

San Bernardino Police Department

San Bernardino PD Policy Manual

CHIEF'S PREFACE

This policy manual is dedicated to the hard working professionals of the San Bernardino Police Department. These policies are meant to be a comprehensive tool to help guide the Department and employees towards providing quality police service to our community. This policy manual is a living product of changing laws, practices, and procedures that is fundamental to providing guidance and direction for the employees of the San Bernardino Police Department. Manual updates will be provided at least every six months to include any changes in Federal, State, and/or local standards or laws including law enforcement best practices. It is not intended that the information contained in this manual shall cover every case our employees may confront because there will be times where employees will need to rely upon good judgment and discretion while providing service to the community.

This manual represents the collective efforts of many in our organization, our professional partners and community members. The organization owes a great debt of gratitude to the staff, labor representatives, community professionals and volunteers who spent a full year reviewing old policies, converting them to Lexipol and customizing new ones for implementation. The final product is a comprehensive approach to providing modern day quality policing services to our residents, businesses, and visitors.

It is inherently important that every employee be familiar with the material contained in this manual. Employees identifying needed corrections or amendments should notify their immediate supervisor who will, in turn, notify police administrators in writing of any recommended changes.

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MISSION STATEMENT

The commitment of the San Bernardino Police Department to the community of San Bernardino is to provide:

- Progressive quality police service;
- A safe environment to improve the quality of life; and
- A reduction in crime through problem recognition and problem solving.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the San Bernardino Police Department to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the San Bernardino Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate the abuse of law enforcement authority.

100.3 PEACE OFFICER POWERS

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

100.3.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SAN BERNARDINO POLICE DEPARTMENT

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed with the City or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the City should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

When an officer makes an out-of-county arrest pursuant to a warrant, the officer shall inform the arrestee of the right to be taken before a magistrate in that county (Penal Code § 821; Penal Code § 822).

100.3.2 DELIVERY TO NEAREST MAGISTRATE

When an officer makes an arrest pursuant to a warrant with bail set, and the warrant was issued in a county other than where the person was arrested, the officer shall inform the person in writing of the right to be taken before a magistrate in the county where the arrest occurred (Penal Code § 821; Penal Code § 822).

100.3.3 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SAN BERNARDINO POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the San Bernardino Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person committed a felony.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.

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- (c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the City should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

100.5 CONSTITUTIONAL REQUIREMENTS

All members shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

Chief Executive Officer

102.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

Oath of Office

104.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

104.2 POLICY

It is the policy of the San Bernardino Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

104.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

“I, (employee name), do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

104.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the San Bernardino Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

106.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

106.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the San Bernardino Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The San Bernardino Police Department reserves the right to revise any policy content, in whole or in part.

106.2.2 EXECUTIVE STAFF

Executive Staff shall consist of the following:

- Chief of Police
- Assistant Chief of Police
- The Captain from each division

Executive Staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

106.2.3 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Division Captain who will consider the recommendation and forward to Executive Staff.

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106.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

106.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directives may be abbreviated as “DD”
- Policy Manual sections may be abbreviated as “Section 106.X” or “§ 106.X”

106.3.2 DISTRIBUTION OF MANUAL

Copies of the Policy Manual shall be distributed to the following:

- Chief of Police
- Assistant Chief of Police
- Captains
- Professional Standards Bureau
- Personnel and Training Unit
- Watch Commander
- Field Sergeants' Office
- Detective Bureau
- Officers' Report Room
- Temporary Holding Facility (15 CCR § 1029)

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

106.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CCR - California Code of Regulations (Example: 15 CCR 1151).

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

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City - The City of San Bernardino Police Department.

Civilian - Employees and volunteers who are not sworn peace officers.

Department/SBPD - The San Bernardino Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The San Bernardino Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the San Bernardino Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Civilian employees
- Volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the San Bernardino Police Department.

On-duty - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

POST - The California Commission on Peace Officer Standards and Training.

Rank - The title of the classification held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

USC - United States Code.

106.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

106.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

106.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Captain will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Captains, who will consider the recommendations and forward them to the command staff as appropriate.

Law Enforcement Code of Ethics

107.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all peace officers are aware of their individual responsibilities to maintain their integrity and that of their department at all times.

107.2 POLICY

The Law Enforcement Code of Ethics shall be administered to all peace officer trainees during the Basic Academy course and to all other persons at the time of appointment (11 CCR 1013).

107.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse or disorder; and to respect the constitutional rights of all 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.

107.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the officer.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the San Bernardino Police Department. There are three divisions in the Police Department as follows:

- Administrative Services Division
- Operations Division
- Investigations Division

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Assistant Chief of Police will serve as the acting Chief of Police.

The order of command authority in the absence of the Chief of Police or Assistant Chief of Police is as follows:

- Duty Chief (a designated sworn police manager)
- Watch Commander

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., K-9, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

Duty Chief Program

201.1 PURPOSE AND SCOPE

The Duty Chief program is designed to provide staff availability for major incident situations, administrative support or critical / sensitive operational decisions and unusual circumstances requiring staff notification.

Provides for staff availability for community event attendance required on holidays and weekends.

The Duty Chief program shall be in effect at all times. The designated Duty Chief will be the Chief of Police, or a designated sworn police manager.

201.2 PROCEDURE

A Duty Chief schedule will be published on a regular basis (at least one month in advance). A copy of the Duty Chief schedule will be maintained in the Watch Commander's office at all times.

The Duty Chief will be available by telephone and shall be contacted on all major incidents as well as sensitive and unusual situations.

The Duty Chief may be assigned to attend events that call for a department representative that take place outside of normal working hours.

The Duty Chief may perform field inspections of personnel and police services rendered. Observations, comments and corrections needed shall be reported to the Division Commander of the concerned personnel or operation.

The Duty Chief hours shall be 0700 hours Monday through 0700 hours the following Monday.

The following circumstances are appropriate for Duty Chief notification:

- Injured Officers (major injuries require telephonic contact, minor injuries require e-mail notification).
- Item receiving press coverage, or having the possibility of creating significant press coverage.
- Incidents, which are disruptive to a geographic area or community segment.
- Homeland security threat elevations unique to our region.
- Homicides and sensitive investigations.
- Incidents involving elected officials, their families or other community VIPs.
- Sensitive Professional Standards Bureau incidents.
- Incidents requiring a mutual assistance response.
- Visits to the City by dignitaries or other VIPs requiring specific law enforcement attention.
- Any incident, issue or circumstance which (with good judgment) requires the City Manager, Mayor or City Council to be notified.

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Duty Chief Program

The Duty Chief shall ensure that appropriate 'additional' notifications are made.

The Duty Chief should respond to critical incidents and events as needed.

201.3 NOTIFICATION TO CITY OFFICIALS

The Duty Chief will make notification to the City Manager, Mayor, and affected City Council Members when incidents are disruptive to a geographic area or community segment.

The following circumstances are appropriate for notification to City Officials:

- Criminal activity that is disruptive to a geographic area or community segment
- Traffic-related activity that is disruptive to a geographic area or community segment

When reasonable, notifications shall be made via email with a short summary of the incident. The Chief of Police shall be included on all Duty Chief notifications to the City Manager, Mayor, and affected City Council Members.

The Day Shift Watch Commander will make notice of significant incidents not requiring expedited notification via the Chief's Log the following morning.

201.4 DIVISION CAPTAIN NOTIFICATION

On matters that do not rise to the level of Duty Chief notification but still impact department operations in some manner the Watch Commander shall make notification to the Division Captain(s) and / or District Commander responsible for the matter or employee. Such notifications can be made via e-mail or personal telephone call.

Proximity Reader Access Cards (PRAC)

203.1 PURPOSE AND SCOPE

- (a) To establish guidelines for the distribution/maintenance of the Proximity Reader Access Card (PRAC) to all employees.
- (b) To establish a policy for the authorization of security zone access to all employees.
- (c) To establish a clear and concise policy for all employees regarding the use of the PRAC they are issued.
- (d) To establish guidelines for dealing with security breaches of the security zone doors.

203.2 PROCEDURE

- (a) All department employees will be issued a PRAC. Each employee will ultimately be responsible for the card and its use. The card is for the sole use of the employee.
- (b) The PRAC will be used to access any one of 16 security zones in the police facility including drive-through gates. Within these 16 security zones are 29 gates/doors that are accessible only with a PRAC.
- (c) The Professional Standards Bureau is responsible for the issuance, maintenance, and record keeping of the PRAC.
- (d) Employee access to security zones will be determined by that employee's job assignment and/or on an "as needed" basis.
- (e) Employee responsibilities for the card and its use:
 - 1. Employees shall have their PRAC with them at all times while on duty in the police facility.
 - 2. Employees shall not allow another employee, family member, friend or any other unauthorized person to use the card. All card uses or attempt uses are read and recorded by the electronic card readers and this information is retrievable by the Professional Standards Bureau. The Professional Standards Bureau can and will randomly and/or selectively conduct audits of the card usages.
 - 3. The employee shall use the card only in the zones where the employee has authorized access. When an employee is issued a PRAC, the employee will be verbally and in writing instructed as to what security zone door numbers the employee has access to.
 - 4. Employees shall not attempt to defeat or compromise any of the security zone doors by propping them or leaving them in the open position for more than the allowed time (approximately one minute). If the door is left propped open or left

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Proximity Reader Access Cards (PRAC)

open more than the allotted time, an alarm will be activated and it will be recorded as to whose card was last used to open this door.

5. If an employee's PRAC is lost, damaged, or stolen, that employee shall contact the Professional Standards Bureau as soon as possible so the card can be deprogrammed and a new card issued. The Professional Standards Bureau will maintain a journal that documents the circumstances.
6. When an employee is transferred to a new assignment where it involves access to security zones the employee is currently not authorized for, it will be the employee's responsibility to notify the Professional Standards Bureau. The employee will need to complete a request form explaining what the old assignment was, what the new assignment is, and the request form will be signed by the employee's new division captain. After receiving the request form, the Professional Standards Bureau will reconfigure the employee's PRAC to allow them access to areas of their new assignment. This notification will be made with proper authorization as soon as the employee is notified of their assignment transfer. The request forms will be available from the Professional Standards Bureau.
7. If an employee needs temporary access to areas they are not authorized for, the employee will submit a memorandum requesting temporary access to the security zone. Included in this memo will be what zone, the time and dates for the access and the reason for the access. The request will be sent through the employee's chain of command, and the employee's division captain will authorize or deny the access request and forward it to the Professional Standards Bureau. This request will be made to the Professional Standards Bureau as soon as the employee becomes aware of the need for temporary access. The request forms will be available in the Professional Standards Bureau.
8. When an employee retires, resigns, or is terminated, the employee shall turn in their PRAC to the Professional Standards Bureau.
9. Temporary access cards (loaners) can be issued by the Watch Commander.

Departmental Directive

204.1 PURPOSE AND SCOPE

Departmental Directives establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of Staff. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

Departmental Directives will be numbered and retrievable. The first order issued in January would be numbered 1-1; the second 1-2 etc... The first number represents the month and the second number will reflect the directive in chronological order.

The original copy of the Departmental Directive will be maintained in Administration and a working copy will be placed in the Roll Call book and e-mailed throughout the department.

204.2 RESPONSIBILITIES

204.2.1 STAFF

The Executive Staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Departmental Directives.

204.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Departmental Directives.

Emergency Operations for Automated Systems Outages

205.1 PURPOSE AND SCOPE

To establish a procedure for implementing alternate means of information gathering, processing, and distribution in the event of short term or prolonged automated system outages. To ensure that the Dispatch Center and Records Bureau continue to effectively serve the information needs of the department, officers, and citizens of the City of San Bernardino during system outages.

205.2 POLICY

Alternate means of information gathering, processing, and dissemination shall be implemented during automated system outages that interfere with normal Dispatch Center and Records Bureau operations. The ultimate decision to implement these procedures will rest with the senior supervisor on duty. In the absence of a supervisor, the designated lead dispatcher or records clerk shall evaluate the situation and implement the prescribed procedures if warranted.

205.3 DEFINITIONS

- (a) For purpose of this policy, the following definitions will apply:
 - 1. Short-term outages - Outages of estimated duration of less than one day.
 - 2. Long-term outages - Outages of estimated duration of one or more days.
- (b) The failure of individual pieces of hardware (desktop computers, printers, etc.) to operate properly does not constitute implementation of alternate procedures. In these cases, normal procedures to notify IS will be followed.

205.4 NOTIFICATIONS

Automated system failures can be network, hardware, and/or software related. In all cases, employees will make the following notifications:

- (a) Contact the IS Department or on-call Public Safety employee whose initial investigation will determine if the outage is anticipated to be short or long term.
- (b) Notify the Watch Commander of status and projected recovery.
- (c) Records will notify station personnel of outages via the public address system.
- (d) Dispatch will broadcast this information to field employees via the MDC or radio.

205.5 RECORDS MANAGEMENT SYSTEM (RMS) FAILURES

- (a) Short-Term Outages
 - 1. Save incoming reports until data entry can be completed successfully.
 - 2. Advise employees of approximate duration of outage.

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3. Advise public that requested reports will be delayed.
 4. If urgent, attempt hand search for information.
- (b) Long-Term Outages
1. Save incoming reports until data entry can be completed successfully.
 2. Advise employees of approximate duration of outage. Maintain all incoming entries in numerical order.
 3. Advise public that requested reports will be delayed unless a report number is known.
 4. If urgent, attempt hand search for information.

205.6 CLETS DATA CIRCUIT FAILURE

The CLETS Data Circuit is our state connection to the CLETS System. We receive our feed from the San Bernardino Sheriff's Department. This feed supplies the connection to Dispatch as well as Records.

- (a) Short-Term Outages
1. Determine the point of failure from IS. If the failure is the PD input line, notify DOJ. They have agreed to input our information until the problem is solved. Please provide an estimated time of repair, if available.
 2. Records and Dispatch will coordinate CLETS inquiries/entries. If necessary, contact the Sheriff's Department to make arrangements to utilize their CLETS line via telephone, using our dispatchers or records clerks.
 3. If the failure is determined to be at the Sheriff's main line, notify DOJ. Provide an estimated time of repair, if possible.
 4. Maintain all data and note time of entry by DOJ on all information.
 5. Advise employees of estimated time of circuit restoration.
- (b) Long-Term Outages
1. Arrange with the watch commander to transport a records clerk to the Sheriff's Department. This will be arranged between the PD and the SD via telephone.
 2. If the long-term failure is at the Sheriff's Department, notify DOJ and coordinate with them to enter our stolens and recoveries on DOJ's end. Keep all entries for quality checks once the problem is solved.
 3. Advise employees of the estimated time for system restoration.
 4. Prepare a schedule, if necessary, for personnel and relief for the Sheriff's Department **ONLY** if the failure pertains to the PD.

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205.7 CAD FAILURE

(a) Short-Term Outages

1. Dispatch will record incoming calls for service manually on cards and will utilize the cards to conduct catch up after CAD is restored. Advise employees of the estimated time of repair.
2. Dispatch and the front desk will coordinate the issuance of temporary report numbers.
3. After CAD is restored and catch up is completed, permanent numbers will be issued, with a cross reference to the temporary report numbers. Dispatch will supply permanent report numbers for calls handled by field personnel. Front desk personnel will issue permanent report numbers for calls/reports handled via telephone through the front desk.

(b) Long-Term Outages

1. Coordinate with Dispatch and the front desk for issuance of temporary report numbers.
2. Dispatch will record incoming calls for service manually on cards and will utilize the cards to conduct catch up after CAD is restored. Advise employees of the estimated time of repair.
3. Dispatch and the front desk will coordinate the issuance of temporary report numbers.
4. After CAD is restored and catch up is completed, permanent numbers will be issued, with a cross reference to the temporary report numbers. Dispatch will supply permanent report numbers for calls handled by field personnel. Front desk personnel will issue permanent report numbers for calls/reports handled via telephone through the front desk.
5. Advise the public of the situation if their requests are CAD related.

205.8 DOCUMENT IMAGING SYSTEM FAILURE

(a) Short-Term Outages

1. Save incoming reports until scanning can be completed successfully.
2. Cancel work assignments of contract employees until system is restored.
3. Advise employees of estimated time of repair and that all report requests will have to be hand searched.
4. Advise public of the delay and inform them that they may fill out a request and the report will be mailed to them.

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5. After the document imaging system is restored, schedule contract scanners and quality control personnel to catch up on the backlog within predetermined time lines.
- (b) Long-Term Outages
1. Save incoming reports until scanning can be completed successfully.
 2. Cancel work assignments of contract employees until system is restored.
 3. Advise employees of estimated time of repair and that all report requests will have to be hand searched.
 4. Advise the public of the situation. Explain that report requests must be hand searched and their retrieval will be delayed.
 5. If urgent, schedule clerks to individually pull report requests.
 6. After document imaging system is restored, schedule contract scanners and quality control personnel to catch up on backlog with predetermined time lines.

205.9 EQUIPMENT POWER SUPPLY

In the event of a power supply failure that affects one or more automated systems, the on-duty supervisor, or their designee, must determine what equipment or system/s are affected. Notify IS who can supply an estimated time of repair once it is determined where the power failure occurred. If the failure affects any other system, refer to this policy as to the proper procedures to follow.

- (a) Short-Term Outages
1. Implement emergency system outage plans for the affected system.
 2. Advise employees of approximate duration of outage.
 3. Cancel work assignments of contract employees until the system is restored. Reassign records clerks to perform tasks not requiring the availability of the affected system/s.
 4. After the power supply is restored, schedule contract scanners and quality control personnel to catch up on the backlog within predetermined time lines.
- (b) Long-Term Outages
1. Advise employees of approximate duration of outage.
 2. Cancel work assignments of contract employees until the system is restored. Reassign records clerks to perform tasks not requiring the availability of the affected system/s.
 3. Advise employees of the estimated time of repair.

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4. After power supply is restored, schedule contract scanners and quality control personnel, records clerks, and dispatchers to catch up on the backlog within predetermined time lines.

205.10 MANUAL PROTOCOL FOR PROVIDING SERVICE TO CITIZENS

- (a) Hand search files to retrieve requests for reports from detectives and citizens.
- (b) Maintain request forms for scanning at a later date.
- (c) Fingerprinting can be rescheduled or completed on hard cards manually if the necessary CLETS inquiries were made and responded to prior to the outage.
- (d) A record of registrants will be maintained to allow necessary entries once the outage has been restored.

205.11 MANUAL PROTOCOL FOR REPORT DISTRIBUTION

- (a) Make and sort photocopies of incoming reports according to the Detective Bureau distribution matrix.
- (b) Maintain current procedure of Detective Bureau clerks picking up reports from the basket at the subpoena window.

205.12 BUSINESS CONTINGENCY PLAN EXERCISES

- (a) Semi-annually, each January and July, the Business Contingency Plan will be tested.
- (b) Each potential automated system outage will be simulated for a period of two hours. These tests will be scheduled to allow the optimum training exposure to the day and night shifts.

Emergency Management Plan

206.1 PURPOSE AND SCOPE

The City has prepared an Emergency Management Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated on the order of the official designated by local ordinance.

206.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the San Bernardino Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

206.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in Administrative Services and the Watch Commander's office. All supervisors should familiarize themselves with the Emergency Management Plan. The Administrative Services supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

206.4 UPDATING OF MANUALS

The Chief of Police or designee shall review the Emergency Management Plan Manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS) and should appropriately address any needed revisions.

Purchase of Services, Materials, and Equipment

207.1 PURPOSE AND SCOPE

To standardize the procedure for the purchase of services, materials, and equipment by the Police Department.

207.2 BUDGETED ITEMS \$500 OR MORE IN VALUE

- (a) Requester must complete a "Request for Purchase" form and provide all required information to guarantee the purchase of the exact item. Requester should verify the unit price and add tax and shipping charges if applicable.
- (b) The requester's division captain must authorize the Request for Purchase.
- (c) The approved Request for Purchase is sent to the budget clerk to verify account numbers and that funds are available.
- (d) The budget clerk prepares a requisition form and forwards it to the Finance Department.
- (e) It is the duty of the Purchasing Department to procure services, materials, and equipment for all city departments at the best possible price. If any requester has made inquiries and already determined that only one vendor can supply the needed item or service, this information should accompany the Request for Purchase and will likely expedite the purchase.

207.3 PURCHASES UNDER \$500 IN VALUE

- (a) Requester must complete Section 207.2 subsections a. through c.
- (b) The department's budget clerk prepares a Short Form Purchase Order. The requester presents the purchase order to the supplier and receives the services/materials.
- (c) Upon receipt of service or materials, the requester will deliver the invoice to the budget clerk.

Internal / External Building Policy

209.1 PURPOSE AND SCOPE

To establish a set protocol for all employees to follow which directly pertains to the care and upkeep of the police facility.

To standardize the interior decor and theme of the police facility so the facility projects a professional law enforcement image to our employees, other city employees, the public, and visitors.

To establish a clear and concise set of policies as they pertain to common employee areas, individual workstations, and private offices.

To establish a formal reporting procedure for any areas either internally or externally that are in need of immediate attention or additional maintenance. Completed forms should be forwarded to the Finance Unit for action.

To establish a mechanism where written requests for the placement of additional interior decor will be submitted to the Assistant Chief of Police for approval.

209.2 PROCEDURE

Nothing shall be attached to the walls, ceilings, or interior and exterior windows unless it has been reviewed and approved by the Assistant Chief of Police. This will be the policy for the entire building.

In accordance with state and local laws, there will be no smoking allowed in the building or on the upstairs patio area adjoining the gym.

It will be the policy of this department that drinks will not be consumed around areas where sensitive electronic equipment (i.e., dispatch consoles, computer equipment, typewriters, copiers) is located. An exception will be made when employees utilize an approved spill proof commuter cup, which they will be required to provide.

No display or consumption of food or beverages will be allowed in areas that are open to public view or accessible to the public. This includes individual workstations in those areas.

Commercial (Sparkletts, etc.) water coolers are not permitted. Ice makers and ample water fountains have been incorporated into the building.

No hot plates or additional cooking equipment will be permitted in any part of the building. The two main break rooms are already equipped with necessary and authorized appliances.

Per Department Director Letter (DDL) #64 entitled "Energy Management", no personal heaters or fans are permitted in the building without express permission of Facilities Management.

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209.2.1 HALLWAYS

- (a) No fliers, signs, posters will be affixed in any manner to the hallway walls, doorways, and/or windows. Any private fliers, signs, or posters that an employee wishes to post on a hallway bulletin board must first be approved and initialed by the Assistant Chief of Police. That item will have a written expiration date next to those initials so it can be taken down at the appropriate time.
- (b) No storage of anything in the hallways; i.e., trash cans, war bags, or equipment.

209.2.2 LOBBIES AND RECEPTION AREAS

- (a) No food or drink will be allowed by either employees or citizens in the front lobby area.
- (b) The watch commander will be responsible on a 24-hour basis for monitoring the cleanliness and upkeep of the front, downstairs lobby area and restrooms.

