

407 CONDUCT UNBECOMING A PEACE OFFICER

PURPOSE

The purpose of this policy is to define conduct unbecoming a peace officer. This policy supplements the ethical standards contained in the Law Enforcement Code of Ethics, to which we should all strive to adhere as sworn peace officers.

POLICY

Law enforcement effectiveness and the effectiveness of the Breckenridge Police Department depends upon community respect, trust, confidence, and cooperation. Conduct by members of the Breckenridge Police Department which detracts from this high level of respect, trust, confidence, and cooperation is detrimental to the effective operation of the department specifically and to the public interest in general and is prohibited. The policy of this department is to investigate circumstances suggesting an officer has engaged in unbecoming conduct, and to impose progressive, positive, disciplinary action when appropriate.

SCOPE

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

This policy is organized into eight principles governing conduct unbecoming an officer. Each principle is followed by the rationale explaining the principle and a set of rules.

PROCEDURES

Sworn peace officers of the Breckenridge Police Department are to adhere to the following principles.

PRINCIPLE ONE

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

Rationale

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

Rules

- 1.1_ Peace officers shall not knowingly exceed their authority in the enforcement of the law.
- 1.2_ Peace officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants and preservation and disposal of evidence.
- 1.3_ Peace officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.
- 1.4_ Peace officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction in which the officer is present, except where permitted in the performance of duty under proper authority.

PRINCIPLE TWO

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

Rationale

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

Rules

- 2.1 Peace officers shall carry out their duties with integrity, fairness and impartiality.
- 2.2 Peace officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- 2.3 Peace officers shall truthfully, completely and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
- 2.4 Peace officer shall take no action knowing it will violate the constitutional rights of any person.

- 2.5 Peace officers must obey lawful orders, but must refuse to obey any orders the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order, the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order shall be required to justify his or her actions.
- 2.6 Peace officers learning of conduct or observing conduct which is in violation of any law or policy of this department shall take necessary action and report the incident to the officer's immediate supervisor, who shall forward the information to the chief law enforcement officer. If the misconduct is committed by the officer's immediate supervisor, the officer shall report the incident to the immediate supervisor's supervisor.

PRINCIPLE THREE

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

Rationale

Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity, and perform their duties without regard to race, color, creed, religion, national origin, sex, marital status, status, with regard to public assistance, disability, sexual orientation or age.

Rules

- 3.1 Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
- 3.2 Peace officers shall not express, whether by act, omission or statement, prejudice concerning race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.
- 3.3 Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age.

PRINCIPLE FOUR

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

Rationale

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

Rules

- 4.1 Peace officers shall not consume alcoholic beverages or chemical substances, while on duty, except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in 4.3.
- 4.2 Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- 4.3 Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- 4.4 Peace officers, while on duty, shall not commit any act which, as defined under Minnesota law, constitutes sexual harassment, including but not limited to, making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical or communication of a sexual nature.
- 4.5 Peace officers, while off duty, shall not engage in any conduct which the officer knows, or reasonably should know, constitutes an unwelcome sexual advance or request for sexual favor, or unwelcome sexually motivated physical contact or other unwelcome verbal or physical conduct or communication of a sexual nature.
- 4.6 Peace officers shall not commit any acts which, as defined under Minnesota law, constitute sexual assault or indecent exposure. Sexual assault does not include a frisk or other search done in accordance with proper policy procedures.

- 4.7 Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- 4.8 Peace officers shall not, in the course of performing their duties, engage in any sexual contact or conduct constituting lewd behavior, including but not limited to, showering or receiving a massage in the nude, exposing themselves or otherwise making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the department.
- 4.9 Peace officers shall avoid regular personal associations with person who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or department. This rule does not prohibit those associations that are necessary to the performance of official duties, or where such associations are unavoidable because of the officer's personal or family relationships.

PRINCIPLE FIVE

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

Rationale

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

Rules

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

PRINCIPLE SIX

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

Rationale

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

Rules

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

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

None of these rules shall prevent officers from engaging in the free expression of political speech in their capacities as private citizens, or the rights of police fraternal or labor organizations to endorse political candidates or express views on political issues or other matters of public concern.

PRINCIPLE SEVEN

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

Rationale

For the public to maintain its faith in the integrity and impartiality of peace officers and their departments, officers must avoid taking or influencing official actions where the officer's actions would or could with the officer's appropriate responsibilities.

Rules

- 7.1 Peace officers shall, unless required by law or policy, refrain from becoming involved in official matters, or influencing actions of other peace officers in official matters, impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.
- 7.2 Peace officers shall, unless required by law or policy, refrain from acting or influencing official actions of other peace officers in official matters impacting person with whom the officer has or has had a business or employment relationship.
- 7.3 Peace officers shall not use the authority of their position as peace officers, or information available to them due to their status as peace officers, for any purpose of personal gain including, but not limited to, initiating or furthering personal and/or intimate interactions of any kind with persons with whom the officer has had contact while on duty.
- 7.4 Peace officers shall not engage in any off-duty employment in the position compromises or would reasonably tend to compromise the officer's ability to impartially perform the officer's official duties.

PRINCIPLE EIGHT

Peace officers shall observe the confidentiality of information available to them due to their status as peace officers. Peace officers are entrusted with vast amounts of private and personal information, or access thereto. Peace officers must maintain the confidentiality of such information to protect the

Rationale

privacy of the subjects of that information, and to maintain public faith in the officer's and department's commitment to preserving such confidences.

Rules

- 8.1 Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
- 8.2 Peace officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
- 8.3 Peace officers shall not divulge the identity of person giving confidential information except as required by law or department policy.

Application

Any disciplinary actions arising from violations of this policy shall be investigated in accordance with Minnesota Statute 626.89, Peace Officer Discipline Procedures Act and the BPD's policy on Investigation of Allegations of Misconduct as required by POST Board Rules, Minn. R. pt. 6700.2000 to 6700.2600.

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

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