



# Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



|                           |                                                                             |                      |                |
|---------------------------|-----------------------------------------------------------------------------|----------------------|----------------|
| <b>Subject:</b>           | <b>Personnel Files</b>                                                      | <b>Policy #</b>      | <b>A-46</b>    |
| <b>Effective Date:</b>    | <b>April 14, 2025</b>                                                       | <b>Review Cycle:</b> | <b>2 Years</b> |
| <b>Distribution:</b>      | <b>All Personnel</b>                                                        | <b># of pages:</b>   | <b>6</b>       |
| <b>MLEAP:</b>             | <b>2.23</b>                                                                 |                      |                |
|                           | <b><i>Rescinds All Previous Policies Related to This Current Policy</i></b> |                      |                |
| <b>Issuing Authority:</b> | <b>Chief of Police Lee Miller</b>                                           |                      |                |

## I. POLICY:

It is the policy of the Lincoln Police Department to comply with *Title 30, Section 503, Paragraph 3 and Section 2702, Paragraph 3*, as applicable. These statutes govern the confidentiality of all personnel records.

## II. PURPOSE:

The purpose of this policy is to establish the rules that govern the maintenance, retention, and access to personnel files in accordance with established law.

## III. PERSONNEL FILES DEFINED:

- A. Personnel records shall include any file maintained under an individual name relating to:
1. Personal data; including marital status, family members, educational and employment history, or similar information.
  2. Medical history; including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases, and all other records which reveal an employee's past, current or anticipated future medical conditions.
  3. Election of employee benefits.
  4. Employee advancement, appraisal, or discipline.
  5. Complaints or investigations of complaints concerning an event or transaction in which the officer participated or observed, and that pertains to the way the employee performed official duties.

## IV. EMPLOYEE RECORD LOCATIONS:

- A. Employee records will generally be maintained in any of the following:
1. **Department file** - That file is maintained in the office of the Chief of Police as a permanent record of a sworn officer's employment with this department.
  2. **Training file** - Any file which documents the training records of an employee and is maintained in Power DMS.

3. **Internal affairs files** - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition and are securely maintained in the office of the Chief of Police.
4. **Medical file** - That file that is maintained separately and exclusively contains material relating to an employee's medical history and is maintained in the Town Manager's office.

## **V. CONFIDENTIALITY OF ALL PERSONNEL FILES:**

**Personnel records are confidential** and shall not be subject to disclosure except as provided in statute or under discovery procedures. Nothing in this section is intended to preclude the review of personnel files by the Town Manager, Town Attorney, or other attorneys or representatives of the Town in connection with official business.

## **VI. REQUESTS FOR DISCLOSURE:**

All requests for the disclosure of any information contained in any personnel record shall be promptly brought to the attention of the Chief of Police. Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made. The responsible person shall further ensure that an appropriate response to the request is made in a timely manner consistent with applicable law. In many cases, this will require the assistance of approved and available legal counsel. All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

## **VII. RELEASE OF CONFIDENTIAL INFORMATION:**

Except as provided by this policy, or pursuant to lawful process, no information contained in any confidential personnel file shall be disclosed without the expressed prior consent of the involved officer or written authorization of the Chief of Police or designee.

The disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition.

In addition to this agency's general legal obligations under *30-A M.R.S. §503(3) (County) and/or 30-A M.R.S. §2702(3) (Municipal)*, if an officer who is the subject of a disciplinary investigation or a person acting on the officer's behalf publicly makes a statement that the officer or the person acting on the officer's behalf knows to be false, the agency may release any information concerning the disciplinary investigation to a prosecutor.

## **VIII. EMPLOYEE RIGHT TO REVIEW:**

Any employee may request access to his or her own personnel file during regular business hours and will submit such a request to the individual responsible for maintaining such file.

Employees may be restricted from accessing files containing any of the following information:

1. Active personnel investigations if the employee access may jeopardize or compromise the investigation pending its final disposition or notice to the employee of the intent to discipline.
2. Confidential portions of personnel investigation files that have not been sustained against the employee.