209.2.3 BREAK ROOMS

- (a) Janitors will clean out refrigerators on a weekly basis. All food stuffs and containers placed in the refrigerators by the employees must be removed prior to this cleaning or they will be disposed of.
- (b) All food items or personal containers inside the refrigerators must be labeled with the employee's name.
- (c) Employees are responsible for cleaning up after themselves in the break rooms and the attached kitchen areas.
- (d) Break rooms are for employee use only. They will never be used for interviews or child care.
- (e) Employees are responsible for their family members while utilizing the break rooms.
- (f) It is strongly recommended that unit managers and supervisors require their employees to eat in the break rooms and not at their workstations.
- (g) No hot plates or additional cooking equipment will be permitted in any part of the building. The two main break rooms are equipped with the necessary and authorized appliances.
- (h) The right half of the bulletin board located against the south wall of the downstairs break room has been designated for union related business posting. The right half of the bulletin board against the west wall of the upstairs main employee break room is also so designated for union business posting.

209.2.4 FOYER (MAIN ENTRYWAY / EMPLOYEE ENTRYWAY)

- (a) The entryways on both sides of the building will be cared for in an appropriate manner by all employees. Trash to include cigarette butts will be placed in the receptacles.

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- (b) Cigarettes will be extinguished only in the ash cans and not deposited on the floor, sidewalks, or parking lot.

209.2.5 GYM AND ADJOINING PATIO AREA

- (a) Gym equipment will not be moved to or used on the patio area.
- (b) If applicable, the equipment will be wiped down by the employee when finished using it.
- (c) No purposeful or willful abuse of the gym equipment will be tolerated.
- (d) The gym is to be used only by full-time San Bernardino Police Department employees, SBPD reserves, other law enforcement related personnel assigned full time to the central police facility or fire dispatchers assigned to the Dispatch Center.

209.2.6 LOCKERS AND LOCKER ROOMS

- (a) Sworn employees shall use only lockers that are assigned to them. Non-sworn employees will have temporary access to day lockers for the purpose of utilizing the gym and performing other physical fitness programs.
- (b) Nothing will be permanently attached to the exterior of the lockers (stickers, posters, pictures, etc.).
- (c) No willful damage to the interior or exterior of the lockers will be tolerated.
- (d) No trash is to be left on the floor in the locker room.
- (e) No equipment will be left unattended outside the locker.
- (f) No towels will be hung from the outside of the lockers.
- (g) Nothing will be left in the shower stalls.

209.2.7 INDIVIDUAL OFFICE AREAS

- (a) Anything hung on the walls shall conform to the aesthetic standards set by the department and will be hung in the prescribed manner.
- (b) If you are transferred, it is your responsibility to ensure the office is restored to its original condition. If repairs are necessary, notify the appropriate person.
- (c) No nails or screws will be used to hang anything from the walls. Only approved picture hangers will be allowed. The following type has been approved: Floreat Hangers.
- (d) Plants that are maintained properly are encouraged. Pots must blend with the decor and have proper drainage so as not to cause water damage. Size and number of plants are at the discretion of the unit manager.
- (e) Managers have the ultimate responsibility for the cleanliness and appearance of their workstations/office areas.
- (f) Personal coffee makers will only be allowed if approved by your division captain.

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209.2.8 UNIT WORK AREAS

- (a) Unit managers/supervisors have the ultimate responsibility in their individual work areas for the cleanliness and appearance of their employee's workstations.
- (b) No item will be stored outside or under the stations.
- (c) Each individual is responsible for the cleanliness of their work areas.
- (d) Nothing will be hung on the back of the chairs.
- (e) Personal items displayed by the individual employee on their desk or attached to the interior of their workstation will be in good taste and subject to the discretion of each unit manager or supervisor. **However, that discretion does not supersede any other regulation already set forth in this policy or any existing policies; i.e., Policy Manual 328 (Discriminatory Harassment) or any other related sections covered in the Policy and Procedures Manual.**
- (f) Holiday decorations will be at the discretion of the unit managers or supervisors.
- (g) Plants that are maintained properly are encouraged. Pots must blend with the decor and have proper drainage so as not to cause water damage. Size and number of plants are at the discretion of the unit manager.
- (h) Items that have the capability of damaging the workstation will not be allowed.
- (i) The unit manager must approve items posted on unit bulletin boards.

209.2.9 TRAINING AND CONFERENCE ROOMS

- (a) Unless approved, no food will be consumed in any of these rooms.
- (b) These rooms will be kept in a neat and orderly condition at all times. It is the user's responsibility to ensure the cleanliness of the rooms after each function.
- (c) Equipment is to be returned to its proper place after use.

209.2.10 RESTROOMS

- (a) No willful damage will be tolerated to include graffiti.
- (b) Employees are responsible for cleaning up after themselves; i.e., newspapers, personal hygiene items, etc.
- (c) Employees shall report malfunctions immediately to the Watch Commander.

209.2.11 PARKING LOT

- (a) All trash and ashtray contents will be disposed of in the trash cans in the parking lot, not on the ground.
- (b) No willful damage to vegetation will be permitted.

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- (c) No long-term storage of personal vehicles will be allowed.

209.2.12 PATROL SERGEANTS' OFFICE AND FTO OFFICE

- (a) All work related material will be stored in the appropriate filing cabinets or overhead bins.
- (b) No clothing will be hung from the chairs or modular furniture walls.
- (c) Patrol sergeants' equipment bags will be stored neatly underneath their workstations.
- (d) The Watch Commander will monitor these areas and report any problems to the Operations Division Captain.

209.2.13 BRIEFING

- (a) The room will be kept neat and orderly at all times. Shift sergeants are responsible to see that this room is cleaned after each briefing.

209.2.14 DISPATCH CENTER

- (a) Due to the high probability of damage to the equipment, drinks will be kept in approved spill proof commuter cups.
- (b) It is strongly recommended that supervisors require their employees to eat in the break room, not at their workstation whenever possible.
- (c) Due to possible damage to the soundproof acoustical wall surfaces, nothing can be attached to the walls.
- (d) Nothing will be posted on the bulletin boards without the Dispatch manager's approval.
- (e) Lockers:
 - 1. Nothing will be permanently attached to the exterior of the locker (stickers, posters, pictures, etc.).
 - 2. No willful damage to the interior or exterior of the lockers will be tolerated.
 - 3. No trash is to be left on the floor in the locker room.
- (f) Break Room:
 - 1. The refrigerator will be cleaned on a weekly basis (date to be determined). All food stuffs and containers placed in the refrigerator by the employees must be removed prior to this cleaning or they will be disposed of.
 - 2. All food items or personal containers must be labeled with the employee's name.
 - 3. Employees are responsible for cleaning up after themselves in the break room.
 - 4. The break room is for employee use only.

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5. No hot plates or additional cooking equipment will be permitted in any part of the Dispatch Center. Cooking is prohibited in the Dispatch Center break room other than the microwave oven. The two main break rooms are already equipped with necessary and authorized appliances.
 6. The right half of the bulletin board located in the break room is designated for union related business posting.
- (g) Restroom:
1. No willful damage will be tolerated to include graffiti.
 2. Employees are responsible for cleaning up after themselves; i.e., newspapers, personal hygiene items, etc.
 3. Employees have the obligation to report any malfunctions immediately to the Watch Commander after hours.

209.3 BUILDING SECURITY / IDENTIFICATION

All personnel not in uniform shall display their department-issued identification card at all times while inside the station.

Building Evacuation Policy

210.1 PURPOSE

To establish guidelines for the proper conduct of personnel during emergency situations requiring the safe evacuation of the police facility. This evaluation plan is intended to be as simple as possible. For that reason, the basic plan is the same for fire, bomb threat, earthquake, or other emergencies.

210.2 NOTIFICATIONS

- (a) In case of fire, pull the fire alarm and call Dispatch at 9-1-1.
- (b) Notify the watch commander at extension 5771 of the nature and location of the emergency.
- (c) If necessary, the watch commander will dial 88## and announce "All personnel, please evacuate the building" with a short explanation, i.e., small fire in the briefing room.

210.3 DESIGNATED EVACUATION ROUTES

Personnel located in the following areas should evacuate using these designated exits:

- (a) Front Desk, Fleet Desk, Community Affairs, Watch Commander's Office, Main Briefing Room, Report Room, Sergeants Office, Traffic, Records, and Steno – southeast main public exit or southwest Briefing Room exit.
- (b) MET Office – west MET employee exit.
- (c) Jail – west sally port Jail exit or south Jail exit.
- (d) Forensics – north Forensics employee exit.
- (e) Property – north Property employee exit or east Property public exit.
- (f) District Resource/Community Services Office, First Floor Break Room – northwest employee exit.
- (g) Administration, Internal Affairs, Dispatch, Emergency Operations Center, Main Conference Room – use the northwest staircase to the northwest employee exit.
- (h) Women's Locker Room, Men's Locker Room, Gym, Second Floor Break Room – use the southwest staircase to the southwest Briefing Room exit or northwest employee exit.
- (i) Detective Bureau, Crime Analysis, Personnel and Training, Finance – use the main lobby staircase to the southeast main public exit.

210.4 EMPLOYEE RESPONSIBILITY

- (a) Know your area and the primary as well as alternate emergency exits. Exit routes are clearly marked at all locations by overhead signage. Emergency exit routes (which also depict nearest fire pull stations, fire extinguishers, and escape routes) are posted at all four corners of the building on both floors.

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- (b) In the event of an earthquake, take immediate action to protect yourself. Evacuate the building when possible.
- (c) Do not take time to empty desk drawers, look for personal items, or put away files.
- (d) All personnel should evacuate in a deliberate fashion without running. Remember not to block responding fire or other emergency personnel who need immediate access. Use the nearest alternate exit in case passage to the designated area is blocked.
- (e) Direct visitors and citizens in the station to leave and provide them with direction or escort them to the designated emergency exits.
- (f) Do not panic and keep conversation to a minimum so public announcements may be heard by all personnel.
- (g) Once outside the building all employees will proceed to the assembly area located in the north enclosed station parking lot adjacent to the north block wall.

210.5 UNIT SUPERVISOR RESPONSIBILITY

- (a) Unit supervisors (or in their absence, the senior employee) will be the last to leave work areas and are responsible for ensuring their work areas have been evacuated.
- (b) Unit supervisors (or in their absence, the senior employee) will account for their personnel and report the status of the evacuation to the watch commander.

210.6 WATCH COMMANDER RESPONSIBILITY

- (a) Ensure the appropriate responding agencies are notified of the emergency.
- (b) If evacuation occurs during weekend or evening hours, the watch commander will ensure that the unoccupied portions of the building are cleared.
- (c) The watch commander will establish a command post location, coordinate the response of fire and other emergency personnel, and give the all clear for employees to reenter the building when safe.
- (d) The watch commander will notify the duty chief of any event requiring evacuation, and will document the event in the Chief's Inspection Log.

Electronic Mail

212.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (e-mail) system by employees of this department. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the e-mail system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

212.2 E-MAIL RIGHT OF PRIVACY

All e-mail messages, including any attachments, that are transmitted over department networks are considered department records and therefore are department property. The Department reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its e-mail system or that is stored on any department system.

The e-mail system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the e-mail system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of e-mail. Employees using the Department's e-mail system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange e-mail or other information that is related to the official business of the Department.

212.3 PROHIBITED USE OF E-MAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive or harassing, or any other inappropriate messages on the e-mail system is prohibited and may result in discipline.

E-mail messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users. Any mass e-mails to the entire department that is not official business must be approved by the Chief of Police or a Captain. Personal advertisements are not acceptable.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's e-mail, name and/or password by others.

212.4 MANAGEMENT OF E-MAIL

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of e-mail are solely responsible for the management of their mailboxes.

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Electronic Mail

Messages should be purged manually by the user at least once per week, or as needed based upon the size limitations of the e-mail system. It is the employees responsibility to maintain their e-mail system at appropriate levels so as not to exceed the system capacity.

212.5 E-MAIL SIGNATURE

E-mail signatures should be professional and uniform. The following are guidelines for employee e-mail signatures.

- (a) Font shall be black in color
- (b) Font shall be Times New Roman no smaller than 10, no larger than 18
- (c) Department/Unit logo shall be approved by the Chief or designee
- (d) Only a combination of the following information shall be used:
 - 1. Name
 - 2. Rank
 - 3. Department name
 - 4. Department address
 - 5. Unit name
 - 6. Desk phone number
 - 7. Main phone number
 - 8. Fax number
 - 9. E-mail address
 - 10. Department website/social media links

Request for Subscriber Information

213.1 PURPOSE AND SCOPE

To identify authorized personnel and establish a standard policy for obtaining subscriber information on non-published telephone numbers and other utility company information.

213.2 PROCEDURE

- (a) No employee, other than those authorized, shall attempt to contact the telephone or utility companies for subscriber information.
- (b) Authorized employees shall send a memorandum to the SEB lieutenant specifying the date, time, telephone number, or address information received and the reason for the request.
- (c) The SEB lieutenant shall cause a cover letter to be sent to the appropriate agency for their records.
- (d) Any information derived relating to subscriber information shall be used only for official police business.

213.3 AUTHORIZED PERSONNEL

- (a) Vice/Narcotics secretaries
- (b) SEB lieutenant
- (c) Investigations captain
- (d) CSO's assigned to the Detective Bureau
- (e) Watch commanders (in emergency situations or during periods when other authorized individuals are unavailable).

213.4 TELEPHONE NUMBERS

The Watch Commander will maintain contact numbers for telephone and utility companies.

Administrative Communications

214.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

214.2 MEMORANDUMS

Memorandums may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

214.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Personnel should use Department letterhead only for official business and with approval of their supervisor.

214.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police or a Captain.

Staffing Levels

216.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available for all shifts. The Department intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Department.

216.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least two regular supervisors on duty whenever possible. Watch Commanders will ensure that at least one field supervisor is deployed during each watch, in addition to the Watch Commander.

License to Carry a Firearm

218.1 PURPOSE AND SCOPE

The purpose of this policy is to provide a written process for the application, issuance, denial, appeal, and revocation of a license to carry a firearm (Penal Code § 26150; Penal Code § 26155).

218.1.1 APPLICATION OF POLICY

Nothing in this policy shall preclude the Chief or other head of a municipal police department from entering into an agreement with the Sheriff of the county or preclude the Sheriff of the county from entering into an agreement with the Chief of any municipal police department to process all applications and license renewals for the carrying of concealed weapons (Penal Code § 26150; Penal Code § 26155).

218.2 POLICY

The San Bernardino Police Department will fairly and impartially consider all applications to carry firearms in accordance with applicable law and this policy.

218.3 QUALIFIED APPLICANTS

In order to qualify for a license to carry a firearm, the applicant must:

- (a) Be deemed not to be a disqualified person as provided in Penal Code § 26202.
- (b) Be deemed not to be prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26185; Penal Code § 26195).
- (c) Be a resident of the City of San Bernardino Police Department (Penal Code § 26150; Penal Code § 26155).
- (d) Be at least 21 years of age, and present clear evidence of identity and age as defined in Penal Code § 16400 (Penal Code § 26150; Penal Code § 26155).
- (e) Fully complete the California Department of Justice (DOJ) application (Penal Code § 26175).
- (f) Submit fingerprints and a complete criminal background check (Penal Code § 26185).
- (g) Pay all associated application fees (Penal Code § 26190).
- (h) Be the recorded owner of the firearm, with the California DOJ, for which the license will be issued, as determined by the San Bernardino Police Department (Penal Code § 26162).
- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).
- (j) Complete required training described in Penal Code § 26165.

218.4 APPLICATION PROCESS

The application process for a license to carry a firearm shall consist of two phases. Upon the successful completion of each phase, the applicant will advance to the next phase until the process is completed and the license is either issued or denied.

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218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

- (a) Any individual applying for a license to carry a firearm shall first fully complete a California DOJ application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
 - 1. If an incomplete application package is received, the Chief of Police or the authorized designee may do any of the following:
 - (a) Require the applicant to complete the package before any further processing.
 - (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
 - (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction).
- (b) Applicant fees shall be submitted and processed according to department-established procedures and Penal Code § 26190.
 - 1. Additional fees may be required for fingerprinting, training, or psychological testing, in addition to the application fee.
 - 2. Full payment of the remainder of the application fee will be required upon issuance of a license.
 - 3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
- (c) Additional documents may be requested of the applicant as required to complete the application process (e.g., photograph, proof of residency).
- (d) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Within 90 days of receiving the completed application for a new license, the Department shall give written notice to the applicant of the Department's initial determination, based on its preliminary investigation, whether or not the applicant is a disqualified person (Penal Code § 26202).

If the determination is that the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements as specified in Penal Code § 26165.

218.4.2 PHASE TWO

This phase is to be completed only by those applicants successfully completing phase one.

- (a) Fingerprints and related information required by the California DOJ shall be submitted to the California DOJ as provided in Penal Code § 26185.

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- (b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing shall be paid by the applicant but shall not exceed the reasonable costs to the Department (Penal Code § 26190).
- (c) The applicant shall complete a course of training approved by the Department, which complies with Penal Code § 26165.
- (d) The applicant shall submit any firearm to be considered for a license to the Rangemaster or other department authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the department Rangemaster, or provide proof of successful completion of another department-approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

Once the Chief of Police or authorized designee has verified the successful completion of phase two, the license to carry a firearm will either be granted or denied (Penal Code § 26170).

218.5 ISSUED FIREARMS PERMITS

In the event a license to carry a firearm is issued by the Chief of Police, the following shall apply:

- (a) The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which a person may carry the firearm (Penal Code § 26200(b)).
 - 1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200(c)).
 - 2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
- (b) The license shall clearly identify the licensee, bear a photograph and fingerprints of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information as described by Penal Code § 26175. The license may be laminated (Penal Code § 26175).
- (c) The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).
 - 1. A license issued to a state or federal magistrate, commissioner, or judge will be valid for a period not to exceed three years.
 - 2. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in

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Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.

- (d) If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).
- (e) The licensee shall notify this department in writing within 10 days of any change of place of residency. Within 10 days of receiving such notice, the Department shall notify the California DOJ (Penal Code § 26210).

218.5.1 LICENSE RESTRICTIONS

- (a) The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from:
 - 1. Consuming any alcoholic beverage while armed.
 - 2. Falsely representing him/herself as a peace officer.
 - 3. Unjustified or unreasonable displaying of a firearm.
 - 4. Committing any crime.
 - 5. Being under the influence of any medication or drug while armed.
 - 6. Interfering with any law enforcement officer's duties.
 - 7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
 - 8. Loading the permitted firearm with illegal ammunition.
- (b) The Chief of Police reserves the right to inspect any license or licensed firearm at any time.
- (c) The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

218.5.2 AMENDMENTS TO LICENSES

Any licensee may apply to amend a license at any time during the period of validity by completing and submitting a written Application for License Amendment along with the current processing fee to the Department in order to (Penal Code § 26215):

- (a) Add or delete authority to carry a firearm listed on the license.
- (b) Change restrictions or conditions previously placed on the license.
- (c) Change the address or other personal information of the licensee (Penal Code § 26210).

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In the event that any amendment to a valid license is approved by the Chief of Police, a new license will be issued reflecting the amendment. An amendment to any license will not serve to extend the original expiration date and an application for an amendment will not constitute an application for renewal of the license.

218.5.3 REVOCATION OF LICENSES

Any license issued pursuant to this policy shall be revoked by the Chief of Police for any of the following reasons (Penal Code § 26195):

- (a) The licensee is prohibited by state or federal law from owning or purchasing a firearm.
- (b) The licensee has become a disqualified person and cannot receive such a license in accordance with the standards set forth in Penal Code § 26202.
- (c) The licensee has breached any of the conditions or restrictions described in Penal Code § 26200.
- (d) Any information provided by a licensee in connection with an application for a new license or a license renewal is inaccurate or incomplete.
- (e) If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee's place of residence to another county (Penal Code § 26210).

The issuance of a license by the Chief of Police shall not entitle the holder to either a property or liberty interest as the issuance, amendment, or revocation of such license remains exclusively within the discretion of the Chief of Police as set forth herein.

If any license is revoked, the Department will immediately notify the licensee in writing and the California DOJ (Penal Code § 26225).

218.5.4 LICENSE RENEWAL

No later than 90 days prior to the expiration of any valid license to carry a firearm, the licensee may apply to the Chief of Police for a renewal by:

- (a) Verifying all information submitted in the original application under penalty of perjury.
- (b) Completing a training course pursuant to Penal Code § 26165.
- (c) Submitting any firearm to be considered for a license renewal to the Rangemaster for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (d) Paying the applicable renewal application fee.

Within 90 days of receiving the completed application for a renewal license, the Department shall give written notice to the applicant of the department's initial determination whether or not the applicant is a disqualified person (Penal Code § 26202).

If the determination is that the applicant is not a disqualified person, the notice shall inform the applicant to proceed with the training requirements as specified in Penal Code § 26165. The

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Department shall then submit the renewal notification to the California DOJ as provided in Penal Code § 26185.

Once the Chief of Police or the authorized designee has verified the successful completion of the renewal process, the renewal of the license to carry a firearm will either be granted or denied.

218.6 DEPARTMENT REPORTING AND RECORDS

The Department shall maintain a record of the following and immediately provide copies of each to the California DOJ (Penal Code § 26225):

- (a) The denial of a license
- (b) The denial of an amendment to a license
- (c) The issuance of a license
- (d) The amendment of a license
- (e) The revocation of a license

The Chief of Police shall annually submit to the State Attorney General the total number of licenses to carry firearms issued to reserve peace officers and judges.

218.7 CONFIDENTIAL RECORDS

The home address and telephone numbers of any peace officer, public defender, prosecutor, magistrate, court commissioner, or judge contained in an application shall not be considered a public record (Government Code § 7923.805).

218.8 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

The authority to issue a limited business license to carry a concealed firearm to a non-resident applicant is granted only to the Sheriff of the county in which the applicant works. A chief of a municipal police department may not issue limited licenses and these applicants should be referred to the Sheriff's Office (Penal Code § 26150).

An individual who is not a resident of the county but who otherwise successfully completes all portions of phases one and two above, may apply for and be issued a limited license subject to approval by the Sheriff and subject to the following:

- (a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of San Bernardino Police Department (Penal Code § 26150).
- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).
- (d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

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218.9 WRITTEN NOTICE FOR DENIAL OF LICENSE

The Chief of Police or the authorized designee shall give written notice to the applicant for a new license that the license is approved or denied within 120 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later (Penal Code § 26205).

Written notice to an applicant for a renewal license that is approved or denied shall be given within 120 days of receiving the completed application (Penal Code § 26205).

Additionally, regardless of the type of license, if the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

218.9.1 ADDITIONAL REQUIREMENTS

If an application for a new license, renewal of a license, or revocation is denied based on a determination that the person is a disqualified person as provided by Penal Code § 26202, the Chief of Police or the authorized designee shall provide the person with the notice of determination as provided by Penal Code § 26202(d), Penal Code § 26205, or Penal Code § 26195(b)(3). The notice shall state the reason why the determination was made and inform the applicant that they may request a hearing from a court. The Department shall also provide the most recent California DOJ hearing request form to the applicant (Penal Code § 26206).

