforcement officer participants shall not engage in any law enforcement activity unless requested to come to the assistance of the sworn member pursuant to NC General Statute 15A-405, or authorized to engage in enforcement action under state law or mutual aid agreement. Participation in the ride-along program does not confer authority on law enforcement officer participants to engage in any extra jurisdictional law enforcement activity.
7. The assigned sworn member shall take reasonable care to prevent the participant from becoming physically involved in the following types of incidents:
  - a. Arrests;
  - b. Interrogations;
  - c. Vehicle pursuits;
  - d. Physical confrontations;
  - e. Situations involving or likely to involve the display or use of firearms;
  - f. Other activities or situations, which are likely to increase the participant's risk exposure
8. If the assigned sworn member receives a potentially hazardous call or realizes that he/she may become immediately involved in a potentially hazardous situation, the sworn member shall deposit the ride-along participant in a safe, well-lit location prior to responding to the call or situation. The assigned sworn member shall not respond to the call or situation if he/she is unable to deposit the participant at a safe location.

9. Off-duty sworn full-time law enforcement officers participating in the ride-along program shall be allowed to carry their issued firearm in compliance with state law and that officer's departmental policy. If the law enforcement officer participant is in plain clothes, the firearm must be fully concealed.
10. No civilian ride-along participant shall be allowed to possess any weapon of any type during the ride-along, regardless of any weapons permit or license the civilian may have.

#### **E. TRANSPORTATION REQUESTS**

1. All requests for security, medical, or other emergency assistance shall be assessed by the Chief of Police for approval based on need.

### **TOWING MOTOR VEHICLES**

#### **PURPOSE**

The purpose of this directive is to establish guidelines for the towing, notification, storage, and inventory of vehicles.

#### **POLICY**

It is the policy of the Marshall Police Department to remove vehicles parked, disabled, or left standing on the roadway or main-traveled portion of the highway that present a hazard or potential hazard as authorized by State law.

#### **DEFINITIONS**

None at this time.

#### **A. VEHICLE REMOVAL PROCEDURES**

1. Vehicles parked, disabled from a collision or otherwise abandoned on the paved or main-traveled portion of the highway shall be moved to a position off the roadway.
2. With consent of the owner, operator, or legal possessor, the vehicle may be transported and stored. Without consent of the owner, operator, or legal possessor, the vehicle may be transported and stored if the vehicles present a hazard, a potential hazard, or as otherwise authorized by State law.
3. The owner, operator, or legal possessor may be allowed to move the vehicle to a safe position off the roadway if the driver is competent and licensed to drive the vehicle. A vehicle that cannot be safely parked off the roadway may be transported and stored.
4. A vehicle unlawfully parked, abandoned, or disabled on the highway right-of-way but not on the main-traveled portion of the highway may be removed or towed and stored only if the vehicle interferes with the regular flow of traffic or otherwise constitutes a hazard.



5. Vehicles unlawfully parked on the right-of-way but not interfering with the regular flow of traffic shall not be towed or stored. The North Carolina State Highway Patrol should be called to tag the vehicle with an Unattended Vehicle Tag.

## **B. SECURING VEHICLES**

1. Upon arresting or placing a vehicle operator in custody, a competent individual should be allowed to drive or move the vehicle to a position off the roadway with consent from the owner, operator, or legal possessor of the vehicle.
2. If the owner, operator, or legal possessor does not consent to such removal or if another driver is not available, sworn members may move the vehicle to a position off the roadway, lock the vehicle, and return the keys to the owner, operator, or legal possessor.
3. Sworn members who remove or allow a vehicle to be removed to a position off the roadway shall:
  - a. Lawfully park the vehicle in an apparent safe and secure location off the main-traveled portion of the highway; and
  - b. Place the vehicle in a position that creates no apparent hazard or other interference with the regular flow of traffic.
4. Reasonable precautions should be taken to secure the vehicle and its contents against theft, vandalism, and other damage by locking the vehicle, if possible, and returning the keys to the owner, operator, or legal possessor. In any case where the operator of the vehicle is arrested for DWI, the keys should be turned over to the magistrate/jailer or, if appropriate, a sober, responsible person.