## **IX. PERSONNEL FILES:**

The following provisions apply to personnel files:

### **A. DEPARTMENT FILE**

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The Department file may contain, but is not limited to, the following:

1. Performance evaluation reports regularly completed by the appropriate supervisor and signed by the affected employee shall be permanently maintained.
2. Disciplinary action:
  - i. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file for at least 60 years after separation unless collective bargaining contract requires that disciplinary documents be destroyed earlier then the contract shall be followed.
  - ii. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file for at least 60 years after separation unless collective bargaining contract requires that disciplinary documents be destroyed earlier then the contract shall be followed.
  - iii. Investigations of complaints that result in a finding of not-sustained, unfounded, or exonerated shall not be placed in the employee's department file but will be separately maintained for the appropriate retention period in the Internal Affairs file.
3. Adverse comments may be retained in the department file or section file only after the employee has had the opportunity to read and initial the comment. If disciplinary written action is required to be removed by the Collective Bargaining Agreement, it will be placed in a file designed "Purged Materials" unless the Collective Bargaining Agreement specifically states "Destroyed."
  - i. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such negative comments within 30 days.
  - ii. Any such employee response shall be attached to and retained with the original adverse comment.
  - iii. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original statement. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the employee's file.
4. Commendations shall be retained in the employee's department file, with a copy provided to the involved employee(s).
5. Personnel Action Reports reflecting assignments, promotions, and other changes in the employee's employment status.
6. A photograph of the employee.

B. INTERNAL AFFAIRS FILE

The Internal Affairs file shall be maintained under the exclusive control of the Chief of Police. Access to these files may only be approved by the Chief of Police. These files shall contain:

1. The complete investigation of all formal complaints of employee misconduct, regardless of disposition.
  - i. Each investigation file should be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
2. Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period, but may not be used by the department to affect an employee's career adversely.

C. TRAINING FILES

Individual training files will contain records of all training and education mandated by law or the department, including firearms qualifications and required annual proficiency requalification.

1. It shall be the responsibility of the involved employee to provide, in a timely manner, to the Training Officer or immediate supervisor with evidence of completed training/education.
2. The Training Officer or supervisor shall ensure that copies of such training records are placed in the employee's training file.

D. MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including, but not limited to the following:

1. Materials pertaining to medical leaves of absence.
2. Documents relating to worker's compensation claims or receipt of short- or long-term disability benefits.
3. Fitness for duty examinations, psychological and physical examinations, follow-up inquiries, and related documents.
4. Medical release forms, doctor's slips, and attendance records reveal an employee's medical condition.
5. Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

## APPENDIX #1

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### SCHEDULE 4 – PERSONNEL RECORDS

| Series | Series Title                                                         | Description                                                                                                                                                                                                                                                                                                                 | Retention                                                                                                                                                                           |
|--------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1    | <b>Applications for Employment - Not Hired</b>                       | Cover letters, application forms, references, etc. (See A.53 for other personnel records)                                                                                                                                                                                                                                   | 2 years<br>Confidential, per MRSA 30-A, §2702 - for school personnel, MRSA 20-A, §6101(2)                                                                                           |
| 4.2    | <b>Employee Disciplinary Records</b>                                 | This record series documents possible discipline of local agency employees. This record series may also be filed in the employee's personnel file. Based upon personnel policies and procedures, discipline may be a verbal reprimand, written reprimand, suspension without pay, demotion, criminal action or termination. | 60 years after separation unless collective bargaining contract requires that disciplinary documents be destroyed earlier than the contract shall be followed<br>Confidential, (4)  |
| 4.3    | <b>Employee Drug Tests</b>                                           | Records of drug test and results for employees of local government agency                                                                                                                                                                                                                                                   | 5 years<br>Confidential, (4)                                                                                                                                                        |
| 4.4.a  | <b>Health Records - Clinics Sponsored by Local Government Agency</b> | Immunizations, cholesterol/blood pressure screenings, etc. Does not include records maintained by government-operated hospitals or similar health care facilities.                                                                                                                                                          | 10 years<br>Confidential, (4)                                                                                                                                                       |
| 4.4.b  | <b>Health Records - Individuals</b>                                  | Health records of local government employees, individuals visited by municipal nurses, etc. Does not include records maintained by government-operated hospitals or similar health care facilities.                                                                                                                         | 30 years after separation<br>Confidential, (4)                                                                                                                                      |
| 4.5.a  | <b>Job Descriptions - No Grievances Pending</b>                      | Description of duties performed or to be performed by particular positions.                                                                                                                                                                                                                                                 | Retain current version only                                                                                                                                                         |
| 4.5.b  | <b>Job Descriptions Grieved with Collective Bargaining</b>           | Description of duties performed or to be performed by particular positions.                                                                                                                                                                                                                                                 | Follow applicable collective bargaining agreement                                                                                                                                   |
| 4.6.a  | <b>Personnel Records - Employment History</b>                        | Employment history (including dates of employment, salary history, full time/part time status).                                                                                                                                                                                                                             | 60 years after separation unless employer has been notified that the former employee has died; in which case 10 years after former employee's death<br>Confidential MRSA 30-A §2702 |
| 4.6.b  | <b>Personnel Records - Form I-9</b>                                  | Federally required proof that employee has a legal right to work in the U.S.                                                                                                                                                                                                                                                | 3 years after separation<br>Confidential (1), (2)                                                                                                                                   |
| 4.6.c  | <b>Personnel Records - Transitory</b>                                | All records not vital or contributing to the continuing value of the employee file for retirement or other long term purposes beyond separation including: training and workshop records, employee evaluations, resumes, complaints or general correspondence records.                                                      | 6 years after separation or until destruction is permitted by applicable collective bargaining agreement<br>Confidential MRSA 30-A §2702                                            |