If an application for a new license, renewal of a license, or revocation is denied for any other reason as described in Penal Code § 26206(i), the Chief of Police or the authorized designee shall provide the person with the notice required under Penal Code § 26205 or Penal Code § 26195(b)(3), as applicable, and inform the applicant they may apply to the county Superior Court for a writ of mandate pursuant to Code of Civil Procedure § 1085 (Penal Code § 26206).

218.10 POLICY AVAILABILITY

This policy shall be made accessible to the public as provided by Penal Code § 26160.

Retiree Concealed Firearms

220.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of San Bernardino Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455).

220.2 POLICY

It is the policy of the San Bernardino Police Department to provide identification cards to qualified former or retired officers as provided in this policy.

220.3 LEOSA

The Chief of Police may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

220.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the San Bernardino Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

220.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

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2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
 - (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - (c) Not prohibited by federal law from receiving a firearm.
 - (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

Any full-time sworn officer of this department who was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

- (a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

220.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

The identification card issued to any qualified and honorably retired officer shall be 2 inches by 3 inches, and minimally contain (Penal Code § 25460):

- (a) A photograph of the retiree.
- (b) The retiree's name and date of birth.
- (c) The date of retirement.
- (d) The name and address of this department.
- (e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The San Bernardino Police Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):

- (a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.

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- (b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.
- (c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

220.4.3 QUALIFIED RETIRED RESERVES

Qualified retired reserve officers who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

220.5 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Watch Commander of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

220.5.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

In order to maintain a CCW Approved endorsement on an identification card issued under California law, the retired officer shall (Penal Code § 26305):

- (a) Qualify every five years with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

220.6 DENIAL, SUSPENSION, OR REVOCATION OF A LEOSA IDENTIFICATION CARD

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended, or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

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220.7 DENIAL, SUSPENSION, OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD

A CCW endorsement for any officer retired from this department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Watch Commander when the conduct of a retired peace officer compromises public safety (Penal Code § 25470).

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
 - 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
 - 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
 - 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization, and one selected jointly (Penal Code § 26320).
 - 1. The decision of such hearing board shall be binding on the Department and the retiree.
 - 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Watch Commander as soon as practicable. The Watch Commander should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
 - 1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
 - 2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.

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3. The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

220.8 FIREARM QUALIFICATIONS

The Rangemaster may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

MOU with California Highway Patrol Governing Asset Forfeiture Investigations

221.1 PURPOSE AND SCOPE

To establish guidelines for assisting the California Highway Patrol with asset forfeiture investigations under the Memorandum of Understanding signed 1-26-11 between the California Highway Patrol and the San Bernardino Police Department.

221.2 PROCEDURE

- (a) The "Memorandum of Understanding CHP Originated Asset Forfeiture Investigations" dated 1-26-11 between the California Highway Patrol and San Bernardino Police Department shall govern our department's response to requests for assistance from the CHP regarding asset forfeiture investigations.
- (b) The Watch Commander will notify the Narcotics commander of any requests from the CHP for asset forfeiture investigations; and in the event of the Narcotic commander's absence, a Narcotics sergeant will be notified.
- (c) A Narcotics sergeant or his designee will respond to the scene of the request to determine whether assistance will be rendered within the prescribed 30 minute time period. Once on scene, the sergeant will determine whether this agency will accept the investigation based on the criteria outlined in Section (d).
- (d) The following criteria shall be used to determine whether the San Bernardino Police Department will accept the investigation from the California Highway Patrol:
 1. The investigation must meet lawful asset forfeiture guidelines qualifying for asset forfeiture procedures.
 2. The investigation should be free from probable cause or search and seizure errors, which would negate seizure.
 3. The division captain may decline acceptance for appropriate reasons not already outlined in this Policy.
- (e) Once accepted, these investigations will be conducted in the same manner as any other asset forfeiture investigation with the exception that the MOU shall govern the disposition of seized assets.

Mutual Aid Agreement Between SBPD and CSUSB Police

223.1 PURPOSE AND SCOPE

To provide guidelines for mutual aid between the San Bernardino Police Department and California State University Police on response, reporting, and investigation of activities on or near the CSUSB campus.

223.2 POLICY

The "Mutual Aid Agreement Between the San Bernardino Police Department and California State University Police San Bernardino" signed 10-19-98, shall govern our department's response to activities and investigations on university property within the City of San Bernardino.

223.3 PROCEDURE

- (a) The San Bernardino Police Department will investigate incidents of homicide and violent sexual assault that occur on CSUSB property within the city limits. The San Bernardino Police Department will provide crime scene processing and physical evidence collection at these scenes. As the investigative agency, upon arrival the San Bernardino Police Department will assume primary responsibility for these crime scenes with university police serving in a support role including, but not limited to, purposes of scene containment, protection, and traffic control.
- (b) The San Bernardino Police Department will respond to any hostage and/or sniper situation that occurs at CSUSB. Upon arrival, the San Bernardino Police Department shall assume primary responsibility of operational command.
- (c) San Bernardino police personnel will be available to respond to a riot or imminent riotous conditions on campus. In the event a request is made for assistance, all San Bernardino police personnel who respond shall be under the operational control of a lead officer, supervisor, or incident commander designated by the San Bernardino Police Department.
- (d) If the university expects an event to develop into a situation requiring assistance from the San Bernardino Police Department, the San Bernardino Police Department shall be notified of such circumstances at the earliest possible time. The San Bernardino Police Department shall be included in any planning and contingency considerations associated with the event. Further, if a commitment of San Bernardino Police Department resources is required, compensation for those resources will be identified, discussed, and agreed upon by both the San Bernardino Police Department and the university police prior to actual commitment of city resources.
- (e) At the request of the San Bernardino Police Department, the university police will continue to provide mutual assistance in the canyon area adjacent to the campus.

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- (f) The university police will respond, if available, to traffic accident scenes adjacent to the campus and render assistance to accident victims until arrival of SBPD units. The university police will notify SBPD of such traffic accidents immediately.
- (g) The university police will respond to any "999" situation when the scene is within a mile of the campus.
- (h) When SBPD personnel are expected to be unavailable for an extended time, university police may be requested by the city to respond to a reported crime occurring in proximity to the campus not exceeding one mile. Such a response shall generally be limited to preserving the public peace, performing an initial investigation, and taking a preliminary report. Requests for assistance shall be at the discretion of the Watch Commander or incident commander at the SBPD, and transmitted through the university police dispatch center to the university police watch commander. University police will be used for this purpose only when SBPD resources are depleted and relief is not expected for an exceptionally lengthy period of time.
- (i) University police are not expected to volunteer their assistance to the SBPD aside from what is identified herein.

Destruction of Police Records

225.1 PURPOSE AND SCOPE

To establish a standard procedure for the destruction of citizen/internal complaints and investigations, employee grievances, internal promotional tests, K-9 activity reports, Pitchess Motion files, Use of Force reports, pursuit reports, personnel application files, and personnel records of former employees with non-retirement related separations in compliance with established state law.

225.2 PROCEDURE

Various sections of the Government Code, Penal Code, Evidence Code, and case law provide for the systematic destruction of records and documents that have outlived their usefulness as evidence. Records eligible for destruction include citizen/internal complaints at least 5-years old, and all other records at least 2-years old. The following shall be the standard procedure for the orderly destruction of these records:

- (a) Every January and July, the Professional Standards Bureau lieutenant or his designee shall gather and review all pertinent records that are eligible for destruction. The five-year period for citizen/internal complaints shall be measured from the date of the complaint disposition and not from the date of the conduct which is the subject of the complaint. The 2-year period for all other records shall be measured from the final disposition date, where applicable.
- (b) The City Attorney's Office shall be notified of the records destruction action and shall provide a list of records or documents involved in pending claims or litigation. These records shall be exempt from destruction pending the adjudication of the litigation.
- (c) The Professional Standards Bureau will prepare a Request for Council Action, staff report, and proposed resolution seeking Common Council and City Attorney approval for the destruction of the records in compliance with applicable law.
- (d) A list of all records designated for proposed destruction relating to sustained complaints or high profile investigations shall be reviewed and approved for destruction by the Assistant Chief of Police.
- (e) Once all conditions set forth in items 1 through 4 in this policy are met, the Professional Standards Bureau lieutenant shall oversee the destruction of the designated records.

Supervisory Electronic Reporting and Documentation

227.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for supervisors when reporting and documenting the following types of supervisory incidents:

- Use of Force
- Vehicle Accident involving on-duty vehicles
- Vehicle Pursuit
- Property Damage/Loss of City Property
- Firearm Discharge (accidental discharge and dog shooting)

227.2 ELECTRONIC SOFTWARE UTILIZED

The electronic reporting system, which shall be used by all authorized San Bernardino Police Department personnel when reporting and documenting the above supervisory incidents, shall be IA Pro (produced by CI Technologies) with its integrated field support application, Blue Team. No hard copy SBPD forms shall be utilized to report or document any supervisory incident. If other hard copy forms are to be included with the incident, they shall be scanned and attached to the Blue Team incident.

227.3 SUPERVISORY RESPONSIBILITIES

When a supervisor has assumed the responsibility of reporting and/or documenting any of the above supervisory incidents, that supervisor is to initiate the incident in Blue Team before the end of their shift. This is done by simply completing the first page of data (incident type, date, time, location, and case #) and selecting "next" to initiate the incident in Blue Team. Supervisors will have 2 weeks from the date of occurrence to gather all reports and prepare any attached memorandums or materials, scan and attach all supporting documents, and forward it to the appropriate manager whom the involved employee works for. The 2 week time limit may be extended upon managerial approval.

227.4 REVIEW AND COMPLETION PROCESS

The Lieutenant who receives the incident to review will have 1 week from the date of receipt to approve and forward the incident to the appropriate Captain, or to send back to the originating supervisor for additional follow-up with an appropriate due date attached. This 1 week time limit may be extended upon Command Staff approval. The Captain who receives the incident to review, will have 1 week from the date of receipt to do one of the following:

- (a) Approve the incident and forward to PSB for completion;
- (b) Send the incident back to the Lieutenant for additional follow-up with the appropriate due date attached; or

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- (c) Forward the incident to the Assistant Chief of Police for further investigation.

Training

228.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

228.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

228.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public.
- (b) Increase the technical expertise and overall effectiveness of our personnel.
- (c) Provide for continued professional development of department personnel.
- (d) Ensure compliance with POST rules and regulations concerning law enforcement training.

228.4 TRAINING COMMITTEE

The Personnel and Training Supervisor shall establish a Training Committee, which will serve to assist with identifying training needs for the Department.

The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Administrative Services Captain may remove or replace members of the committee at his/her discretion.

The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include, but are not limited to:

- (a) Any incident involving the death or serious injury of an employee.
- (b) Incidents involving a high risk of death, serious injury or civil liability.
- (c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

The Training Committee should convene on a regular basis as determined by the Personnel and Training Supervisor to review the identified incidents. The committee shall determine by

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consensus whether a training need exists and then submit written recommendations of its findings to the Administrative Services Captain. The recommendation should not identify specific facts of any incidents, such as identities of employees involved or the date, time and location of the incident, but should focus on the type of training being recommended.

The Personnel and Training Supervisor will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources.

228.5 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor or the Personnel and Training supervisor. Excused absences from mandatory training should be limited to the following:
 - 1. Court appearances
 - 2. Pre-approved vacation
 - 3. Illness or injury
 - 4. Physical limitations preventing the employee's participation
 - 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
 - 1. Notify his/her supervisor and/or the Personnel and Training supervisor as soon as possible but no later than one hour prior to the start of training.
 - 2. Document his/her absence in a memorandum to his/her supervisor.
 - 3. Make arrangements through his/her supervisor and the Personnel and Training Supervisor to attend the required training on an alternate date.

228.6 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the San Bernardino Police Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Personnel and Training Supervisor.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Personnel and Training Supervisor. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each assigned DTB at the beginning of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. All assigned DTBs in a given month must be

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completed by the last day of that month. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person (Government Code § 7286(a)).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

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The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede (as defined by Government Code § 7286) to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.2 FORCE OPTIONS

(a) Persuasion

1. The presence of a confident uniformed police officer displaying professional demeanor coupled with good verbal communication will generally convince a resistant subject to submit to your authority without the necessity of an escalation in force. Good verbalization may be advising, admonishing, warning, or persuading a subject to submit to your authority without the use of profanity or derogatory language. Officers should use verbal techniques to deescalate confrontations.

(b) Compliance Control Techniques

1. Compliance techniques consist of the physical application of force in the form of joint manipulations, blocks, pain compliance, and take-downs. These empty handed techniques should be coupled with a police officer's verbal commands.

(c) Intermediate Force

1. Chemical Agents (Policy Manual § 308)

- (a) Police personnel may use chemical agents as an intermediate level of force for controlling or subduing combative persons. Chemical agents are defensive control weapons used to control or subdue subjects who are physically resisting arrest. Chemical agents should not be used indiscriminately and should not be used against non-combative persons. Chemical agents should not be used against a subject who is under restraint unless that subject is physically assaulting officers or others.

2. Conducted Energy Device (Policy Manual § 309)

- (a) The Conducted Energy Device (CED) is a device which may be used to subdue physically combative persons in violent or potentially violent situations, when the suspect poses an immediate threat to officers or other persons. The CED may be used if other apprehension methods or restraints have failed or are deemed impractical and there is a reasonable expectation that it would be hazardous for personnel to approach and

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physically contact the subject/s, thus lessening potential for injury to the subject/s or officers involved.

(d) Impact Weapons

- (a) Impact weapons are methods of subduing physically combative persons or immediately impeding the threatening actions of a violently resistant subject with physical strikes to the subject's body. These physical strikes shall be directed to those areas which are easily accessible, effective for quickly subduing the subject/s, and unlikely to cause serious injury. Other self-defense techniques, kicks or arm strikes, could be used at this level in lieu of a baton. Other authorized police equipment may be used as an impact weapon in exigent circumstances.

300.2.3 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.4 DUTY TO REPORT EXCESSIVE FORCE

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b)).

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.2.5 FAILURE TO INTERCEDE

An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary (Government Code § 7286(b)).

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

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- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the

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need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

300.3.5 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

Officers of this department are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

Officers of this department are not authorized to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

300.3.7 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence or pre-existing medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once the individual is safely secured, officers should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify himself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code § 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

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- (a) An officer may use deadly force to protect themselves or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

Additionally, an officer should not use deadly force against a person whose actions are a threat solely to property.

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.4.2 DISPLAYING OF FIREARMS

Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

- (a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- (b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

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300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATION TO SUPERVISORS

Any use of force by an officer shall be reported immediately to a supervisor, including but not limited to the following circumstances (Penal Code § 832.13):

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) Any application of a conducted energy device or control device.
- (e) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (f) The individual subjected to the force was rendered unconscious.
- (g) An individual was struck or kicked.
- (h) An individual alleges unreasonable force was used or that any of the above has occurred.

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Bureau Policy.

300.5.3 REPORT RESTRICTIONS

Officers shall not use the term "excited delirium" to describe an individual in an incident report. Officers may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as "excited delirium" (Health and Safety Code § 24402).

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).

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Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.

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3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
 - (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
 - (e) Identify any witnesses not already included in related reports.
 - (f) Identify any surveillance video that may depict the incident where force was used.
 - (g) Review and approve all related reports.
 - (h) If the subject suffers a serious injury or is hospitalized due to a use of force, the Watch Commander shall notify the Duty Chief.
 - (i) Determine if there is any indication that the subject may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
 - (j) A supervisor shall investigate the incident and complete an entry on the use of force in Blue Team, including a copy of the CAD report, the corresponding police report and their analysis of the officer's conduct.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 DISTRICT COMMANDER RESPONSIBILITY

The District Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers, investigators, and supervisors will receive annual training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

300.8.1 STATE-SPECIFIC TRAINING REQUIREMENTS

Required state-specific training shall include guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities (Government Code § 7286(b)).

300.8.2 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intercede.
- (d) The duty to request and/or render medical aid.

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- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

See the Training Policy for restrictions relating to officers who are the subject of a sustained use of force complaint.

300.9 USE OF FORCE COMPLAINTS

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

300.10 POLICY REVIEW

The Chief of Police or the authorized designee should regularly review and update this policy to reflect developing practices and procedures (Government Code § 7286(b)).

300.11 POLICY AVAILABILITY

The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

300.12 PUBLIC RECORDS REQUESTS

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).

Deadly Force Review

302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process to review the use of deadly force by employees of this department.

302.2 POLICY

The San Bernardino Police Department is charged with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this department to convene a Use of Deadly Force Review Board when the use of deadly force by an employee results in injury or death to a person.

The Deadly Force Review Board will also investigate and review the circumstances surrounding every accidental or intentional discharge of a firearm, whether the employee is on or off duty, excluding range training or recreational use.

The Chief of Police may convene the Use of Deadly Force Review Board to investigate the circumstances surrounding any use of force incident.

302.2.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board shall be comprised of the following persons:

- Division Captain (chairperson)
- Two lieutenants

The chairperson will convene the Deadly Force Review Board as necessary. It will be the responsibility of the division captain or unit commander of the involved employee(s) to notify the appropriate bureau commander of any incidents requiring board review. The division captain or unit commander will also ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

302.2.2 RESPONSIBILITIES OF THE BOARD

The Deadly Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident. The board members may request further investigation, call persons to present information, and may request that the involved employee appear before the board. The involved employee will be notified of the meeting of the board and may be represented by legal counsel and/or other representation through all phases of the review process.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303).

The review shall be based upon those facts which were reasonably believed by the officer at the time of the incident, applying legal requirements, department policy and procedures, and approved training to those facts. Facts later discovered but unknown to the officer at the time, can neither justify nor call into question an officer's decision regarding use of force.

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If it appears that the actions of the employee may result in criminal charges or disciplinary action by the Department, the board will conduct the interviews in accordance with department disciplinary procedures. The board does not have the authority to recommend discipline. The board shall make a finding and such finding will be limited to one of the following:

- (a) The employee's actions were within department policy and procedures.
- (b) The employee's actions were in violation of department policy and procedures.

A finding will represent the consensus of the board. After the board has concluded, the board chairperson will submit written findings of the board to the Chief of Police. At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Chief of Police.

Once the board has reached its specific finding, the Chief of Police may convene a separate training committee to address training needs and to make recommendations for this department without specific reference to the facts of the incident considered by the board.

Handcuffing and Restraints

306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

306.2 POLICY

The San Bernardino Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

306.3 USE OF RESTRAINTS

Only members who have successfully completed San Bernardino Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

306.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

306.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety.

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

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306.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

306.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

306.4.1 MEDICAL CONSIDERATIONS

Prior to booking or release, the individual shall be examined at a medical facility when they have sustained a visible injury, expressed a complaint of injury or continuing pain, have been rendered unconscious, is believed to have sustained an internal injury, or in an effort to conceal/destroy evidence it is believed that the individual has ingested contraband. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with an officer(s) to be brought under control, may be at an increased risk of sudden death and should be

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examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

306.5 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

306.6 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

306.6.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.

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- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

306.7 REQUIRED DOCUMENTATION

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

Control Devices and Techniques

308.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the San Bernardino Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

308.4 RESPONSIBILITIES

308.4.1 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

308.4.2 PERSONNEL AND TRAINING SUPERVISOR RESPONSIBILITIES

The Personnel and Training Supervisor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Personnel and Training Supervisor or the designated instructor for a particular control device. The inspection shall be documented.

308.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

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Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

308.5 BATON GUIDELINES

Only batons approved by the Chief of Police shall be authorized.

The baton is to be used as a defensive weapon to repel or protect, or to subdue and arrest combative persons.

The baton shall not be used against non-combative persons or for the purpose of obtaining compliance to verbal commands where no physical danger exists to the officer/s, suspect/s, or citizen/s.

The need to immediately incapacitate the suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys, sternum, and groin should not be intentionally targeted except when the officer reasonably believes the suspect may cause serious bodily injury or death to the officer or others.

308.6 TEAR GAS GUIDELINES

The use of OC and/or tear gas for crowd control, crowd dispersal or against barricaded suspects shall be based on the circumstances. The Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary to result in the safe control of the suspect(s). When practical, fire personnel should be alerted or summoned to the scene to control any fires and to assist in providing medical aid or gas evacuation when the scene is safe. Only officers or supervisors trained in the use of tear gas weapons should discharge such devices at the scene.

308.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

308.7.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

308.7.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on

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impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Only personnel certified as having completed department-approved training on the use of pepper projectile systems shall be allowed to deploy and use pepper projectile systems.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. Accidental discharges shall be promptly reported to a supervisor and documented on the appropriate report form.

308.7.3 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

308.8 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

308.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations when suspects are encountered. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury.

Kinetic energy projectiles are approved by the Department and are fired from specially marked 12 gauge shotguns or 37/40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

308.9.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The

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safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

308.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

308.9.3 SAFETY PROCEDURES

Shotguns that have been specifically designated as kinetic energy projectile deployment platforms should be utilized to deploy the 12-gauge less lethal round. These shotguns are clearly marked with orange colored stocks and fore grips.

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Officers will inspect the shotgun and projectiles at the beginning of each shift to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Exigent or unforeseen circumstances may require officers to utilize a conventional shotgun as a less lethal deployment platform. Transitioning from conventional ammunition to kinetic energy projectiles will be completed by utilizing the two-person rule.

The two-person rule is a safety measure where a second officer inspects the shotgun to verify all conventional ammunition has been removed. The second officer will visually inspect each less lethal round prior to being loaded into the weapon. The second officer will also monitor the loading process to ensure each round loaded into the shotgun is a kinetic energy projectile.

308.10 TRAINING FOR CONTROL DEVICES

The Personnel and Training Supervisor shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Only officers trained and having shown adequate proficiency in the use of any control device and this agency's Use of Force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified weapons or tactics instructor.
- (b) Training for all control devices should occur every two years at a minimum.
- (c) All training and proficiency for control devices will be documented in the officer's training file.

308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Energy Device

309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of CEDs.

309.2 POLICY

The Conducted Energy Device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

309.3 ISSUANCE AND CARRYING CEDS

Only members who have successfully completed department-approved training may be issued and carry the CED.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the CED and cartridges that have been issued by the Department. Uniformed officers who have been issued the CED shall wear the device in an approved holster. Non-uniformed officers may secure the CED in the driver's compartment of their vehicles.

Members carrying the CED should perform a spark test prior to every shift.

Officers who carry the CED while in uniform shall carry it in a weak-side holster on the side opposite the duty weapon (Penal Code § 13660).

- (a) All CEDs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the CED.
- (c) Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order.
- (d) Officers should not hold a firearm and the CED at the same time.

309.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CED. The

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aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CED in the related report.

309.5 USE OF THE CED

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely approach the subject within the operational range of the device. Although the CED is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

309.5.1 APPLICATION OF THE CED

The CED may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the CED in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain

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separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The CED shall not be used to psychologically torment, elicit statements or to punish any individual.