## **C. TRANSPORTATION AND STORAGE**

1. Vehicles may be transported and stored over the objection of or without consent of the owner, operator, or legal possessor when:
  - a. The vehicle cannot be lawfully parked off the roadway;
  - b. The vehicle is lawfully parked off the roadway but creates a hazard;
  - c. The owner, operator, or legal possessor refuses or is unable to remove the vehicle from the roadway; or
  - d. The vehicle is subject to seizure pursuant to NCGS 20-28.3 or other lawful authority.
2. Sworn members who authorize the transportation and storage of a vehicle shall notify the Sheriff's Department telecommunications center and request a wrecker service. Sworn members shall furnish all information necessary to complete a Report of

Vehicle Store or Recovered to telecommunications. The sworn member shall complete a Report of Towing and obtain the signature of the owner, operator, or legal possessor to authorize the towing service.

3. Refusal to sign the authorization shall be deemed a withdrawal of the consent or request to tow.

#### **D. NOTIFICATION**

1. Unless exempted by vehicle seizure law, a registered owner must be notified of the vehicle being towed and stored. In order to accomplish this, the authorizing member shall notify the communications center of the following:
  - a. Description of the vehicle;
  - b. Place where the vehicle is being stored;
  - c. Procedure the owner must follow to have the vehicle returned to him; and
  - d. Procedure the owner must follow to request a probable cause hearing.
2. A sworn member who authorizes the towing and/or storage of a vehicle in the absence of the registered owner shall, as soon as practical, attempt to notify the owner of such towing and/or storage. The sworn member shall attempt to contact the owner by telephone or request a Telecommunicator to attempt to contact the owner by telephone and provide the owner with the location of the vehicle.
3. When a vehicle with neither a valid registration plate nor registration is towed, the authorizing sworn member shall make reasonable efforts, including checking the VIN number of the vehicle to determine the last known registered owner of the vehicle and to notify him of the information listed above.
4. If the vehicle is seized pursuant to NCGS 20-28.3, the appropriate DMV notification form shall be completed and forwarded to DMV and to the statewide contractor within twenty-four (24) hours.

#### **E. VEHICLE INVENTORY**

1. A sworn member who authorizes the transportation and storage of a vehicle without consent of the owner, operator, or legal possessor shall take precautions to protect all property in and on the vehicle.
2. A signed authorization to tow from the owner, operator, or legal possessor is documentation that the vehicle was not removed from the possession of the person; therefore, completion of a vehicle inventory is not required.
3. The storage and security of the vehicle and its contents become the responsibility of the towing company when the vehicle is towed from the scene and stored at the wrecker

service storage facility. The sworn member shall conduct an inventory itemizing all property contained in the vehicle on an Report of Seized Property.

4. All vehicles which are inventoried under the above guidelines shall be inventoried at the time of storage unless an emergency situation dictates otherwise.
5. The inventory must be thorough and complete, listing all items that are toxic, explosive, flammable, or of monetary value.
6. Unless locked or securely wrapped, all containers in the vehicle (whether open or closed) should be opened to determine contents unless evidence is discovered to indicate that opening the container may subject the sworn member to exposure of toxic, flammable, or explosive substances. Locked or securely wrapped luggage, packages, and containers shall not be opened except as otherwise authorized by law or by owner consent, but shall be indicated on the inventory list as locked or securely wrapped items.
7. Any evidence found in plain view is admissible. Locked or securely wrapped containers are considered as units of inventory and cannot be searched without obtaining consent or a search warrant unless there is evident danger to a member of the public.
8. The sworn member may consider obtaining a search warrant when there is probable cause for a thorough search of the vehicle or its contents when time and conditions permit.

#### **F. VEHICLE RELEASE**

1. Unless the vehicle is seized, a sworn member shall immediately authorize the release of a stored vehicle to the owner upon proof of ownership if no other justification to hold the vehicle exists.
2. Release conditions for vehicles shall be indicated on the Report of Towing.