| Series | Series Title                                                                   | Description                                                                                                                                                                                                                                                                                                                                                                  | Retention                                                                                                 |
|--------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| 4.7    | <b>Retirement and Pension Records</b>                                          | All records needed to document an employee's retirement rights and status.                                                                                                                                                                                                                                                                                                   | See Payroll Records Confidential (1), (2)                                                                 |
| 4.8    | <b>State and Federal Personnel Reports</b>                                     | Reports and regulatory statistics maintained for State or Federal agencies (such as affirmative action and equal opportunity records, OSHA-required records, etc.)                                                                                                                                                                                                           | 6 years                                                                                                   |
| 4.9.a  | <b>Training Materials - Employee Training</b>                                  | Employee records for any voluntary or mandatory training provided in-house or by another organization. Records may include certificates of completion (such as Freedom of Access – Right to Know), grades and requests and approval for training.                                                                                                                            | 6 years after separation                                                                                  |
| 4.9.b  | <b>Training Materials - Informational</b>                                      | Training and education of employees: Information about available training/education opportunities.                                                                                                                                                                                                                                                                           | Update as needed                                                                                          |
| 4.9.c  | <b>Training Materials – Training, Conference, Workshop Conducted by Agency</b> | Information used to conduct training sessions or for conferences and workshops. May include training materials, registration and confirmation records, flyers and/or brochures, other presentation material or related documentation.                                                                                                                                        | 3 years after end of training/event                                                                       |
| 4.10   | <b>Union Agreements</b>                                                        | Collective bargaining agreements with unions representing employees of local government agency.                                                                                                                                                                                                                                                                              | Retain until new agreement is signed and time limit for filing grievances under old agreement has expired |
| 4.10.a | <b>Union Records - Grievance and Arbitration Files</b>                         | Related correspondence; union grievances and negotiation documentation; signature page of people attending meeting; notes on meeting; written decision; demand for arbitration; arbitration award; exhibits; briefs; notice of hearing; settlement agreement.                                                                                                                | 50 years                                                                                                  |
| 4.10.b | <b>Union Records - Union Agreements (Signed)</b>                               | Collective bargaining agreements with unions representing employees of local government agency.                                                                                                                                                                                                                                                                              | 10 years                                                                                                  |
| 4.11   | <b>Volunteer Records</b>                                                       | Records documenting those who participate as volunteers for local government. These records are maintained as a reference and to verify that a person has worked as a volunteer. May contain: Application, names of volunteers, addresses, directory information, program volunteering for, time and attendance records, registers, sign-in sheets and activity information. | 5 years                                                                                                   |
| 4.12   | <b>Wellness program records</b>                                                | Records of employee participation in program designed to encourage behaviors thought to result in improved health.                                                                                                                                                                                                                                                           | Current year<br>Confidential (4)                                                                          |
| 4.13.a | <b>Workers Compensation Records - Completed Claim</b>                          | First report plus other records, when claim is finalized by a lump sum settlement.                                                                                                                                                                                                                                                                                           | 1 year after close of case<br>Confidential (4)                                                            |
| 4.13.b | <b>Workers Compensation Records - First</b>                                    | No lost work time, so that the only record required is the initial                                                                                                                                                                                                                                                                                                           | 1 year after close of case                                                                                |

| Series | Series Title                                          | Description                                                                                                  | Retention                                       |
|--------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| 4.13.c | <b>Workers Compensation Records - Long Term Claim</b> | First report plus other records where time is lost from work, and case is not finalized by lump sum payment. | 20 years after last payment<br>Confidential (4) |