309.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CED probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

309.5.4 MULTIPLE APPLICATIONS OF THE CED

Officers should apply the CED for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CED against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the CED appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CED, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one CED at a time against a single subject.

309.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all CED discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

309.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

309.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

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Officers shall ensure that CEDs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

309.6 DOCUMENTATION

Officers shall document all CED discharges in the related arrest/crime report and the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges will be documented on a memorandum. Any report documenting the discharge of a CED will include the cartridge serial number and an explanation of the circumstances surrounding the discharge.

309.6.1 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

309.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related

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reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED.

309.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated.

A supervisor should review each incident where a person has been exposed to an activation of the CED.

Photographs of probe sites shall be taken. The on-board CED memory will be downloaded through the data port by a CED armorer upon request by the Profession Standards Unit.

309.9 TRAINING

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CED as a part of their assignment for a period of six months or more shall be recertified by a department-approved CED instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEDs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Personnel and Training Supervisor. All training and proficiency for CEDs will be documented in the officer's training file.

Command staff, supervisors and investigators should receive CED training as appropriate for the investigations they conduct and review.

Officers who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Personnel and Training Supervisor is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injury to personnel and should not be mandatory for certification.

The Personnel and Training Supervisor should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

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- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the CED.

Officer-Involved Shootings and Deaths

310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

310.2 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Captain
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency
- (d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of department policy

310.3 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

310.3.1 SAN BERNARDINO POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The San Bernardino Police Department is responsible for the criminal investigation of the incident and the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer-involved shooting will be reviewed by the District Attorney's Office.

310.3.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The San Bernardino Police Department is responsible for the criminal investigation of the incident and the suspect's actions. The criminal investigation of the officer-involved shooting will be reviewed by the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

310.3.3 SAN BERNARDINO POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the

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suspect(s) to another agency. The San Bernardino Police Department will conduct timely civil and/or administrative investigations.

310.3.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation of	Administrative Investigation
SBPD Officer in This Jurisdiction	SBPD Investigators	District Office Review	Attorney's Office	SBPD / City of SB Professional Standards Bureau
Allied Agency's Officer in This Jurisdiction	SBPD Investigators	District Office Review	Attorney's Office	Involved Officer's Department
SBPD Officer in Another Jurisdiction	Agency where incident occurred	Decision by agency where incident occurred	made where	SBPD / City of SB Professional Standards Bureau

310.4 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

310.4.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).
- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Provide all available information to the Watch Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (e) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (f) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.
 1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.

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2. When an officer's weapon is later taken for investigative purposes or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.

310.4.2 WATCH COMMANDER DUTIES

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Captain.

310.4.3 NOTIFICATIONS

The following person(s) shall be notified by the Watch Commander as soon as practical:

- Chief of Police and/or Duty Chief
- Investigations Lieutenant and/or Sergeant
- Professional Standards Bureau Lieutenant and/or Sergeant
- Department's Legal Counsel Representative (at the discretion of the Duty Chief and/or PSB Lieutenant)
- Psychological Personnel
- Officer Representative (if requested)
- Coroner (if necessary)

All outside inquiries about the incident shall be directed to the Watch Commander.

310.4.4 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Investigations Captain and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media (Government Code § 3303(e)) and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a Captain.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

310.4.5 INVOLVED OFFICERS

Once the involved officer(s) have arrived at the station, the incident supervisor or Watch Commander should ensure each officer understands that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

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- (a) The SBPOA or officer representative may be notified, however, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information however.
- (d) A psychotherapist shall be provided by the Department to each involved officer, or any other officer, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
- (e) Although the Department will honor the privacy of communications with peer counselors, there is no legal privilege to such.

Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs (Government Code § 3303(d)).

Each involved officer shall be afforded reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the PSB Lieutenant and/or Sergeant to make schedule adjustments to accommodate such leave.

310.4.6 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The Chief of Police or designee should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

For purposes of notification, "unarmed civilian" means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

310.5 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

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If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) SBPD supervisors and Professional Standards Bureau personnel should not participate directly in any voluntary interview of SBPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

310.5.1 REPORTS BY INVOLVED SBPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved SBPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved SBPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved SBPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

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310.5.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

310.5.3 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective Bureau supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Detectives will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Bureau supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Captain.

310.6 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of SBPD officers to determine

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conformance with department policy. The investigation will be conducted under the supervision of the Professional Standards Bureau and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (b) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 5. The Professional Standards Bureau shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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310.6.1 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

310.7 OIS INVESTIGATION REVIEW

Upon completion of the criminal and administrative investigation of an OIS incident, the reports shall be forwarded to Administration for review. The OIS investigation will be reviewed by the involved officer's lieutenant and captain as well as the Professional Standards Bureau lieutenant. The collective recommendations of the reviewers shall be presented to the Chief of Police. The Chief of Police shall review all documents related to the OIS for the purpose of rendering a final disposition.

OIS investigations should be completed within six (6) months. However, at times, critical items of evidence or reports may not be available within the first six months following the OIS incident. Under circumstances where outside reports or evidence is not yet available after the first six months the Detective Bureau lieutenant shall complete a memo to the Investigations Division Captain outlining the status of the investigation and the expected time line of completion.

Regardless of any outstanding evidence or reports from other agencies, the criminal and administrative reports shall be completed and submitted for review within ten (10) months of the OIS incident. The Review shall be completed within a year of the incident.

310.8 REPORTING

If the death of an individual occurs in the San Bernardino Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Operations Captain will ensure that the Records Manager is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

Firearms

312.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief of Police or his or her designee shall approve all Department firearms before they are acquired and utilized by any member of this department.

312.2 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including but not limited to edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Captain. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

312.2.1 DUTY WEAPONS

Employees will be issued the Glock, Model 17 GEN5, 9mm, which is the authorized department handgun.

Only department-issued shotguns are authorized.

Exceptions may be granted by the Chief of Police to accommodate those individuals who, as required by law, need to carry another firearm. Employees may be allowed to carry service weapons other than the department issued handgun only if approved by the Chief of Police or his designee. These service weapons will be in 9 mm, 40 caliber, or 45 caliber.

A. Service Weapon Modifications

1. Service weapons shall not be modified in any way except by a department authorized armorer.
2. Weapon-mounted flashlights may be installed on service weapons.
3. Optical sights, co-witnessing iron sights, and appropriate holsters, may be purchased by the officer and installed on a department issued service weapon by a department armorer, or on a personally owned/authorized service weapon. Officers will be required to have iron sights installed on the service weapon so as to co-witness should the optical sight fail. Both the optical and iron sights will be military/law enforcement grade and will be inspected by a department authorized armorer prior to purchase/installation. No slide milling on a department issued service weapons authorized. Prior to deployment, the officer will be required to qualify with both the optical and iron sights.

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312.2.2 AUTHORIZED SECONDARY FIREARM

Employees may be allowed to carry authorized secondary firearms other than the department issued handgun only if approved by the Chief of Police or his designee. These weapons will be in .380 caliber, .38 caliber, .357 caliber, 9 mm, 40 caliber, or 45 caliber. Officers desiring to carry a secondary firearm are subject to the following restrictions:

- (a) The firearm shall be in good working order.
- (b) The purchase of the firearm and ammunition shall be the responsibility of the officer.
- (c) The firearm shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge or loss of physical control.
- (d) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection.
- (e) Ammunition shall be the same as department issue. If the caliber of the firearm is other than department issue, only factory manufactured ammunition will be used. Reloads are strictly forbidden.
- (f) Prior to carrying the secondary firearm, personnel shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Officers must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (g) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second firearm to the Rangemaster.

312.2.3 AUTHORIZED OFF-DUTY FIREARM

The carrying of firearms by sworn officers while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Employees may be allowed to carry authorized off-duty firearms other than the department issued handgun only if approved by the Chief of Police or his designee. These weapons will be in .380 caliber, .38 caliber, .357 caliber, 9 mm, 40 caliber, or 45 caliber. Sworn officers who choose to carry a firearm while off-duty, based on their authority as a peace officer, will be required to meet the following guidelines:

- (a) The firearm shall be of good quality and workmanship and approved by the Department.
- (b) The purchase of the firearm and ammunition shall be the responsibility of the officer.
- (c) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (d) It will be the responsibility of the officer to submit the firearm to the Rangemaster for inspection prior to being carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (e) Prior to carrying any off-duty firearm, the officer shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

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- (f) The officer will successfully qualify with the firearm prior to it being carried and thereafter once every twelve months. The range qualification dates will be specified by the Rangemaster.
- (g) A complete description of the firearm shall be contained on the qualification record approved by the Rangemaster.
- (h) If any member desires to use more than one firearm while off-duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each firearm used.
- (i) Only factory manufactured ammunition will be used from the following reputable brands: Remington, Winchester, Federal, Hornady, and Speer. Reloads are strictly forbidden.
- (j) When armed, whether on- or off-duty, officers shall carry their badge and department identification.

312.2.3 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during the officer's first scheduled qualification each year. Officers carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for non-serviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

Officers will be supplied ammunition to complete the qualification course up to three times per quarter. Ammunition is provided for duty weapons only (not back-up weapons).

Authorized shotgun slug ammunition will be issued by the Personnel and Training Unit. Only factory manufactured ammunition will be used. Reloads are strictly forbidden.

312.2.4 ALCOHOL AND DRUGS

Weapons shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drug that would tend to adversely affect the officer's senses or judgment.

312.3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

312.3.1 SAFETY CONSIDERATIONS

- (a) Officers shall not unnecessarily display or handle any firearm.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.

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- (c) Any member who discharges his/her weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall make a verbal report to his/her supervisor as soon as circumstances permit and, if the occurrence was on-duty, shall file a written report with their Captain prior to the end of shift. If off-duty, as directed by the supervisor.
- (d) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (e) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- (f) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the jail section with any firearm.
- (g) Officers shall not use any automatic weapon, heavy caliber rifles, gas or other types of chemical weapons from the armory, except with approval of a supervisor.
- (h) Any weapon authorized by the department to be carried on or off duty that is found by the officer to be malfunctioning or needing service shall not be carried. It shall be promptly presented to the department or Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the department Rangemaster, will be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

312.3.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access (Penal Code § 25100).

Members shall not permit department-issued firearms to be handled by anyone who is not authorized by the Department to do so.

Members shall be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

312.3.3 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container which is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

Officers are exempt from this requirement during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

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312.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify quarterly with their duty weapon (and secondary weapon if carried as a primary duty weapon) and annually with their off-duty weapon and secondary weapon (if not carried as a primary weapon) on an approved range course. The Rangemaster shall keep accurate records of quarterly qualifications, repairs, maintenance, training or as directed by the Personnel and Training Supervisor. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the department Use of Force policy and demonstrate their knowledge and understanding.

312.4.1 NON QUALIFICATION

If any officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that officer shall submit a memorandum to his or her division captain prior to the end of the required shooting period.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn members who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments may be required until consistent weapon proficiency is demonstrated
- (b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained
- (c) No range credit will be given for the following
 1. Unauthorized range make-up
 2. Failure to qualify after remedial training

312.4.2 COMPETITION SHOOTING PROGRAM

The Rangemaster will administer the competition shooting program. The program will consist of:

- (a) The competition cycle shall be from October 1st through September 30th.
- (b) Four categories will be used, identified as follows:
 1. Master 97%-100%
 2. Expert 91%-96%
 3. Sharpshooter 86%-90%
 4. Marksman 80%-85%
- (c) Officers may only compete with their duty weapons.
- (d) For competition purposes officers will shoot twice per quarter.
- (e) The courses shot will be the standard quarterly qualification courses used at the range.

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- (f) All officers qualifying for the respective award categories will receive a pin or certificate designating their achievement (Pins will only be issued upon the first award in the respective category. Subsequent awards in that category will be recognized with a certificate).
- (g) Officers may shoot as many times a quarter as they wish. The range will only provide ammunition for three times. Regardless of how many times officers shoot per quarter, only the top two scores from each quarter will be counted towards the final score.
- (h) Only authorized shooting pins will be worn on the uniform.

312.5 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the officer reasonably believes that they appear necessary, effective and reasonably safe.

312.6 DESTRUCTION OF ANIMALS

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, CED, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

312.6.1 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

312.7 REPORT OF FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

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In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Captain or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

312.8 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Personnel and Training Supervisor after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster has the responsibility for ensuring each member meets the minimum requirements during training shoots and can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

312.9 MAINTENANCE AND REPAIR

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapon.

312.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

Any repairs or modifications to the officer's personally owned weapon shall be done at his or her expense and must be approved by the Rangemaster.

312.10 USE OF SHOTGUN SLUG AMMUNITION

No staggered loading of ammunition is allowed; i.e., slug, buckshot, slug, etc.

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312.11 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her San Bernardino Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

312.12 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The San Bernardino Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the San Bernardino Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.
- (d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.

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- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.
- (i) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

Rules of the Range

313.1 PURPOSE AND SCOPE

To establish guidelines for proper conduct at, and safe use of, the San Bernardino Police Department range facility.

313.2 POLICY

The Personnel and Training Supervisor, the Rangemaster or assistant Rangemaster is in complete charge of the range at all times. These personnel are authorized to enforce all safety rules and regulations with complete authority to suspend any person/s from use of the range for violation of any of the range procedures.

The Rangemaster will report any serious or repetitive violations of policy to the Personnel and Training supervisor who will send it to the appropriate division captain via chain of command.

313.3 PROCEDURE

(a) Rules

1. Every officer entering the range with a loaded weapon shall proceed directly to the bullet containment system, clear his/her weapon and leave the slide locked back, magazine removed or cylinder open. Officers entering the range with an unloaded weapon will carry those weapons into the range with the slide locked back, magazine removed or cylinder open.
2. All weapons being carried on the range will be carried with the cylinder open or the slide locked back, magazine removed.
3. Sign in on the range record sheet. Except the Rangemaster, no person shall sign for another nor make any entry for another on the record sheet.
4. Only authorized weapons and ammunition shall be fired at the range.
5. All weapons and ammunition are subject to safety inspection by the Rangemaster.
6. All weapons will be loaded only on command of the Rangemaster and only with the amount of ammunition ordered.
7. All dry firing will be done at the firing line with the weapon barrel pointed down range and under the supervision of the Rangemaster.
8. In case of a misfire or a jam, keep weapon pointed down range, raise your free hand and the Rangemaster will assist you if needed. Officers should be able to clear their weapons.
9. Officers will reload only at the bullet containment system or at the direction of the Rangemaster when finished shooting and only when ready to leave the range.

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10. No one will stand forward of the red safety line or handle any weapon while anyone is down range.
11. Before removing weapons from the firing line, inspect and clear your weapons, holster or carry them with cylinders open or slides locked back, magazine removed.
12. Cleaning of all weapons will be done at the designated cleaning area only; keeping weapon pointed towards block wall in the cleaning area.
13. No ammunition is to be taken to the cleaning area.
14. Cocking or cycling of weapons will be held to a minimum in the cleaning area, and only with the barrels pointing towards the block wall.
15. No firing on the range at anytime unless a qualified Rangemaster is present.
16. All officers shall wear the required protective devices whenever firearms are being discharged. Ear muffs and safety glasses will be secured at the range and issued for use to authorized persons only. The Rangemaster or his/her designee shall be responsible for checking out the required protective devices at the beginning of each shoot and for checking the devices in at the completion of each shoot. Required protective devices are:
 - (a) Ear Muffs - Approved ear muffs are the only type authorized for use at the range.
 - (b) Ear Plugs - Ear plugs may be worn in addition to ear muffs.
 - (c) Safety Glasses - Safety glasses are protective eye devices. Officers may wear prescription glasses if they are safety glasses.
 - (d) Ballistic vest shall be worn at the direction of the Rangemaster.
17. All empty brass belonging to the department will be placed in the buckets provided for that purpose.
18. Trash will be placed in the proper receptacles.
19. Officers bringing children to the range will see that they are seated to the very rear and that they remain there until the officer is finished. They will be provided with ear protection and shall wear it while the shooting is in progress.
20. The tunnel will be used exclusively to change targets unless directed otherwise by the Rangemaster.
21. If an accidental discharge occurs, the Rangemaster shall immediately determine what happened. This will include inspection of the gun, cause of misfire, and training of the employee as to proper procedures in handling the gun. The Rangemaster will notify a supervisor, who shall complete an incident report, take

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photographs, and complete a Blue Team incident as soon as practical. If any injury occurred due to the misfire, the Watch Commander and the Personnel and Training Supervisor will be notified immediately.

Vehicle Pursuits

314.1 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects.

314.1.1 POLICY

It is the policy of this department to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

314.2 DEFINITIONS

Blocking - A low-speed tactic where one or more authorized police department emergency vehicles intentionally restrict the movement of a suspect vehicle, with the goal of containment or preventing a pursuit. Blocking is not boxing in or a roadblock.

Boxing-in - A tactic designed to stop a suspect's moving vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention - An attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT (known as Pursuit Intervention Technique or Precision Immobilization Technique), ramming, or roadblock procedures.

Pursuit Intervention Technique (PIT) - A low-speed tactic intentionally applied to cause the suspect vehicle to spin out and terminate the pursuit.

Ramming - The deliberate act of impacting a suspect's vehicle with another vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the suspect's vehicle.

Tire deflation device - A device that extends across the roadway designed to puncture the tires of the pursued vehicle, sometimes referred to as spike strips.

Terminate - To discontinue a pursuit or stop chasing fleeing vehicles.

Trail - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit

Vehicle Pursuit - An event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a motor vehicle by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

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314.3 OFFICER RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by Vehicle Code § 21055. Officers are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

314.3.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit when the officer reasonably believes that a suspect, who has been given appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.

Factors that should be considered in deciding whether to initiate a pursuit include:

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.
- (d) The pursuing officers' familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (e) Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risk of the suspect's escape.
- (f) Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (g) The performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (h) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) Suspect and officer vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders, hostages).
- (k) Availability of other resources such as air support or vehicle locator or deactivation technology.

314.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the

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present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- (a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (e) Hazards to uninvolved bystanders or motorists.
- (f) The danger that the continued pursuit poses to the public, the officers, or the suspect, balanced against the risk of allowing the suspect to remain at large.
- (g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- (h) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.

314.3.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds should take into consideration public safety, officer safety, and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors should also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

314.4 PURSUIT UNITS

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever practicable

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Vehicle pursuits should be limited to three vehicles (two units and a supervisor); however, the number of units involved may vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of officers involved may be insufficient to safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

314.4.1 MOTORCYCLE OFFICERS

When involved in a pursuit, police department motorcycles should be replaced by marked four-wheel emergency vehicles as soon as practicable.

314.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

314.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to any person.

The primary unit should notify the dispatcher commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

- (a) The location, direction of travel, and estimated speed of the suspect's vehicle.
- (b) The description of the suspect's vehicle including license plate number, if known.
- (c) The reason for the pursuit.
- (d) Known or suspected weapons. Threat of force, violence, injuries, hostages, or other unusual hazards.
- (e) The suspected number of occupants and identity or description.
- (f) The weather, road, and traffic conditions.
- (g) The need for any additional resources or equipment.
- (h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or secondary unit, the officer in the primary unit is responsible for the broadcasting of the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

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314.4.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit will be designated as the secondary unit and is responsible for:

- (a) Immediately notifying the dispatcher of entry into the pursuit.
- (b) Remaining a safe distance behind the primary unit unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.
- (d) Identifying the need for additional resources or equipment as appropriate.
- (e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

314.4.5 PURSUIT DRIVING

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing units should exercise due regard and caution when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) against traffic. In the event that the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from available air support.
 - 2. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 - 3. Request other units to observe exits available to the suspects.
- (d) Notify the California Highway Patrol (CHP) and/or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and with a clear understanding of the maneuver process between the involved units.

314.4.6 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the

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termination point in order to provide information and assistance for the arrest of the suspects and reporting the incident.

314.4.7 AIR SUPPORT ASSISTANCE

When available, air support assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the unit should assume control over the pursuit. The primary and secondary ground units, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact of the pursued vehicle and the air support unit determines that it is unsafe to continue the pursuit, the air support unit should recommend terminating the pursuit.

314.4.8 POLICE K-9 UNITS

- (a) One K-9 unit is authorized to participate as a third unit in a pursuit.
- (b) The K-9 officer's responsibility is to provide assistance as needed in control and arrest of suspected offenders at the termination point of the pursuit.

314.4.9 UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

314.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

- (a) Immediately notifying involved unit and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required number of units are involved in the pursuit under the guidelines set forth in this policy.

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- (e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is unreasonable to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that the Watch Commander is notified of the pursuit as soon as practicable.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (j) Controlling and managing San Bernardino Police Department units when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit.
 - 1. Supervisors should initiate follow up or additional review when appropriate.

314.5.1 WATCH COMMANDER RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Watch Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. Once notified, the Watch Commander has the final responsibility for the coordination, control, and termination of a vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Captain.

314.6 DISPATCH

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies and units.

314.6.1 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved units and personnel.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notify the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

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314.6.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit or supervisor will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

314.7 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

314.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the San Bernardino Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

314.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this department to join the pursuit until sufficient units from the initiating agency join the pursuit or until additional information is provided allowing withdrawal of the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of San Bernardino Police Department, the supervisor should consider:

- (a) The public's safety within this jurisdiction.
- (b) The safety of the pursuing officers.
- (c) Whether the circumstances are serious enough to continue the pursuit.
- (d) Whether there is adequate staffing to continue the pursuit.
- (e) The ability to maintain the pursuit.

As soon as practicable, a supervisor or the Watch Commander should review a request for assistance from another agency. The Watch Commander or supervisor, after considering the above factors, may decline to assist in, or assume the other agency's pursuit.

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Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers should provide appropriate assistance to officers from the allied agency including but not limited to scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

314.8 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Use of pursuit intervention tactics should be employed only after approval of a supervisor.. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards to the public arising from the use of each tactic, the officers, and persons in or on the pursued vehicle to determine which, if any, intervention tactic may be reasonable.

It is imperative that officers act within the bounds of legality, good judgment and accepted practices.

314.8.1 USE OF FIREARMS

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle (see the Use of Force Policy).

314.8.2 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and subject to the policies guiding such use. Officers should consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking should only be used after giving consideration to the following:
 - 1. The technique should only be used by officers who have received training in the technique.
 - 2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 3. It reasonably appears the technique will contain or prevent the pursuit.
- (b) The PIT should only be used after giving consideration to the following:
 - 1. The technique should only be used by officers who have received training in the technique, including speed restrictions.

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2. Supervisory approval should be obtained before using the technique.
 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 4. It reasonably appears the technique will terminate or prevent the pursuit.
- (c) Ramming a fleeing vehicle should only be done after giving consideration to the following:
1. Supervisory approval should be obtained before using the technique.
 2. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 3. It reasonably appears the technique will terminate or prevent the pursuit.
 4. Ramming may be used only under circumstances when deadly force would be authorized.
 5. Ramming may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.
- (d) Before attempting to box a suspect vehicle during a pursuit the following should be considered:
1. The technique should only be used by officers who have received training in the technique.
 2. Supervisory approval should be obtained before using the technique.
 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 4. It reasonably appears the technique will terminate or prevent the pursuit.
- (e) Tire deflation devices should only be used after considering the following:
1. Tire deflation devices should only be used by officers who have received training in their use.
 2. Supervisory approval should be obtained before using tire deflation devices.
 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 4. It reasonably appears the use will terminate or prevent the pursuit.
 5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
 6. Due to the increased risk to officers deploying tire deflation devices, such deployment should be communicated to all involved personnel.

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- (f) Roadblocks should only be used after considering the following:
 1. Roadblocks should only be used by officers who have received training in their use.
 2. Supervisory approval should be obtained before using the technique.
 3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.
 5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

314.8.3 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to accomplish a legitimate law enforcement purpose.

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspects following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspects.

314.9 REPORTING REQUIREMENTS

All appropriate reports should be completed to comply with applicable laws, policies, and procedures.

- (a) The primary officer should complete appropriate crime/arrest reports.
- (b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary field supervisor should complete as much of the required information on the form as is known and forward the report to the Area Lieutenant for review and distribution.
- (c) After first obtaining the available information, the involved, or if unavailable on-duty, field supervisor shall promptly complete a pursuit entry, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This entry should include, at a minimum:
 1. Date and time of pursuit.
 2. Initial reason and circumstances surrounding the pursuit.
 3. Length of pursuit in distance and time, including the starting and termination points.

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4. Involved units and officers.
 5. Alleged offenses.
 6. Whether a suspect was apprehended, as well as the means and methods used.
 7. Any use of force that occurred during the vehicle pursuit.
 - (a) Any use of force by a member should be documented in the appropriate report (See the Use of Force Policy).
 8. Any injuries and/or medical treatment.
 9. Any property or equipment damage.
 10. Name of supervisor at scene or who handled the incident.
- (d) After receiving copies of reports, logs, and other pertinent information, the Chief of Police or the authorized designee should conduct or assign the completion of a post-pursuit review.

Annually, the Chief of Police should direct a documented review and analysis of department vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.

314.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Personnel and Training Supervisor shall make available to all officers initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, Vehicle Code § 17004.7(d), and 11 CCR 1081, and no less than annual training addressing:

- (a) This policy.
- (b) The importance of vehicle safety and protecting the public.
- (c) The need to balance the known offense and the need for immediate capture against the risks to officers and others.

314.9.2 POLICY REVIEW

Officers of this department shall certify in writing that they have received, read, and understand this policy initially, upon any amendments, and whenever training on this policy is provided. The POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

314.10 APPLICATION OF VEHICLE PURSUIT POLICY

This policy is expressly written and adopted pursuant to the provisions of Vehicle Code § 17004.7, with additional input from the POST Vehicle Pursuit Guidelines.

Officer Response to Calls

316.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

316.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Dispatch.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

316.3.1 NUMBER OF UNITS ASSIGNED

Allowing for the exceptions in Policy Manual § 314, no more than one police unit will respond Code-3 to a given response simultaneously, unless approved by a supervisor or the Watch Commander.

316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify Dispatch. Only one unit shall respond Code-3 to any situation, unless additional units are authorized to respond Code-3 by a supervisor or Watch Commander.

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316.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

316.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3 . The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the Watch Commander or field supervisor
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance) that are dispatching emergency equipment
- (e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

316.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than one unit is responding, unless circumstances require additional units to respond Code-3 and such response is approved by the supervisor or Watch Commander.
- (c) Affected outside jurisdictions are being notified as practical

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The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding unit

316.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

Canine Program

318.1 PURPOSE AND SCOPE

The Canine Program was established to augment police services to the community. Through this program, highly skilled and trained teams of handlers and canines are used to supplement police operations to locate individuals, evidence and contraband, and to apprehend criminal offenders.

318.1.1 CHAIN OF COMMAND

The Canine Unit is a specialized detail with its own chain of command. The Chief of Police will designate which Division Commander will have responsibility for the Unit. The Division Captain will, with Executive Staff approval, designate a sergeant as the Canine Unit Coordinator and a Lieutenant as the Canine Unit Manager. Past canine experience will be considered, but is not required, in these selections because a thorough understanding of the training, capabilities, and limitations of police dogs is essential in judging their performance.

318.2 GUIDELINES FOR THE USE OF CANINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer or the handler.
- (b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine

Absent a reasonable belief that a suspect has committed, is committing or threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable. If the canine has apprehended the suspect with a secure bite, the handler should promptly command the canine to release the suspect.

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318.2.1 USE OF BOMB/EXPLOSIVE DETECTION DOGS

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a trained explosive detection dog team may be warranted. When available, a trained explosive detection dog team may be used in accordance with current law and under the following circumstances:

- (a) To assist in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.
- (b) To conduct preventative searches at locations such as special events, VIP visits, official buildings and other restricted areas. Because a dog sniff may be considered a search, such searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (c) To assist with searches at transportation facilities and vehicles (e.g., buses, airplanes and trains).
- (d) To assist in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.
- (e) At no time will a detection dog be used to render a suspected device safe or clear.

318.2.2 PREPARATION FOR UTILIZING A CANINE

Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to:

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

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318.2.3 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

318.2.4 USE OF NARCOTIC-DETECTION CANINES

A narcotic-detection-trained canine may be used in accordance with current law under the following circumstances:

- (a) To assist in the search for narcotics during a search warrant service.
- (b) To obtain a search warrant by using the detection canine in support of probable cause.
- (c) To search vehicles, buildings, bags and any other articles deemed necessary.

A narcotic-detection canine will not be used to search a person for narcotics.

318.2.5 GUIDELINES FOR NON-APPREHENSION USE

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply.

- (a) Absent a change in circumstances that present an immediate threat to officers, the canine or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practicable.

318.2.6 REPORTING CANINE USE, BITES, AND INJURIES

Whenever the police canine is deployed, a Canine Use Report shall be completed by the handler and submitted to the Canine Unit Coordinator by the end of the calendar month.

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Whenever the use of a police canine results in a bite or an injury to any person, the Canine Unit Coordinator or another member of the Unit's chain of command will be notified as soon as practical. A Use of Force review will be conducted and documented by the Canine Unit Coordinator and forwarded through the Canine Unit chain of command. The injured party shall be transported to an appropriate medical facility for evaluation and, if needed, treatment. If the injured party is in custody an officer should remain with the suspect until treatment has been rendered.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

318.2.7 REPORTING CANINE INJURIES

In the event that a canine is injured, the injury will be immediately reported to the Watch Commander and to the Canine Unit chain of command.

Medical care for any injured canine shall follow the protocol established in the Medical Care of the Canine section of this policy.

The injury will be documented on a Canine Use Report Form.

318.2.8 ASSIGNMENT OF CANINES

Canine teams should function primarily as cover units however they may be assigned by the Watch Commander to other functions based on the needs of the watch at the time.

Canine teams should not be assigned to handle matters that will take them out of service for extended periods of time unless absolutely necessary.

318.3 REQUEST FOR USE OF CANINE TEAMS

Personnel within the Department are encouraged to freely solicit the use of the canines. Requests for a canine team for other than routine patrol use shall be approved through the Canine Unit chain of command or by the Watch Commander.

318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES

A patrol supervisor or the Unit Coordinator must approve all requests for canine assistance from outside agencies, subject to the following provisions:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.

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- (b) Whenever possible, an on-duty supervisor will accompany the canine team on out-of-city patrol uses. For out-of-city narcotics uses, the handler will inform the Unit Coordinator or the Watch Commander.
- (c) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (d) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.
- (e) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be approved by the Unit Coordinator prior to any commitment being made.

Handlers shall not demonstrate any apprehension work to the public unless authorized to do so through the Canine Unit chain of command.

318.4 SELECTION OF CANINE HANDLERS

The following are the minimum qualifications for the assignment of canine handler:

- (a) Prospective handlers shall meet the qualifications for a lateral transfer assignment as specified in Policy 1029 - Lateral Transfers.
- (b) An officer who is currently off probation.
- (c) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (d) Have a garage which can be secured and accommodate a canine unit
- (e) Live within 30 minutes travel time from the San Bernardino Police Department City limits
- (f) Agreeing to be assigned to the position for a minimum of four years.

318.5 CANINE HANDLER RESPONSIBILITIES

318.5.1 CARE FOR THE CANINE AND EQUIPMENT

The handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions. The handler will be responsible for the following:

- (a) Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

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- (c) Handlers shall permit the Unit Coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.
- (d) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Unit Coordinator as soon as possible.
- (e) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. Canines may be let out of their kennels while under the direct control of their handlers.
- (f) The canine may be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (g) Under no circumstances will the canine be lodged at another location unless approved by the Unit Coordinator or Watch Commander.
- (h) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler will give reasonable notice to the Unit Coordinator so that appropriate arrangements can be made.

318.5.2 CANINE IN PUBLIC AREAS

All canines shall be kept on lead when in areas that allow access to the public. Exceptions would include specific police operations for which the canines are trained.

- (a) Canines shall not be left unattended in any area to which the public may have access.
- (b) When the canine is left unattended in the patrol vehicle, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also insure that the unattended unit remains safe for the canine.

318.5.3 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

318.6 MEDICAL CARE OF THE CANINE

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency as provided in Policy Manual § 318.6.2.

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318.6.1 NON-EMERGENCY MEDICAL CARE

Handlers will ensure their canine partners receive veterinary check-ups and care as needed and will forward all documentation associated with veterinary care to the Unit Coordinator. Records of all veterinary care shall be maintained by the Canine Unit Coordinator.

Any indication that a canine is not in good physical condition shall be reported to the Unit Coordinator or the Watch Commander as soon as practical.

318.6.2 EMERGENCY MEDICAL CARE

The handler shall notify the Unit Coordinator as soon as practicable when emergency medical care for the canine is required.

Depending on the severity of the injury or illness, the canine shall either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and dog are out of the area, the handler may use the nearest available veterinarian.

318.7 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified by the California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their particular skills.

Patrol Canine Teams shall also complete a minimum two-week field training program with a senior or past handler.

The Unit Coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.

All canine training should be conducted while on-duty unless otherwise approved by the Unit Coordinator.

318.7.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, CNCA or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Canine teams should receive training as defined in the current contract with the San Bernardino Police Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.
- (c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

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318.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

318.7.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file. All canine training records shall be maintained by the Unit Coordinator.

318.8 CANINE UNIT COORDINATOR RESPONSIBILITIES

The Unit Coordinator shall be appointed by staff and shall supervise the Canine Program. The Unit Coordinator shall be responsible for, but not limited to, the following:

- (a) Review all Canine Use Reports to insure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintain liaison with the vendor kennel.
- (c) Maintain liaison with administrative staff and field supervisors.
- (d) Maintain liaison with other agency canine coordinators.
- (e) Maintain accurate records to document canine activities.
- (f) Recommend and oversee the procurement of needed equipment and services for the unit.
- (g) Be responsible for scheduling all canine related activities and training.
- (h) Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the teams.

318.9 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances for canine training purposes must comply with federal and state requirements regarding the same. Alternatively, the San Bernardino Police Department may work with outside trainers with the applicable licenses or permits.

318.9.1 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health and Safety Code § 11367.5; 21 USC § 823(f)).

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the San Bernardino Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this

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department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Agency (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

318.9.2 PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of accidental ingestion of these controlled substances by the canine, the following procedure shall be strictly followed:

- (a) All necessary controlled substance training samples shall be acquired from the San Bernardino Sheriff's Department Crime Lab, as authorized by Health and Safety Code §11367.5 to provide controlled substance training samples. All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler;
- (b) The weight and test results shall be recorded and maintained by the SBSB Crime Lab;
- (c) Any person receiving controlled substance training samples pursuant to Health and Safety Code § 11367.5 shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances;
- (d) All controlled substance training samples will be inspected, weighed, and tested semiannually. The results of this testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency;
- (e) (e) All controlled substance training samples will be stored in locked boxes at all times, except during training. The locked boxes shall be secured in the trunk of the canine handler's assigned patrol unit, or stored in a locked evidence locker;
- (f) The Canine Unit Coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action;
- (g) Any unusable controlled substance training samples shall be returned to the SBSB Crime Lab;
- (h) All controlled substance training samples shall be returned to the SBSB Crime Lab upon the conclusion of the training or upon demand by the dispensing agency.

318.9.3 IMMUNITY

All duly authorized peace officers acting in the performance of their official duties and any person working under their immediate direction, supervision or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training (Health and Safety Code § 11367.5(b)).

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318.10 EXPLOSIVE TRAINING AIDS

Explosive training aids are required to effectively train and maintain the skills of explosives detection dogs and can also provide effective training for law enforcement personnel and the public. Peace officers are permitted by law to possess, transport, store or use explosives or destructive devices while acting within the scope and course of employment (Penal Code § 18800). Explosive training aids designed specifically for K-9 teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids is subject to the following requirements:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials they contain.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosives training aids held by the Canine Unit.
- (c) The Canine Coordinator shall be responsible to verify the explosives training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the Canine Unit shall have access to the explosives training aid storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or second person on scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosives training aid shall be promptly reported to the Unit Supervisor in writing who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

UAV Program

319.1 PURPOSE

To establish the criteria for use of the Ground Controlled Aerial Vehicle (GCAV) and outline the qualifications for members who operate this type of equipment.

319.2 SCOPE

This policy shall apply to all members of the San Bernardino Police Department, including volunteers.

319.3 DEFINITIONS

COA - (Certificate of Authorization) – Given by the Federal Aviation Administration (FAA) which grants permission to fly within specific boundaries and perimeters. Training flights cannot take place without a valid T&E (training & evaluation) COA and missions cannot take place without a valid emergency COA.

GCAV – (Ground Controlled Aerial Vehicle) – An aircraft either fixed-wing or rotor-wing which flies in the national airspace and is controlled by pilots on the ground used in law enforcement missions.

FAA – (Federal Aviation Administration) – The FAA is a component of the U.S. Department of Transportation and is responsible for access of the national airspace.

PIC – Pilot-in-Command

319.4 PROCEDURE

This program is intended to promote the safe, legal and efficient operation of the GCAV; safety being the primary concern in each and every operation, regardless of the nature of the mission.

319.5 GENERAL OPERATIONS

The UAV shall be assigned to Police Administration. The deployment of the UAV will be directly supervised by a designee of the Chief of Police.

319.6 USE OF AIRCRAFT

- (a) The UAV shall be operated by an employee of the San Bernardino Police Department, either paid or volunteer, who has completed a department approved UAV course
- (b) Decisions as to whether the UAV is to be used to complete the mission shall be based on the following scenarios:
 - 1. Active investigations requiring a Photo/Video flight
 - 2. Traffic control operations
 - 3. In progress calls where a short term aerial presence would be beneficial
 - 4. Searches for fleeing criminal suspects
 - 5. Search and rescue operations
 - 6. SWAT support calls including but not limited to barricaded suspects

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7. Aerial surveillance for SWAT operations
 8. Active Shooter scenarios
 9. Public relations events and/or other requests approved by the Chief of Police
- (c) The UAV shall not be used for the purpose of investigative surveillance without a search warrant and shall adhere to the following code of conduct
- (a) Safety
 - (a) The UAV shall not be operated in a manner that presents undue risk to persons or property on the surface or in the air
 - (b) The UAV will be piloted by individuals who are properly trained and competent to operate the vehicle or its systems
 - (c) UAV flights will be deployed only after a thorough assessment of risks associated with the activity. This risk assessment will include, but not be limited to weather conditions relative to the performance capability of the system
 - (b) Identification of normally anticipated failure modes (lost link, power plant failures, loss of control, etc.) and consequences of the failures
 - (c) Professionalism
 1. All federal, state, and local laws, ordinances, covenants, and restrictions as they relate to UAV operations shall be adhered to
 2. The UAV shall be operated as a responsible manner
 3. The UAV program should cooperate with all federal, state, and local authorities in response to emergency deployments, mishap investigations, and media relations
 4. Contingency plans shall be created for all anticipated off-nominal events and share them openly with all appropriate authorities
 - (d) Privacy
 - (a) The rights of other users of the airspace shall be respected
 - (b) Individual privacy shall be adhered to by both federal and state laws
 - (c) The UAV program shall respect the concerns of the public as they relate to unmanned aircraft operations
 - (d) Improving public awareness and education on the operation of UAV shall be of the utmost importance

319.7 POSITION QUALIFICATIONS, RESPONSIBILITIES AND DUTIES

- (a) Pilot-in-command (PIC)
 - (a) To be considered for selection as a pilot, applicants must be in good standing with the SBPD and meet any other requirements imposed by the Chief of Police

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- (b) A pilot's primary duty is the safe and effective operation of the agency's UAV in accordance with the manufactures' approved flight manual, FAA regulations and certificate of authorization conditions, and SBPD Policies and Procedures. Pilots must remain knowledgeable of pertinent FAA regulations; aircraft manufacturer's flight manual; and SBPD Policies and Procedures
 - (c) In order to fly a mission (other than flights required for initial training or currency) pilots must have completed three (3) currency events within the previous 90 days. Currency events include landings, takeoff, and simulator flights.
 - (d) Pilots may be temporarily or permanently removed from flight status at any time by the Chief of Police, for reasons including performance, proficiency, etc. Should this become necessary, the pilot shall be notified in writing.
 - (e) The PIC is authorized to refuse any flight request based on current meteorological conditions, physiological conditions, or for any other reason that PIC believes will affect the safety of the flight. Should the PIC refuse a flight for any reason, they shall inform the requesting supervisor or higher authority as soon as possible of such refusal and the reason for refusal.
 - (f) While aircraft are in flight, the PIC is authorized and responsible for making all decisions regarding use of the aircraft including, but not limited to, direction of aircraft, duration of flight time, capabilities of the aircraft, maximum load allowance, use of affixed certified equipment, allowance or advisability of affixing additional equipment, the determination of allowance of personal or agency equipment, and configurations.
- (b) Pilot-in-Command/Observer:
- (a) PIC and Observer duties shall include, but not be limited to:
 - (a) Performing assignments requested by the requesting Supervisor or SWAT Commander
 - (b) Maintaining current awareness of all pertinent agency requirements, FAA regulations, and other regulatory data bearing on the performance of their duties
 - (c) There will only be one (1) PIC at any given time and they shall exercise final responsibility and authority for the safety of the aircraft, personnel, and equipment during flight operations
 - (d) Exercising responsibility for the safe conduct of all flights, including but not limited to
 - (a) Flight planning and preparation, including preflight inspections of aircraft and equipment
 - (b) Weather briefing
 - (c) Flight operations, including course, air speed, altitude, and duration
 - (d) Landing zone selection

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- (e) Go/no-go and landing judgments with regard to weather minimum or other criteria
- (f) All Very High Frequency (VHF) air-to-air, air-to-ground, Air Traffic Control (ATC) communications, and any other radio communications
- (g) Timely reporting of new or previously unknown hazards to safe flight encountered
- (h) Post-flight inspection, to include assuring batteries are recharged, to ensure the duty aircraft is ready for the next mission
- (i) Making appropriate entries in aircraft logbooks when necessary

319.8 FLIGHT OPERATIONS - OPERATIONAL CONTROL

- (a) Pilot-in-Command Authority
 - (a) The PIC shall initiate the flight only when confident the flight can be conducted safely
 - (b) The PIC shall ensure there is a Certificate of Authorization (COA) from the FAA to conduct flights in the national airspace. If an emergency COA is required by the FAA for a particular flight, the PIC shall forward the requested documents to the FAA upon request
 - (c) If a search warrant is required to fly the UAV during a deployment or investigation, the case agent shall be responsible for writing and having the warrant signed by a judge.
- (b) Observer Authority
 - (a) avoid operations of the aircraft. The Observer shall remain in contact with the PIC and communicate any obstacles the aircraft might encounter
 - (b) When the flight becomes a hazard to ground personnel or other aircraft, the Observer shall immediately notify the PIC
 - (c) During any phase of flight, if the Observer notices a malfunction with the aircraft, the PIC should immediately terminate the flight
 - (d) The Observer shall be responsible for all radio communication with Air Traffic Control (ATC) and dispatch
 - (e) Observers are responsible for the law enforcement aspect of the deployment
 - (f) Observers shall operate any attachments to the UAV, allowing the operator to maintain complete focus on the operation of the UAV
- (c) Aircraft Inspection
 - (a) Before any flight, the PIC is responsible for pre-flight inspections of the aircraft according to the pre-flight checklist
 - (b) Any anomalies found by the PIC shall be fixed before any flight is conducted

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- (c) The Supervisor is responsible for making sure all checklists are up-to-date and current for each aircraft make and mod
- (d) Emergency Procedures
 - (a) All flight personnel shall be thoroughly familiar with all emergency procedures and their specific duty assignments
 - (b) No member, regardless of involvement in an emergency situation, shall make any statements to the general public or to news-gathering agencies without the knowledge and approval of competent authority
 - (c) In the event of an emergency involving the safety of persons or property, the PIC may deviate from the procedures of this directive relating to aircraft, equipment, and weather minimums to the extent required to meet the emergency
 - (d) In the event of a fly away or lost link communications, the Observer will immediately contact the SB Tower at (909)382-0305 or via a 2 way radio on frequency 119.45
- (e) Medical
 - (a) Each member shall report to work prepared for the tasks at hand
 - (b) Physical illness, exhaustion, emotional problems, etc., can seriously impair judgment, memory and alertness. Unit members are expected to ground themselves when issues arise that could reasonably be expected to affect their ability to perform flight duties
 - (c) A self-assessment of physical conditions shall be made by all flight crew members during preflight activities.
 - (d) No member shall act as an air crew member within twelve (12) hours after consumption of any alcoholic beverage, while under the influence of alcohol, or while having an alcohol concentration of 0.01 or greater in a blood or breath specimen
- (f) Data Storage
 - (a) The Observer is the custodian of evidence. In this capacity the Observer is responsible for safeguarding and proper processing of any evidence including, but not limited to, digital imagery to include still and video images. Only data that meets legitimate research objectives, or has evidentiary value, will be retained after the mission has been concluded. Said data will be safeguarded so as to protect the privacy of citizens who may be depicted in the data. All other data will be destroyed through electronic deletion. Digital logs of aircraft mission profiles are exempt from this requirement
 - (b) All digital imagery recorded for evidentiary reasons will be filed under a case number and a report will be generated indicating the nature of the digital evidence

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319.9 ACTIVITY REPORTING

Flight activities will be documented in the aircraft logbook. This may be in a written or electronic format at the discretion of the Supervisor in charge.

319.10 CONSTITUTIONAL ASPECTS OF AERIAL SEARCHES

- (a) s reasonable exception of privacy and therefore come under the protection of the Fourth Amendment to the U.S. Constitution.
- (b) The Supreme Court has cautioned against assuming that compliance with FAA regulations will automatically satisfy Fourth Amendment requirements. Instead, the courts will determine whether the law enforcement aircraft is in the public airways at an altitude at which members of the public regularly travel. Other considerations include; the type of property (open fields versus curtilage); frequency of other aircraft flights over the area; steps taken to conceal property and activity from aerial observation and location of the observer (altitude).
- (c) Use of thermal imagers is passive and non-intrusive. In most circumstance, use of this device is not considered a search and does not require a search warrant. However, a 2001 U.S. Supreme Court decision (U.S. v. Kyllo), held that using sense-enhancing technology to obtain any information regarding the interior of a home that could not otherwise have been obtained without physical intrusion into a Constitutionally protected area, constitutes a search. Thus, UAS may not use thermal imagers to scan a private residence for heat characteristics (a tactic used to identify indoor marijuana grow operations) without first obtaining a search warrant. It does not prohibit their use on structures, or other areas that would not give rise to a “reasonable expectation of privacy”.
- (d) It is ESSENTIAL to note that case law in the area of UAV searches has not yet matured to the point that clear guidelines have evolved. In all cases of UAV deployment, reasonableness and respect for the privacy of individuals shall guide the actions of the UAV PIC and Observer.

319.11 TRAINING

Initial and recurrent training for all PIC and Observers are essential to safety and efficiency of the GCAV.

319.11.1 SUPERVISOR RESPONSIBILITY

The supervisor is responsible for the standardization of flight crews and aircraft operations. The primary means for accomplishing a standardization program shall be through the use of initial and recurrent training and proficiency flight checks. These flight checks are essential to ensure that a high level of competency and uniformity exists in flight inspection operations.

319.11.2 TRAINING REQUIREMENTS

- (a) If required, an FAA designated flight examiner will conduct a proficiency flight as often as the FAA deems necessary for safe flights of the UAV
- (b) Observers must have completed sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This training, at a minimum,

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shall include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules: Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums; knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual

- (c) All members within the flight program shall maintain proficiency in their PIC/Observer abilities. Members who do not have any documented training or flight time within a span of 90 days will have to show proficiency before being a PIC/Observer during a deployment or exercise
- (d) Recurrent training is not limited to actual PIC/Observer skills but includes knowledge of all pertinent UAV matters
- (e) Failure to demonstrate proficiency may result in removal from the UAV Unit

Domestic Violence

320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

320.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

320.2 POLICY

The San Bernardino Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

320.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.

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- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Bureau in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 3. The potential financial or child custody consequences of arrest.
 - 4. The physical or emotional state of either party.
 - 5. Use of drugs or alcohol by either party.
 - 6. Denial that the abuse occurred where evidence indicates otherwise.
 - 7. A request by the victim not to arrest the suspect.
 - 8. Location of the incident (public/private).
 - 9. Speculation that the complainant may not follow through with the prosecution.
 - 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 - 11. The social status, community status, or professional position of the victim or suspect.

320.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

320.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
 - 1. Voluntary separation of the parties.
 - 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

320.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected:

- (a) Victims should be provided with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should also be alerted to any available victim advocates, shelters, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complaints of pain, officers should seek medical assistance as soon as practicable.
- (e) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order if appropriate.

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

320.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

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Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

320.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

320.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

320.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

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- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
 - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of the victim's right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
 - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
 - 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
 - 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
 - 4. Penal Code § 646.9 (stalking)
 - 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
 - 1. The intent of the law to protect victims of domestic violence from continuing abuse.
 - 2. The threats creating fear of physical injury.
 - 3. The history of domestic violence between the persons involved.
 - 4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

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320.10 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm, ammunition, or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)).

320.11 RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Manager to maintain and report this information as required.

320.12 SERVICE OF COURT ORDERS

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an officer who is present at the scene of a reported domestic violence incident or when the officer receives a request from the petitioner to provide service of the order (Family Code § 6383; Penal Code § 13710).
- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

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1. An officer should ensure that the Records Bureau is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Records Bureau Policy for additional guidance).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

320.13 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

320.14 DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

Domestic Violence - Emergency Protective Orders

321.1 PURPOSE AND SCOPE

To establish guidelines and responsibility for the issuance of emergency Ex-Parte orders in domestic violence cases.

321.2 DEFINITION

Domestic Violence - Emergency Protective Orders

Family Code §§ 6250 and 6251 allows the court to issue Ex-Parte Protective Orders in domestic violence cases. These sections allow law enforcement officers to issue temporary Ex-Parte Protective Orders upon the telephonic approval of a judge, commissioner, or referee of the Superior Court.

321.3 POLICY

The emergency protective order is not designed to supersede current laws governing domestic violence. Officers should make use of the emergency protective order as a last resort.

A judicial officer may issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe any of the following:

- (a) That a person is in immediate and present danger of domestic violence, based on the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.
- (b) That a child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.
- (c) That a child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation of a recent threat to abduct the child or flee with the child from the jurisdiction.
- (d) That an elder or dependent adult is in immediate and present danger of abuse as defined in Welfare and Institutions § 15610.07, based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

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Domestic Violence - Emergency Protective Orders

321.4 PROCEDURE

- (a) In all instances where an emergency protective order is desired, such order shall receive the approval of the on-call judge, commissioner, or referee of the Superior Court of San Bernardino County. Prior to such approval, the officer shall:
 - 1. Describe the circumstances involved in the incident to the Watch Commander or supervisor.
 - 2. Upon approval of the Watch Commander/supervisor, complete the application for the emergency protective order listing the grounds for its issuance.
 - 3. Contact the on-call judge, commissioner, or referee of the Superior Court to describe the circumstances involved in the incident. The SBSO dispatch center maintains the number of the on-call judge.
 - 4. If approval of the order is received, sign the order as prescribed by the document.
 - 5. If approval is denied, list the name of the judge, commissioner, or referee and note on the order that approval was denied and the reason for denial, if provided.
- (b) Emergency Protective Order Statement
 - 1. Upon approval of an emergency protective order by the court, the officer shall read the protective order statement to the protected party and the restrained party, if present.
 - 2. In the event the restrained party is absent, the officer shall reasonably attempt to locate the restrained party. However, the absence of the restrained party will not invalidate the order.
- (c) Dissemination of the Order
 - 1. A copy of the emergency order shall be filed with the police department. Copies shall be provided to both parties if present, and the original order shall be returned to the Superior Court clerk of San Bernardino County for filing as soon as possible.
- (d) Expiration of Emergency Protection Order
 - 1. The emergency protective order is designed to provide protection to victims of domestic violence whether or not the Superior Court is in session.
 - 2. An emergency protective order expires at the earlier of the following times:
 - (a) The close of judicial business on the fifth court day following the day of its issuance.
 - (b) The seventh calendar day following the day of its issuance.
- (e) Filing of Document

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Domestic Violence - Emergency Protective Orders

- (a) Emergency protective orders shall accompany the crime report in a criminal case. In those instances where there has been no criminal offense committed, yet an emergency order was completed (regardless of court approval), a case number shall be obtained and the order filed pursuant to existing policy on restraining order documents.
- (b) The officer who requests the emergency protective order, while on duty, shall carry copies of the order.

Search and Seizure

322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for San Bernardino Police Department personnel to consider when dealing with search and seizure issues.

322.2 POLICY

It is the policy of the San Bernardino Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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Search and Seizure

322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.
- (f) When officers are going to rely on a consent search in lieu of a search warrant, it will be necessary to establish that the consent was given voluntarily. The San Bernardino County District Attorney requests that a "Consent to Search" form be utilized when possible. This form can then be utilized as a court document for presentation to the jury.

322.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

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Search and Seizure

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

Robberies / Burglaries of Businesses Where Controlled Substances Are Kept

323.1 PURPOSE AND SCOPE

To develop procedures to notify the FBI of all robberies and burglaries of businesses that are DEA registrants. (All businesses or persons keeping controlled substances upon their premises are required to register with the DEA.)

Title 18, U.S. Code § 2118 invests the FBI with responsibility to conduct investigations of robberies and burglaries of all businesses that keep controlled substances on their premises. The police department maintains primary responsibility to investigate these crimes in our jurisdiction.

323.2 POLICY

The police department will notify the FBI of all robberies and burglaries of businesses which are DEA registrants when one or more of the following elements exist.

- (a) Drugs are taken with a value exceeding \$500.
- (b) The suspect/s use interstate commerce to commit the crime.
- (c) Person/s are killed or seriously injured as a result of the crime.

323.3 FBI NOTIFICATION

- (a) The reporting officer completing the CR 1 report will:
 - 1. Check the box for special interest case.
 - 2. Check "yes" for further action.
 - 3. In the synopsis, identify the business as a DEA registrant and identify the element/s requiring FBI notification.
- (b) The Detective Bureau sergeant reviewing the report will notify the FBI by telephone and ensure that a copy of the initial investigative report is mailed or faxed to them.

Temporary Custody of Juveniles

324.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the San Bernardino Police Department (34 USC § 11133).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

324.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

Juvenile offender - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 15 CCR 1150).

Safety checks - Direct, visual observation personally by a member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

324.2 POLICY

The San Bernardino Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the San Bernardino Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

324.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the San Bernardino Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

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These juveniles should not be held at the San Bernardino Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

324.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

324.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill themselves, or any unusual behavior which may indicate the juvenile may harm themselves while in either secure or non-secure custody (15 CCR 1142).

324.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the San Bernardino Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the San Bernardino Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of the juvenile's entry into the San Bernardino Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

324.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the San Bernardino Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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324.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

324.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the San Bernardino Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

- (a) Released upon warning or citation.
- (b) Released to a parent or other responsible adult after processing at the Department.
- (c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.
- (d) Transported to the juvenile offender's home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

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324.5 ADVISEMENTS

Officers shall take immediate steps to notify the juvenile's parent, guardian, or a responsible relative that the juvenile is in custody, the location where the juvenile is being held, and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, the juvenile shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, the juvenile offender shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last, and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to their parent or guardian; one to a responsible relative or their employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

324.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the San Bernardino Police Department (15 CCR 1150).
- (c) Watch Commander notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (e) Any changes in status (e.g., emergency situations, unusual incidents).
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed (15 CCR 1142).
- (h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

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324.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the San Bernardino Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

324.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the San Bernardino Police Department shall ensure the following:

- (a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the San Bernardino Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the San Bernardino Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).
- (g) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (h) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (i) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (j) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

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- (k) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (l) Blankets shall be provided as reasonably necessary (15 CCR 1143).
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (m) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (n) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (o) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
- (p) Juveniles shall have access to language services (15 CCR 1143).
- (q) Juveniles shall have access to disability services (15 CCR 1143).
- (r) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

While held in temporary custody, juveniles shall be informed in writing of what is available to them pursuant to 15 CCR 1143 and it shall be posted in at least one conspicuous place to which they have access (15 CCR 1143).

324.9 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

324.10 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the San Bernardino Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

324.11 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the San Bernardino Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

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The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the San Bernardino Police Department.

324.12 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to themselves or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

- (a) Age, maturity, and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type, and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

324.12.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

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- (b) Juveniles shall have constant auditory access to department members (15 CCR 1147).
- (c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).
- (d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).
 - 1. All safety checks shall be logged.
 - 2. The safety check should involve questioning the juvenile as to the juvenile's well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 - 3. Requests or concerns of the juvenile should be logged.
- (e) Juveniles of different genders shall not be placed in the same locked room (15 CCR 1147).
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

324.13 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the San Bernardino Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigations Division Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.
- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).
- (h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (i) Evidence preservation.

324.14 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

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Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

- (a) Information is necessary to protect life or property from an imminent threat.
- (b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

324.14.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

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324.15 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in the supervisor's absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the Watch Commander or the Detective Bureau supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

324.16 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the San Bernardino Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Manager and the appropriate Detective Bureau supervisors to ensure that personnel of those bureaus act within legal guidelines.

324.17 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Operations Captain shall coordinate the procedures related to the custody of juveniles held at the San Bernardino Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

324.18 TRAINING

Department members should be trained on and familiar with this policy and any supplemental procedures.

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326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for San Bernardino Police Department members as required by law (Penal Code § 368.6).

The San Bernardino Police Department is committed to providing equal protection and demonstrating respect for all persons regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties (Penal Code § 368.6) (see Child Abuse Policy for child abuse investigations and reporting).

326.1.1 DEFINITIONS

Definitions related to this policy include:

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

Department protocols (or protocols) - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

Elder and dependent adult abuse - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

Senior and disability victimization - Means any of the following (Penal Code § 368.6):

- (a) Elder and dependent adult abuse
- (b) Unlawful interference with a mandated report
- (c) Homicide of an elder, dependent adult, or other adult or child with a disability

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- (d) Sex crimes against elders, dependent adults, or other adults and children with disabilities
- (e) Child abuse of children with disabilities
- (f) Violation of relevant protective orders
- (g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them
- (h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

326.2 INVESTIGATIONS AND REPORTING

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Witness and suspect statements if available.
- (k) Review of all portable audio/video recorders, devices, and other available video.
- (l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.
- (m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

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- (n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).
- (o) Whether a death involved the End of Life Option Act:
 - 1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
 - 2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
 - 3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
 - 4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c) (18)).

326.2.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

- (a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).
- (c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c) (11)).

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- (d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

326.3 POLICY

The San Bernardino Police Department will investigate all reported incidents of alleged elder and dependent adult abuse and ensure proper reporting and notification as required by law.

326.3.1 ARREST POLICY

It is the department policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

326.3.2 ADHERENCE TO POLICY

All officers are required to be familiar with the policy and carry out the policy at all times, except in the case of an unusual compelling circumstance as determined and approved by a supervisor (Penal Code § 368.6).

Any supervisor who determines and approves an officer's deviation from this policy shall provide a written report to the Chief of Police that states the unusual compelling circumstances regarding the deviation. A copy of this report will be made available to the alleged victim and reporting party pursuant to department protocols (Penal Code § 368.6(c)(27)).

The Chief of Police shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request (Penal Code § 368.6(c)(27)).

326.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of elder and dependent adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.
- (c) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).
 - 1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).

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2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).
- (g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

326.5 MANDATORY NOTIFICATION

Members of the San Bernardino Police Department shall notify the local office of the California Department of Social Services (CDSS) APS agency of known, suspected, or alleged instances of abuse when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that the person has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone or through a confidential internet reporting tool as soon as practicable. If notification is made by telephone, a written report shall be sent or internet report shall be made through the confidential internet reporting tool within two working days, as provided in Welfare and Institutions Code § 15630(b).

Notification shall also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

- (a) If the abuse occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 2. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by a written report to the local ombudsman within 24 hours.
 3. If there is any other abuse in a long-term care facility (not a state mental health or a state developmental center), a written report shall be made to the local ombudsman and corresponding state licensing agency within 24 hours.
- (b) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (c) The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (d) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
- (e) The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

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- (f) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (g) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
 - 1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (h) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
- (i) When the Department receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Detective Bureau supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

Notification is not required for a person who was merely present when a person self-administered a prescribed aid-in-dying drug or a person prepared an aid-in-dying drug so long as the person did not assist the individual in ingesting the aid-in-dying drug (Health and Safety Code § 443.14; Health and Safety Code § 443.18).

Failure to report or impeding or inhibiting a report of abuse of an elder or dependent adult is a misdemeanor (Welfare and Institutions Code §15630(h)).

326.5.1 NOTIFICATION PROCEDURE

Notification should include the following information, if known (Welfare and Institutions Code § 15630(e)):

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.
- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.

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- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

326.6 PROTECTIVE CUSTODY

Before taking an elder or dependent adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian, or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an elder or dependent adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an elder or dependent adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an elder or dependent adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When elder or dependent adult abuse victims are under state control, have a state-appointed guardian, or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

326.6.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

326.6.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

- (a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.
- (b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

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- (c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

326.7 INTERVIEWS

326.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected elder or dependent adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

326.7.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
 1. A reasonable belief that medical issues of the adult need to be addressed immediately.
 2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
 3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

326.7.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

326.8 MEDICAL EXAMINATIONS

When an elder or dependent adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency, or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency, or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

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326.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an elder or dependent adult abuse victim who has been exposed to the manufacturing, trafficking, or use of narcotics.

326.9.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where there is evidence that an elder or dependent adult abuse victim lives should:

- (a) Document the environmental, medical, social, and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Detective Bureau supervisor so an interagency response can begin.

326.9.2 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers, and local prosecutors, to develop community specific procedures for responding to situations where there are elder or dependent adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that he/she has responded to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where evidence indicates that an elder or dependent adult abuse victim lives.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social, and other conditions that may affect the adult.

326.10 TRAINING

The Department should provide training on best practices in elder and dependent adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.
- (f) Availability of victim advocates or other support.

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326.10.1 MANDATORY TRAINING

The Personnel and Training Supervisor shall ensure that appropriate personnel receive the required training, including:

- (a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).
- (b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).
 1. Training should include the following:
 - (a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).
 - (b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

The Personnel and Training Supervisor shall also ensure that appropriate training is provided on this policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public (Penal Code § 368.6 (c)(7)).

326.11 RECORDS BUREAU RESPONSIBILITIES

The Records Bureau is responsible for:

- (a) Providing a copy of the elder or dependent adult abuse report to the APS, ombudsman, or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).
- (b) Retaining the original elder or dependent adult abuse report with the initial case file.

326.12 JURISDICTION

The San Bernardino Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

326.13 RELEVANT STATUTES

Penal Code § 288 (a) and Penal Code § 288 (b)(2)

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(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

Penal Code § 368 (c)

A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

Penal Code § 368 (f)

A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

Welfare and Institutions Code § 15610.05

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

Welfare and Institutions Code § 15610.06

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

- (a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

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1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
 2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
 3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.
- (b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.
- (c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.
- (d) For purposes of this section, "representative" means a person or entity that is either of the following:
1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
 2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

- (a) "Isolation" means any of the following:
1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
 2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
 3. False imprisonment, as defined in Section 236 of the Penal Code.
 4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
- (b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a

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physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

- (c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

- (a) "Neglect" means either of the following:
 1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
 2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.
- (b) Neglect includes, but is not limited to, all of the following:
 1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
 2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
 3. Failure to protect from health and safety hazards.
 4. Failure to prevent malnutrition or dehydration.
 5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
 6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.
- (c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

Welfare and Institutions Code § 15610.63

"Physical abuse" means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:

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1. Sexual battery, as defined in Section 243.4 of the Penal Code.
 2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
 3. Rape in concert, as described in Section 264.1 of the Penal Code.
 4. Incest, as defined in Section 285 of the Penal Code.
 5. Sodomy, as defined in Section 286 of the Penal Code.
 6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
 7. Sexual penetration, as defined in Section 289 of the Penal Code.
 8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
1. For punishment.
 2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
 3. For any purpose not authorized by the physician and surgeon.

326.14 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A department member appointed by the Chief of Police or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):

- (a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b) (15)) to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).
- (b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

326.15 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police or the authorized designee responsibilities include but are not limited to (Penal Code § 368.6):

- (a) Taking leadership within the Department and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of department support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

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- (b) Developing and including department protocols in this policy, including but not limited to the following:
 - 1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).
 - 2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:
 - (a) In the case of a senior and disability victimization committed in an officer's presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (b) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (c) In the case of a misdemeanor not committed in the officer's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.
 - (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.
 - 3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.
- (c) For each department protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the Department responsible for implementing the protocol.
- (d) Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).
- (e) Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).
- (f) Ensuring that all members carry out their responsibilities under this policy.
- (g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.
- (h) Ensuring this policy is available to the Protection and Advocacy Agency upon request.

Discriminatory Harassment

328.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

328.2 POLICY

The San Bernardino Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

328.3 DEFINITIONS

Definitions related to this policy include:

328.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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328.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

328.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Civil Rights Council guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

328.3.4 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

328.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Director of Human Resources, or the City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

328.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

328.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

328.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Director of Human Resources, the City Manager, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

328.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate

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any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

328.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

328.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Director of Human Resources, or the City Manager.

328.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

328.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Manager, or the Director of Human Resources, depending on the ranks of the involved parties.

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- (b) Maintained in accordance with the department's established records retention schedule.

328.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

328.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

328.7.1 STATE-REQUIRED TRAINING

The Personnel and Training Supervisor should ensure that employees receive the required state training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation as follows (Government Code § 12950.1; 2 CCR 11024):

- (a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.
- (b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.
- (c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by the Civil Rights Department online training courses, the Personnel and Training Supervisor should ensure that employees are provided the following website address to the training course: <https://calcivilrights.ca.gov> (Government Code § 12950; 2 CCR 11023).

328.7.2 TRAINING RECORDS

The Personnel and Training Supervisor shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

328.8 WORKING CONDITIONS

The Administrative Services Captain or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

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328.9 REQUIRED POSTERS

The Department shall display the required posters regarding discrimination, harassment and transgender rights in a prominent and accessible location for members (Government Code § 12950).

Child Abuse

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when San Bernardino Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

330.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

330.2 POLICY

The San Bernardino Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

330.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Notification of the District Attorney is not required for reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority. When the alleged abuse or neglect involves a child of a minor parent or a dependent adult, notification shall also be made to the attorney of the minor or the dependent adult within 36 hours (Penal Code 11166.1; Penal Code 11166.2).

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For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of the peace officer's employment as a peace officer.

330.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

330.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

330.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

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- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

330.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax, or electronic transfer to the agency with proper jurisdiction (Penal Code § 11165.9).

330.5.2 INITIAL REPORTS OF ABUSE FROM A NONMANDATED REPORTER

Members who receive a report of child abuse or neglect shall request the following information from the reporter (Penal Code § 11167):

- (a) Name and telephone number
- (b) Information and the source of information that gives rise to the knowledge or reasonable suspicion of child abuse or neglect

If the reporter refuses to provide their name and telephone number, the member should make a reasonable effort to determine the basis for the refusal and inform them that their information will remain confidential.

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330.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from the child's family, guardian, or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from the child's parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
 - 1. The child has an immediate need for medical care.
 - 2. The child is in immediate danger of physical or sexual abuse.
 - 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
 - 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
 - 2. There is no lawful custodian available to take custody of the child.
 - 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 - 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

330.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

330.6.2 DISTRICT ATTORNEY NOTIFICATION

Pursuant to this policy, the District Attorney Child Abduction Unit should be contacted as soon as possible and before the release of any child to any person.

330.6.3 NEWBORNS TESTING POSITIVE FOR DRUGS

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

330.7 INTERVIEWS

330.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

330.7.2 DISTRIBUTION AND NOTIFICATION

The investigator shall cause the form to be sent to DOJ, Child and Family Services, and the Juvenile District Attorney.

The investigator shall notify the suspect in writing that he/she has been reported to the Child Abuse Central Index per Penal Code § 11169(b).

330.7.3 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:

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1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

- (b) A court order or warrant has been issued.

330.7.4 INTERVIEWS AT A SCHOOL

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

330.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

330.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

The response will be conducted with the assistance of Narcotics personnel who are trained in the investigation of drug labs and shall be done in a safe and approved manner for investigating drug laboratories.

330.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children

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endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

- (b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

330.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Detective Bureau supervisor so an interagency response can begin.

330.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

330.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code § 841.5; Penal Code § 11167.5).

330.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSECENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

330.10.3 CACI HEARING OFFICER

The Detective Bureau supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

330.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of

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innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (c) Statements from representatives of the District Attorney's Office
- (d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

330.10.5 CHILD DEATH REVIEW TEAM

This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

330.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.

Child Abduction Investigations

331.1 PURPOSE AND SCOPE

To develop procedures for the investigation and documentation of child abduction cases.

331.2 POLICY

Department personnel shall conform with state statutes regarding the investigation and documentation of child abduction cases. The investigation shall be aimed at recovering missing children in a timely manner, preventing their re-abduction after recovery, and minimizing civil liability for the department and its employees.

331.3 DEFINITIONS

- (a) **Child abduction** - Crimes involving the taking, enticing away, detaining, or concealing a minor child, and violate the victim's legal rights to custody of or visitation with a child.
 - 1. Child abductions are continuous crimes that end only when the child is recovered or the abductor's criminal liability for the abduction is ended.
 - 2. Cases in which children are stolen by strangers or for ransom are considered kidnapping cases reported under Penal Code §§ 207 or 209.
- (b) **Victim** - The victim of a child abduction is always the parent, other person, or agency entitled to custody or visitation rights.
 - 1. A child is never the victim unless the facts of the case show that crimes other than abduction were also committed against the child.
 - 2. Consent or willingness of the child to go with the abductor is irrelevant.
 - 3. There is a separate crime for each and every child abducted, if multiple children are involved.
- (c) **Jurisdiction** - The department has jurisdiction and should continue with an investigation if any of the following are true:
 - 1. The child was taken from, last resided in, or was last seen in the city; or
 - 2. There was reason to believe the child was detained or concealed within the city limits at any time during the abduction; or
 - 3. The victim parent or guardian resides in the city limits; or
 - 4. The agency having custody of the child is located within the city.
- (d) **Penal Code § 277** - Elements of child abduction in absence of a court order.
 - 1. There is no court order determining custody or visitation rights.
 - 2. The abductor is a person with a right of custody to the child.

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3. The abductor acts in a malicious manner (i.e., to vex or annoy).
 4. There is specific intent to detain or conceal the minor child without good cause.
 5. Good cause (applies only to Penal Code § 277) is defined as:
 - (a) The abductor has a good faith, reasonable belief that the abduction is necessary to protect the child from immediate bodily injury or emotional harm, or
 - (b) The abductor has been the victim of domestic violence by the other person with a custody right to the child and the abductor has a good faith, reasonable belief that the child, if left with the other person will suffer immediate bodily injury or emotional harm.
 6. The abductor who relies on good cause is required to report his/her actions to the district attorney and file for custody with a reasonable time.
 7. A subsequently obtained court order for custody or visitation is not a defense if the above elements existed at the start of this crime.
- (e) **Penal Code § 278** - Elements of child stealing
- (a) The abductor is a person with no right of custody of the minor child.
 - (a) Watch out for cases where the abductor tries to get or actually gets some kind of court order, typically a guardianship, which appears to give the abductor legal custody.
 - (b) The abductor acts in a malicious manner (i.e., to vex or annoy).
 - (c) There is specific intent to detain or conceal the minor child from a person, guardian, or public agency having lawful charge of that child.
- (f) **Penal Code § 278.5** - Elements of child abduction
1. The abductor is a person with the right of physical custody of or visitation with the minor child.
 2. There is a court order, judgment, or decree that grants another person, guardian, or public agency a right to physical custody of or visitation with the child.
 3. There is specific intent to deprive the other person of that right of custody or visitation.
 4. In situations where there is a valid court order, but the abductor does not know about it, treat the crime as a Penal Code § 277.
 - (a) Once the abductor learns of the order, they can be charged with Penal Code § 278.5.

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- (b) For criminal prosecution purposes, knowledge of a valid order is enough, regardless of how the abductor learns of the order. Proof of service is not necessary.
- 5. A reconciliation attempt by the parents of the children causes temporary orders to become invalid.
 - (a) Any abduction by either parent after the reconciliation is still a Penal Code § 277 case.
 - (b) Permanent orders in a "judgment of dissolution" remain in effect unless the parties remarry.

331.4 PROCEDURE

331.4.1 REPORTING PROCEDURE

- (a) Pursuant to Penal Code § 14205 you are required to take a child abduction report within two (2) hours regardless of jurisdiction. The report shall consist of:
 - 1. A crime report charging the appropriate child abduction Penal Code section or a summary report can be used in the case of parental abductions
 - 2. A complete missing person report for each involved minor child marked "at risk".
 - 3. A B.O.L.O. be broadcasted on all "at risk" and missing persons under 16 years old.
- (b) Detailed follow up reports shall include the following information:
 - 1. A complete statement from the victim relating the facts of the case including the use of force and violence or threats.
 - 2. Information about the abductor's friends, relatives, associates, etc. that will provide leads as to the possible location of the child.
 - 3. Complete physical descriptions and photographs of the abductor and each missing child.
 - 4. Information as to the motive of the crime, usually one or more of the following:
 - (a) The abductor wants to get out of paying child support.
 - (b) The abductor claims the victim (or someone associated with the victim) has been molesting the child.
 - (c) The abductor does not like the life style or habits of the victim.
 - (d) The abductor has to have physical possession of the child to qualify for aid for families with dependent children (AFDC).
 - (e) The abductor is using the child as a weapon to hurt the victim.

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- (f) The abductor is using the child as a weapon to force the victim to reconcile with the abductor.
 - (g) The female abductor does not believe the male victim is the father of the child.
 - (h) If the officer believes an abduction may involve physical, mental, or sexual abuse. The officer should contact CPS and have the child removed via warrant by Children and Family Services.
- (c) Obtain certified copies of the most recent court orders containing custody and visitation provisions, as well as copies of any previous custody and visitation court orders that may have been modified.
- (a) If a certified copy is not available, accept a file-stamped or non-stamped copy and request a certified copy as soon as possible.
 - (b) If there is a question as to whether a court order is valid, you should contact the county clerk of the court where the order was filed and verify that the order is valid and that there are no newer court orders.
 - (c) If the abductor is located, you should inquire as to whether they have any other court order giving them custody. Ask if they agree that the victim's order is valid.
 - (d) In urgent cases, you may act based on information and belief that a court order exists if a copy is not immediately available.
 - (e) Remember, it is not necessary for a court order to exist for a crime to have occurred under Penal Code § 277.
- (d) Out-of-state court orders.
- (a) Valid out-of-state orders should be given full faith and credit once they have been verified as valid and currently in effect.
 - (b) When you are unable to verify the order, you must determine if contacting the alleged abductor will pose a danger to the child or the possibility that abductor will flee with the child.
 - (c) If contact with the abductor is made and the child is recovered, you shall:
 - (a) Return the child to the victim when the abductor agrees the order is valid,
or
 - (b) Place the child with CPS under authority of Penal Code § 279(a) if the abductor disagrees that the order is valid.

331.4.2 PRELIMINARY FOLLOW UP INVESTIGATION

- (a) You are required to make a risk assessment and take reasonable steps to locate the missing child.

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- (b) In cases of joint jurisdiction, you should coordinate the investigation with the other involved agencies. You should follow up on all leads developed within the city.
- (c) When available, interview friends, relatives, and associates to confirm their stories at the time the abduction is in its beginning phases and gauge their cooperativeness.
- (d) Determine good cause exceptions of Penal Code § 277.
 - 1. Allegations by the abductor of domestic violence must be thoroughly investigated.
 - 2. If the victim admits past domestic violence or past arrest/s for domestic violence, you must make a judgment as to whether the abductor had good cause to take the children.
 - 3. If you determine there was good cause, you shall still take a complete report and direct the victim to court for temporary custody orders.
- (e) When investigating a violation of Penal Code §§ 277, 278, or 278.5, you have the authority under Penal Code § 279(a) to take any minor child into protective custody if it reasonably appears that any person unlawfully will flee the jurisdictional territory with the minor child.
 - 1. The child will be placed with CPS pending a determination as to who should take custody.
- (f) Arresting the abductor.
 - 1. Arrests should be made when there is probable cause to believe that one of the child abduction crimes has occurred and the abductor refuses to turn over the child or to divulge the location of the child.
 - 2. Circumstances of a parental abduction should be discussed with a supervisor prior to arrest/booking of a parent of the involved child.
 - 3. Arrests generally should not be made when the child has been recovered without incident and there appears to be no likelihood of a re-abduction.

331.4.3 ROLE OF THE DISTRICT ATTORNEY'S OFFICE

- (a) The District Attorney's Child Abduction Unit will act as the secondary reporting and investigative agency for child abduction crimes in San Bernardino County. Local police and sheriff's departments have the primary responsibility for reporting and investigative duties on child abduction cases.
- (b) The District Attorney's Child Abduction Unit's assigned duties are:
 - 1. The investigation of long term, complex child abduction cases after local agencies have exhausted their investigative resources, attempts to locate and recover the missing child have failed, or recovery is out of state and involves

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expertise in civil matters pertaining to the Uniform Child Custody Jurisdiction Act to recover the child.

2. Offer expert investigative advice to law enforcement during normal business hours.

Missing Persons

332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

332.1.1 DEFINITIONS

At risk - Includes, but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction involving suspicious circumstances.
- A mentally impaired missing person, including cognitively impaired or developmentally disabled.

Missing person - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

Missing person networks - Databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

332.1.2 ADDITIONAL DEFINITIONS

Child - A person under the age of 18 years.

Dental/Medical Records or X-rays - All records or X-rays (dental or skeletal) in possession of a dentist, physician, surgeon, or medical facility.

Dependent Adult - Any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his/her ability to carry out normal activities or to protect his/her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent Adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Health and Safety §§ 1250, 1250.2, and 1250.3.

332.2 POLICY

The San Bernardino Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The San Bernardino Police Department gives missing person

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cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

332.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Investigations supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

332.4 ACCEPTANCE OF REPORTS

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

332.4.1 COURTESY REPORTS

In cases where the San Bernardino Police Department accepts a courtesy report on a missing person who resides in another jurisdiction and/or was last seen in another jurisdiction and, in the case where the missing person is under the age of 21 years or where there is evidence that the missing person was "at risk", the following shall occur.

- (a) The officer shall notify and fax a copy of the report to the agency with jurisdiction over the missing person's residence without delay.
- (b) The report will be marked "Courtesy Report".
- (c) Notification and a copy of the report will also be faxed to the agency having jurisdiction over the place where the person was last seen.
- (d) A notation identifying the agency and name of the person who was advised should be made in the narrative portion of any report forwarded to another agency.

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332.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call for service as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a "Be on the Look-Out" (BOLO) bulletin and complete an APB if the person is under 21 years of age (not involving a person with right of custody) or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).
- (e) Ensure that entries are made into the appropriate missing person networks as follows:
 - 1. Immediately, when the missing person is at risk.
 - 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review:
 - 1. A photograph and a fingerprint card of the missing person, if available.
 - 2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
 - 3. Any documents that may assist in the investigation, such as court orders regarding custody.
 - 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

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332.5.1 ADDITIONAL INVESTIGATIVE STEPS

- (a) Employees taking such reports shall make a written notation in the narrative space on the missing person form indicating the results of their efforts to obtain a recent photograph and authorization to use the photograph for the Department of Justice. Employees shall also document in the narrative space the name of the child's school.
- (b) The investigating officer will request a field supervisor should a search be required. The field supervisor will determine the scope and extent of the search, as well as the manpower required.
- (c) In cases involving children, the search should begin with the child's residence even when the parents insist they have thoroughly checked the house and yard area.
- (d) In cases involving school age children, a list of all possible friends or relatives the child may be visiting should be obtained. The child's school should be contacted if possible, for a further list of friends and classmates, as well as verifying that child is not involved in an after-school activity. If it is after school hours, School Police should be contacted for possible investigative leads.
- (e) The field supervisor shall ensure that all available sources are checked for any information that may lead to the location of the missing person, including contacting other agencies which may have had contact with the missing person.
 - 1. Agencies which should be routinely checked are:
 - (a) Hospitals
 - (b) Coroner's Office
 - (c) Jails
 - (d) Child and Family Services
 - (e) Other law enforcement agencies
 - (f) Ward B
 - (g) Domestic-type shelters
 - (h) Public transportation
 - 2. The in-house sources should be checked as well. A search through the department computer and the CAD system should be done for any and all calls at the address and in the area designated as the search area.
- (f) If in the opinion of the field supervisor it appears that an extended search is going to be necessary, the call out of additional manpower shall be made. In calling out additional manpower, consideration should be given to on-duty patrol personnel. If it appears that the search may prove to be extended and additional department resources are

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required, consideration should be given to requesting volunteers (Citizen Patrol and Reserve Officers) to assist.

- (g) If an extended search is going to be necessary or if suspicious circumstances exist, the Watch Commander will notify the Detective Bureau Commander or his designee.
 - (a) The Detective Bureau Commander will determine who will respond to assist with the search.
 - (b) Once on scene, Detective Bureau personnel shall assume responsibility for the investigation.
- (h) If a child is missing due to parental abduction the San Bernardino District Attorney's Child Abduction Unit shall be contacted immediately. If after hours, the on-call Child Abduction Unit District Attorney shall be notified.
- (i) Employees taking the report shall advise the reporting party to contact the department immediately in the event the missing person is located or returns, so the investigation can be terminated and the computer entry cancelled.

332.6 REPORT PROCEDURES AND ROUTING

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

332.6.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
 - 1. The reports should be promptly sent to the Records Bureau.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

332.6.2 RECORDS BUREAU RESPONSIBILITIES

The receiving member shall:

- (a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's

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residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

- (b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).
- (c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known.
- (d) Forward a copy of the report to the Detective Bureau.
- (e) Coordinate with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

332.7 DETECTIVE BUREAU FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
 - 1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).
 - 2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update CLETS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (g) Should make appropriate inquiry with the Coroner.
- (h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.

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- (i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

332.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies and refer the case for additional investigation if warranted.

The Records Manager shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

- (a) Notification is made to California DOJ.
- (b) The missing person's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) Immediately notify the Attorney General's Office.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

332.8.1 UNIDENTIFIED PERSONS

Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.

332.9 CASE CLOSURE

The Detective Bureau supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

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- (b) If the missing person is a resident of San Bernardino Police Department or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

332.10 TRAINING

Subject to available resources, the Personnel and Training Supervisor should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

- (a) The initial investigation:
 - 1. Assessments and interviews
 - 2. Use of current resources, such as Mobile Audio Video (MAV)
 - 3. Confirming missing status and custody status of minors
 - 4. Evaluating the need for a heightened response
 - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.

Public Alerts

334.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

334.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

334.3 RESPONSIBILITIES

334.3.1 MEMBER RESPONSIBILITIES

Members of the San Bernardino Police Department should notify their supervisor, Watch Commander, or Detective Bureau Supervisor as soon as practicable upon learning of a situation where public notification, a warning, or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person, or gathering information.

334.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Captain and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Captain

334.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

334.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

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- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

334.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the child:
 - 1. The child's identity, age and description
 - 2. Photograph if available
 - 3. The suspect's identity, age and description, if known
 - 4. Pertinent vehicle description
 - 5. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 6. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
 - 7. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).
- (c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).
- (e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).
- (f) The following resources should be considered as circumstances dictate:
 - 1. The local FBI office
 - 2. National Center for Missing and Exploited Children (NCMEC)

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334.4.3 WATCH COMMANDER RESPONSIBILITIES

- (a) The Watch Commander, after determining that the criteria is met for an Amber Alert/EAS Broadcast, will notify the Chief of Police or his designee to gain authorization prior to activating the Amber Alert.
- (b) Contact the Emergency Notification Tactical Alert Center (ENTAC) to advise of the Amber Alert and request activation of EAS/freeway message signs.
 - 1. ENTAC - (916) 843-4199
 - 2. ENTAC will confirm the Amber Alert activation requirements have been met and will require victim and suspect information be provided.
 - 3. ENTAC will ask what regions/counties are affected in order to determine the extent of EAS/freeway sign activation.
- (c) Call out the Specialized Crimes Unit to assume the investigation.

334.4.4 DISPATCH RESPONSIBILITIES

The Watch Commander will provide all the necessary information regarding the Amber Alert to the dispatch supervisor.

- (a) The dispatch supervisor will be responsible for ensuring that BOLO information is communicated to field units and a CLETS message sent to regional law enforcement agencies.
- (b) The dispatch supervisor will notify the radio station (Valley Dispatch) to broadcast the information and activate EAS. The dispatcher shall provide a 60 second or less verbal synopsis to the radio station and state the following:
 - 1. **"This is (name/title) of (Agency). I am requesting an activation of the Emergency Alert System for a Child Abduction Emergency."**
 - 2. Valley Dispatch - KFRG 95.1 (909) 825-7796
- (c) The dispatch supervisor will transmit the information on the Amber Alert mask via e-mail to the pre-designated list of news media networks and media page. Once completed, a copy will be made of the alert mask and faxed to media outlets.

334.4.5 SPECIALIZED CRIMES UNIT RESPONSIBILITIES

- (a) Respond to the scene and assume the investigation in the field.
- (b) Ensure the Amber Alert tip line is activated
 - 1. SBPD Amber Alert tip line - (866) 346-7632
- (c) Ensure adequate personnel are available to receive tips.
- (d) Cancel the Amber Alert

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334.4.6 PIO RESPONSIBILITIES

- (a) The PIO will respond to the scene and coordinate with the Specialized Crimes Unit regarding information to be released to the public and law enforcement agencies.
- (b) Oversee the management of all media networks and provide public informational updates as needed. This task shall be accomplished through the media television/radio networks.
- (c) The PIO will provide updates to the Media Page for dissemination of Amber Alert information to the television/radio stations. Networks will be contacted to verify they have received the information.
- (d) The PIO will provide updates to the Watch Commander for incoming media inquiries.

334.4.7 AMBER ALERT CANCELLATION PROCEDURE

The Specialized Crimes Unit is responsible for:

- (a) Canceling the Amber Alert by contacting ENTAC to cancel EAS/freeway sign message.
- (b) Notify dispatch who shall ensure information is communicated to field units and a CLETS message is sent to regional law enforcement agencies.
- (c) Notify the PIO who shall be responsible for notifying the media networks of the cancellation by press release.

334.5 BLUE ALERTS

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

334.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

- (a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.
- (b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- (c) A detailed description of the suspect's vehicle or license plate is available for broadcast.
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

334.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

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- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
 - 1. The license number and/or any other available description or photograph of the vehicle
 - 2. Photograph, description and/or identification of the suspect
 - 3. The suspect's identity, age and description, if known
 - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
 - 6. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
 - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
 - 2. The FBI local office

334.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

334.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

- (a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.
- (b) The department has utilized all available local resources.
- (c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

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- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

334.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

334.7 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

334.7.1 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

334.7.2 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

- (a) Evacuation orders (including evacuation routes, shelter information, key information).
- (b) Shelter-in-place guidance due to severe weather.
- (c) Terrorist threats.
- (d) HazMat incidents.

334.8 YELLOW ALERT

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the department has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

334.8.1 CRITERIA FOR YELLOW ALERT

All of the following conditions must be met before activating a Yellow Alert (Government Code § 8594.15):

- (a) A person has been killed due to a hit-and-run incident.
- (b) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.
- (c) The department has additional information concerning the suspect or the suspect's vehicle including but not limited to the following:
 1. The complete license plate number of the suspect's vehicle.
 2. A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.

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3. The identity of a suspect.
4. Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including but not limited to the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

334.8.2 PROCEDURE FOR YELLOW ALERT

Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

334.9 FEATHER ALERT

A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

334.9.1 CRITERIA FOR FEATHER ALERT

All of the following conditions must be met before activating a Feather Alert (Government Code § 8594.13):

- (a) The missing person is an indigenous person.
- (b) The Department has utilized local and tribal resources.
- (c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

334.9.2 PROCEDURE FOR FEATHER ALERT

Requests for a Feather Alert shall be made through the California Highway Patrol (Government Code § 8594.13).

334.10 ENDANGERED MISSING ADVISORY

An Endangered Missing Advisory may be requested when a person is reported missing who is developmentally disabled, or cognitively impaired, or has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk (Government Code § 8594.11).

334.10.1 CRITERIA FOR ENDANGERED MISSING ADVISORY

All of the following conditions must be met before activating an Endangered Missing Advisory (Government Code § 8594.11):

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- (a) The missing person is developmentally disabled, cognitively impaired, has been abducted or is otherwise unable to care for themselves, placing their physical safety at risk.
- (b) The Department has utilized all available local resources.
- (c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

334.10.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES

Requests for an endangered missing advisory shall be made through the California Highway Patrol (Government Code § 8594.11).

334.11 EBONY ALERT

An Ebony Alert may be requested when it is determined the alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl (Government Code § 8594.14).

334.11.1 CRITERIA FOR EBONY ALERT

The investigating officer may consider the following factors to make the determination that an Ebony Alert would be an effective tool (Government Code § 8594.14):

- (a) The missing person is between the ages of 12 and 25 years old, inclusive.
- (b) The missing person is missing under circumstances that indicate their physical safety is endangered or they have been subject to trafficking.
- (c) The missing person suffers from a mental or physical disability.
- (d) Determination that the person has gone missing under unexplained or suspicious circumstances.
- (e) Belief that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (f) The Department has utilized all available local resources.
- (g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

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334.11.2 PROCEDURE FOR EBONY ALERT

Requests for an Ebony Alert shall be made through the California Highway Patrol (Government Code § 8594.14).

Trespass Authorization Form

335.1 PURPOSE AND SCOPE

To establish a procedure for enforcing trespass and/or loitering laws on private or commercial property where owners have indicated their blanket enforcement approval.

335.2 POLICY

A Trespass Authorization Letter has been instituted with which property owners, managers, or authorized citizens can provide the department with automatic approval to enforce Penal Code § 602 and San Bernardino Municipal Code § 9.52.070 related to trespassing and loitering. The form letter is effective for the address provided by the citizen and remains effective from the date submitted until the police department is notified otherwise.

335.3 PROCEDURE

- (a) Landlord, property manager, owner, or authorized citizen submits the Trespass Authorization Letter to the front desk.
- (b) Front desk staff will assign a case number with a type code of "TRESPASS", write the case number on the letter and forward it to Records.
- (c) Records will enter the information into RMS and scan into the document imaging system.
- (d) Officers will be able to determine the existence of a Trespass Authorization letter for a given address by conducting a location search on their MDC. A copy of the letter is available on the document imaging system.

Victim and Witness Assistance

336.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

336.2 POLICY

The San Bernardino Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the San Bernardino Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

336.3 CRIME VICTIM LIAISON

The Chief of Police shall appoint a member of the Department or use San Bernardino County, to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

336.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

- (a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).
- (b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).
- (c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.
- (d) Annually providing CalVCB with the crime victim liaison's contact information (Government Code § 13962).
- (e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).
 1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the San Bernardino Police Department jurisdiction (Penal Code § 680.2).

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- (f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.
 - 1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.
- (g) Providing notification to victims of human trafficking or abuse of their right to have a human trafficking advocate and a support person that the victim chooses present during an interview by the Department, prosecutor, or the suspect's defense attorney (Penal Code § 236.21).

336.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

336.4.1 VICTIMS OF HUMAN TRAFFICKING

Officers investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim's parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

336.5 VICTIM INFORMATION

The Administrative Services Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
- (d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.

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- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
- (h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U visa and T visa application processes.
- (j) Resources available for victims of identity theft.
- (k) A place for the officer's name, badge number, and any applicable case or incident number.
- (l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
- (m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
- (n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

336.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

Hate Crimes

338.1 RECORDS BUREAU / CRIME ANALYSIS RESPONSIBILITY

Maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to Penal Code § 13023.

338.2 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the San Bernardino Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6; Penal Code § 422.87).

338.2.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

Disability - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is

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grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Gender - Gender means sex and includes a person's gender identity and gender expression.

Gender expression - Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics:
 - 1. "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A "hate crime" need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

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- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Religious bias - In recognizing suspected religion-bias hate crimes, officers should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in a particular religion (e.g., crosses, hijabs, Stars of David, turbans, head coverings, statues of the Buddha).

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family

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- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

338.3 POLICY

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

338.4 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

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338.4.1 HATE CRIMES COORDINATOR

A department member appointed by the Chief of Police or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

- (a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
- (b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.
- (c) Providing direct and referral assistance to the victim and the victim's family.
- (d) Conducting public meetings on hate crime threats and violence in general.
- (e) Establishing relationships with formal community-based organizations and leaders.
- (f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
- (g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).
- (h) Providing orientation of and with communities of specific targeted victims such as immigrant, Muslim, Arab, LGBTQ, Black or African-American, Jewish, and Sikh persons and persons with disabilities.
- (i) Coordinating with the Personnel and Training Supervisor to develop a schedule of required hate-crime training and include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.
- (j) Verifying a process is in place to provide this policy and related orders to officers in the field and taking reasonable steps to rectify the situation if such a process is not in place.
- (k) Taking reasonable steps to ensure hate crime data is provided to the Records Bureau for mandated reporting to the Department of Justice.
 - 1. Ensure the California Department of Justice crime data is posted monthly on the department website (Penal Code § 13023).
- (l) Reporting any suspected multi-mission extremist crimes to the department Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.
- (m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

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- (n) Submitting required hate crime materials to the California Department of Justice in accordance with the timeline established by state law (Penal Code § 13023).
- (o) Annually assessing this policy, including:
 1. Keeping abreast of POST model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, the supplemental hate crime report, and planning and prevention methods.
 2. Analysis of the department's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

338.4.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

- (a) Dissemination of correct information.
- (b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.
- (c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

338.5 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

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338.5.1 INITIAL RESPONSE

First responding officers should know the role of all department personnel as they relate to the department's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

- (a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).
- (b) Stabilize the victims and request medical attention when necessary.
- (c) Properly protect the safety of victims, witnesses, and perpetrators.
 1. Assist victims in seeking a Temporary Restraining Order (if applicable).
- (d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.
- (f) Collect and photograph physical evidence or indicators of hate crimes such as:
 1. Hate literature.
 2. Spray paint cans.
 3. Threatening letters.
 4. Symbols used by hate groups.
- (g) Identify criminal evidence on the victim.
- (h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
- (i) Conduct a preliminary investigation and record pertinent information including but not limited to:
 1. Identity of suspected perpetrators.
 2. Identity of witnesses, including those no longer at the scene.
 3. The offer of victim confidentiality per Government Code § 7923.615.
 4. Prior occurrences in this area or with this victim.
 5. Statements made by suspects; exact wording is critical.

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6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
 - (j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
 - (k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
 - (l) Provide the department's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.
 - (m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
 - (n) Document any suspected multi-mission extremist crimes.

338.5.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

- (a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
- (b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- (c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.
- (e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
 1. Hate literature.
 2. Spray paint cans.
 3. Threatening letters.
 4. Symbols used by hate groups.
 5. Desecration of religious symbols, objects, or buildings.
- (f) Request the assistance of translators or interpreters when needed to establish effective communication.
- (g) Conduct a preliminary investigation and record information regarding:
 1. Identity of suspected perpetrators.

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2. Identity of witnesses, including those no longer at the scene.
 3. Offer of victim confidentiality per Government Code § 7923.615.
 4. Prior occurrences, in this area or with this victim.
 5. Statements made by suspects; exact wording is critical.
 6. Document the victim's protected characteristics.
- (h) Provide victim assistance and follow-up.
- (i) Canvass the area for additional witnesses.
- (j) Examine suspect's social media activity for potential evidence of bias motivation.
- (k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
- (l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.
- (m) Determine if the incident should be classified as a hate crime.
- (n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
 2. Provide ongoing information to victims about the status of the criminal investigation.
 3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).
- (o) Document any suspected multi-mission extremist crimes.
- (p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

338.5.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

- (a) Provide immediate assistance to the crime victim by:
1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.

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3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).
- (b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
- (c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).
- (e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.
- (f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.
- (h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.
- (i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
- (j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

338.6 TRAINING

All members of this department will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

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338.7 APPENDIX

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

[Supplemental Hate Crime Report.pdf](#)

Standards of Conduct

340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of all members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

This policy applies to all employees (full- and part-time), reserve officers, and volunteers.

340.2 DISCIPLINE POLICY

The continued employment or appointment of every member of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

340.3.1 ATTENDANCE

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or cell phone number.

340.3.2 CONDUCT

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.

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- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- (c) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.
- (j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

340.3.3 DISCRIMINATION

- (a) Discrimination against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

340.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants.

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- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties.
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site.

340.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).

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- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
- (p) Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
- (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.
- (x) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.

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- (z) Violating any misdemeanor or felony statute.
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
- (ad) Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

340.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

340.3.7 SECURITY

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports.

340.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws.
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

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- (d) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

340.4 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify the person issuing the original order, indicating the action taken and the reason.

340.5 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaints Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

340.5.1 WRITTEN REPRIMANDS

Any employee wishing to formally appeal a written reprimand must submit a written request to his/her Captain within ten days of receipt of the written reprimand. The Captain will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand.

Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the assigned, uninvolved supervisor within 30 days. The decision of the assigned, uninvolved supervisor to sustain, modify or dismiss the written reprimand shall be considered final.

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340.6 POST INVESTIGATION PROCEDURES

340.6.1 DIVISION CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Captain of the involved employee shall review the entire investigative file, the employee's Department and Division files, and any other relevant materials. Prior to proceeding, the Captain may return the entire investigation to the assigned detective or supervisor for further investigation or action.

Within 10 days of receiving the investigation and the draft recommendations the employee may meet with his / her Captain (or designee) along with the Professional Standards Bureau lieutenant or investigating sergeant / lieutenant. The involved employee may bring a representative with them to this meeting. The employee will be afforded the opportunity to discuss the case before the investigation is finalized. Additional processes are identified in Personnel Complaints Policy Manual § 1020.

Sustained allegations of misconduct not resolved during the Investigation Review Process shall be submitted to the Assistant Chief of Police by the Captain with a verbal recommendation of proposed discipline. Unresolved matters with recommended discipline above that of a written reprimand shall be referred to a Disciplinary Review Board by the Assistant Chief of Police.

340.6.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendation and/or may return the file to the Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, to be recommended.

In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written (*Skelly*) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or Government Code § 3508.1):

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the *Skelly* notice.
 1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

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2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

340.7 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This Skelly response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the Skelly response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) of information raised in any subsequent materials.
- (f) Once the employee has completed his/her Skelly response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall thereafter render a timely written decision to the employee imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

340.8 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

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340.9 POST SKELLY PROCEDURE

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.

During any post-Skelly administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of penalty. (Government Code § 3305.5).

340.10 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file.
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the *Skelly* procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies.
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment.
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence.
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file.
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police.

Information Technology Use

342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

342.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the San Bernardino Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

Software - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

Temporary file, permanent file or file - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

342.2 POLICY

It is the policy of the San Bernardino Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

342.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department computer system.

The Department reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network, and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices, or networks.

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The Department shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

342.4 AGENCY PROPERTY

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

342.5 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

342.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

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342.7 PROTECTION OF AGENCY SYSTEMS AND FILES

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the system.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

Report Preparation

344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner. The following documentation shall be submitted prior to the end of the reporting employee's shift, unless a supervisor approves otherwise:

- (a) All portions of arrest reports where the suspect remains in custody
- (b) Booking applications and juvenile applications for petition
- (c) All reports associated with officer-involved shootings or in-custody deaths
- (d) All reports associated with homicide or death investigations
- (e) All portions of missing persons reports
- (f) CHP 180's
- (g) Face pages, CHP 555 pages 1-3, and property control pages on all reports
- (h) Any reports requiring prompt follow-up on active leads

All other documentation shall be submitted by the end of the employee's work week, unless other arrangements are approved by a supervisor.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Handwritten reports must be authorized by the Watch Commander. Employees who dictate reports shall use appropriate grammar. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

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344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware that a crime has occurred, either due to a call for service or through self-initiated activity, the employee is required to document the activity. The fact that a victim is not desirous of prosecution does not exempt the employee from the responsibility of documenting a crime. The following are examples of required documentation:

- (a) In every instance where a felony has occurred, the documentation shall take the form of a written crime report
- (b) In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.
- (c) If the victim does not desire a report, the incident may be recorded as a crime report with the "reluctant victim" and "no further action" boxes checked
- (d) In every case where any force is used against any person by police personnel
- (e) All incidents involving domestic violence shall be documented as a crime report or as a "PC 13700" incident report, whichever is appropriate
- (f) All arrests

344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (b) Any firearm discharge (see the Firearms and Qualification Policy)
- (c) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (d) Any found property or found evidence
- (e) Any traffic collisions will be documented in accordance with the Traffic Collision Reporting Policy, Policy §502
- (f) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (g) All protective custody detentions
- (h) Suspicious incidents that may place the public or others at risk
- (i) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

344.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how

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to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths.
- (b) Suicides.
- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

344.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

344.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose
- (b) Attempted suicide
- (c) The injury is major/serious, whereas death could result
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Bureau shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

344.3 FORMATTING

Headings and subsections in reports should be used to ensure all reports have the required information and assist the reader find pertinent information.

344.3.1 CRIME REPORT HEADINGS

Listed headings are not all inclusive. There may be more or less depending on the crime report.

- (a) Assignment
- (b) Arrival
- (c) Investigation
- (d) Evidence

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- (e) Arrest
- (f) Interviews – victim/witness
- (g) Suspect Interviews – Miranda Advisement
- (h) Scene Description
- (i) Injuries
- (j) In Field Show Ups
- (k) Additional Information – optional heading for clarification in complex investigations.

344.3.2 TRAFFIC COLLISION HEADINGS

A. Report Format (see the Traffic Collision Policy)

- (a) Notification
- (b) Statements
- (c) Summary
- (d) Cause
- (e) Area of Impact (AOI)

B. Investigative Format (see the Traffic Collision Policy)

- (a) Notification
- (b) Scene Description
- (c) Parties
- (d) Physical Evidence
- (e) Hit and Run
- (f) Hazardous Materials
- (g) Other Factual Information
- (h) Statements
- (i) Opinions and Conclusions
- (j) Summary
- (k) Area of Impact (AOI)
- (l) Intoxication Narrative
- (m) Cause
- (n) Recommendations – Note any follow-up action necessary. If no recommendations state "None."

344.4 BODY WORN CAMERA REPORT GUIDELINES

To reduce the redundancy of completing CR2s for investigations captured on body-worn cameras (BWC) which are unlikely to see criminal filing or further investigative follow-up, the Department

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has identified several investigative reports officers may take through their BWCs. In each incident, the officer should capture all relevant information in the CR1 and appropriate documents (PR1, CR3,, etc.), including a summary of relevant information.

The following are circumstances when officers may consider a BWC report.

- (a) The victim cannot identify the suspect.
- (b) There are no workable leads that may result in the identification of a suspect.
- (c) The victim is reluctant, and no eyewitnesses or video would lead to the successful identification of the suspect.
- (d) Property crimes with a value of over \$10,000 may be taken with a BWC report only after consulting a sergeant.
- (e) Natural causes death investigations with no suspicious circumstances

Regardless of circumstances, a BWC report shall not be taken for the following investigations:

- (a) Sex Crimes
- (b) In custody Reports
- (c) Domestic Crimes
- (d) Homicide Reports
- (e) Kidnapping Reports
- (f) Crimes with Juvenile Victims
- (g) Any incident involving a critical injury that may lead to death or when the victim is unable to communicate.

344.5 REPORT DICTATION

Currently the Dragon dictation system is in use at SBPD. Employees may dictate reports and other documents using this system. The content and format for dictated reports will conform to this policy.

344.6 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

344.7 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reason for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. In situations where time limitations are a factor, such as in-custodies or where immediate further action is needed, or where the reporting employee is unavailable due to days off, vacation, etc., the supervisor should consider submitting the report

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as is and having corrections addressed through supplemental. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

344.8 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

344.9 ELECTRONIC SIGNATURES

Employees may only use their electronic signature for official reports or other official communications. Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

Media Relations

345.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities.

345.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Captains, Watch Commanders, and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

345.3 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public. Media representatives may not bring or facilitate the transport of an unauthorized person into a closed area unless it is for the safety of the person.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

345.3.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.

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345.3.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

345.4 PUBLIC INFORMATION OFFICER

Responsibilities of the PIO shall be assumed by the backup PIO when the primary PIO is not available. The backup PIO will be designated by the Chief's Office when the primary PIO is not available. Other personnel within the department may also be designated as alternate PIO's to provide support to that function.

- (a) Handle day-to-day news media inquiries regarding all crimes occurring within the city limits, as well as questions relative to ongoing criminal investigations in concert with the responsible investigator via their supervisor.
- (b) Upon request, respond to the scene of a major incident, disaster, or emergency.
- (c) Assist requesting employees in the preparation, coordination, and release of information regarding activities and/or programs.
- (d) Ensure that news is distributed equally and fairly among the news media. All press releases shall be placed on the Police Department's website.
- (e) Ensure that information is given to the press in a timely fashion.
- (f) When requested, coordinate media requests for employee interviews, interviews with the Chief of Police, media news conferences, and media questions concerning department policy.
- (g) Handle requests for statistical data from the news media. In the event of large or time consuming requests, the media should be directed to make a formal Public Records Act Request.

345.5 RELEASE OF INFORMATION

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

345.5.1 INFORMATION LOG

The Department will maintain a daily information log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or

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confidential by this policy or applicable law. Upon request, the log entries shall be made available to media representatives through the Watch Commander.

The daily information log will generally include:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation, or the information is confidential (e.g., juveniles or certain victims).
- (b) The date, time, location, case number, name, birth date, and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation or the information is confidential (e.g., juveniles).
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim, or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (see the Records Maintenance and Release Policy).

345.6 POLICY

It is the policy of the San Bernardino Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

345.7 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of department members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at

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a minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person, or is otherwise prohibited by law.

345.8 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the PIO, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor or the PIO.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

345.9 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the PIO to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

345.9.1 EMPLOYEE INFORMATION

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the PIO.

Requests should be reviewed and fulfilled by the Custodian of Records, or if unavailable, the Watch Commander or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws.

Court Appearance And Subpoenas

347.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

347.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

347.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

347.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

347.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

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347.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department subpoena clerk shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena clerk. The subpoena clerk shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.
- (b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the subpoena clerk as well as a copy to the individually named employee.

347.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the subpoena clerk or the Watch Commander of his/her absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

347.2.5 COURT STANDBY

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department within 24 hours of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact.

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If an employee on standby changes his/her location during the day, the employee shall notify the subpoena clerk of how he/she can be reached by telephone. Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

347.2.6 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with San Bernardino Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

347.2.7 FAILURE TO APPEAR

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

347.3 CIVIL SUBPOENAS

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

347.3.1 PROCEDURE

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena.

347.3.2 CIVIL SUBPOENA ACCEPTANCE

Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

347.3.3 PARTY MUST DEPOSIT FUNDS

The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of \$275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

347.4 OVERTIME APPEARANCES

If the officer appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

As a point of clarification, an officer placed on Court Standby pursuant to the Memorandum of Understanding will be compensated at 3 hours of overtime. If an officer is required to appear in

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court while on standby status, then the officer will be compensated 1/2 hour overtime for travel to court (i.e. officers required to appear while on Court Standby receive 3 1/2 hours of overtime). Any actual appearance time in excess of the 3 1/2 hours will be added to the initial 3 hours of standby and 1/2 hour of travel overtime. Actual court appearances up to 3 1/2 hours will be compensated at 3 1/2 hours of overtime (travel is already included).

347.5 COURTROOM PROTOCOL

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

347.5.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

347.5.2 COURTROOM ATTIRE

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

Employees working special assignments (i.e. Narcotics) may, with the consent of the Deputy District Attorney presenting the case, appear in street clothes for non-jury proceedings. In the presence of a jury, employees shall appear in appropriate conservative dress as outlined above.

347.6 COURTHOUSE DECORUM

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

347.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

Reserve Officers

349.1 PURPOSE AND SCOPE

The San Bernardino Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

349.1.1 RESERVE PROGRAM POSITIONS

- (a) The Reserve Commander shall be a regular officer of the P-4 rank charged with managerial oversight of the Reserve Program.
- (b) The Reserve Coordinator shall be a regular officer of the P-3 rank charged with administering the Reserve Program under the supervision of the Reserve Commander.
- (c) Reserve Unit Advisors are regular officers of the P-1 or P-2 rank who assist in the administration of the Reserve Program under the supervision of the Reserve Unit Coordinator.
- (d) Level I Reserve Officers, may work with a regular officer or, unless otherwise restricted, may work alone or with another Level I Reserve Officer performing general law enforcement duties. A Level I Reserve Officer who has completed a basic academy may, with approval of the Reserve Unit Coordinator, supervise Level II or Level III Reserve Officers.
- (e) Level II Reserve Officers, unless otherwise restricted, may perform general law enforcement duties under the immediate supervision of a regular or reserve peace officer who has completed a basic academy. Level II Reserve Officers may work assignments authorized for Level III Reserve Officers without immediate supervision.
- (f) Level III Reserve Officers, unless otherwise restricted, may perform limited support duties not likely to result in physical arrests under supervision by a Level I Reserve or regular full-time peace officer located within the accessible vicinity. Examples: traffic control, security at parades/sporting events, report writing, and evidence transportation. A Level III Reserve Officer may transport prisoners without immediate supervision.

349.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS_DEPUTIES

The San Bernardino Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

No person shall become a member of the reserves until he is able to meet all requirements prescribed by applicable state laws, the Chief of Police, and the California Commission on Peace Officer Standards and Training (POST).

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349.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment screening procedures as regular police officers before appointment. Applicants must satisfy the educational requirements of Penal Code § 832.6 applicable to the level of Reserve Officer he will serve as prior to being appointed.

349.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police or his designee (authorized to administer official oaths) and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

349.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

- (a) Reserve Officers serve gratuitously as volunteers and are considered employees only for the purposes of Workmen's Compensation benefits as outlined in San Bernardino Municipal Code § 2.38.050.
- (b) The department shall issue an HT, duty weapon, uniform badge, cap piece, and safety equipment to each Reserve Police Officer. Issued equipment shall be of the same type and quality as that issued to regular police officers. Should any such issued equipment expire or become non-serviceable through normal use it shall be returned for replacement.
- (c) As available, a flat badge, Controlled Electronic Device (CED), and non-safety equipment, to include but not limited to uniforms and leather gear, may be issued to Reserve Police Officers. Equipment not issued but necessary to carry out reserve officer duties shall be provided by the Reserve Officer. All property issued to the reserve officer shall be returned to the Department immediately upon termination or resignation.
- (d) At the discretion of the Chief of Police, Reserve Officers considered in good standing as determined by the Reserve Coordinator and who have met their required monthly volunteer obligations may receive a nominal stipend to offset personal costs associated with volunteer service as a Reserve Police Officer. Such stipends are not pre-taxed by the City of San Bernardino. Each recipient will have the individual responsibility to file the appropriate State and Federal tax forms related to income they earned during the taxable year. No other compensations or benefit entitlements other than required by law are to be implied by this stipend.
 1. "Good Standing" defined:
 - (a) Reserve Officers who have attended mandated meetings and met ongoing training mandates as required by POST and Department training requirements.

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- (b) Are working the required 20 hours per month and are likely to complete the required 240 hours for the calendar year unless exempted for good cause by the Reserve Coordinator.
- (c) Determination of Good Standing rests with the Reserve Coordinator. Any negative standing determination shall be justified in writing. Written notification to the individual Reserve Officer and the Reserve Commander must be within 10 days of the decision. Once final, the written notification will be retained in the Reserve Officer's 201 Personnel file.
- (d) Reserve Officers may appeal the negative standing in accordance with the Department Grievance Procedure.
- (e) Periodically opportunities arise for Reserve Officers to receive compensation from non-City sources for the provision of police services. Typically these opportunities are related to special events such as carnivals, fairs, concerts, civic organization events or religious gatherings, etc. Reserve Officers may work these events for compensation only under the following conditions:
 - (a) Reserve Officer utilization and compensation for the event has been pre-approved by the Reserve Commander or higher authority.
 - (b) Compensation for services does not create an employer/employee relationship between the City and the Reserve Officer.
 - (c) On scene police supervision is consistent with the Outside Employment Policy.
 - (d) The Reserve Officer is not in a field training program and is in good standing as determined by the Reserve Coordinator.
 - (e) Compensation is made directly to the individual Reserve Officer by the requester, event organizer, sponsor, or other non-City/non-Reserve Unit designee.
 - (a) Single payments to the Reserve Unit for services provided should be avoided unless the payment is a donation to the unit and not compensation intended for redistribution to individual reserve officers.
 - (b) Reserve Unit accounts shall not be utilized to redistribute funds received for services to compensate individual Reserve Officers if such redistribution could reasonably imply an employee/employer relationship between the Reserve Unit and the Reserve Officer or between the City and the Reserve Officer.
 - (f) Each recipient of funds will have the individual responsibility to file the appropriate State and Federal tax forms related to income they earn.

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- (g) Unless otherwise exempted by the Reserve Coordinator, the Reserve Officer will be required to provide 20 volunteer hours and attend the monthly unit meeting in addition to working the paid detail.
 - (a) Failure to meet the mandated monthly volunteer hours may be used as grounds to preclude the Reserve Officer from receiving the monthly stipend and/or being eligible to work future paid details.
- (h) Service billing, the collection of payment, and payment dispute resolution are the responsibility of the individual Reserve Officer.
 - (a) City personnel and resources will not be relied upon for service billing, collection of payment, or payment dispute resolution.

349.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the Human Resources prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

349.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Operations Division. Reserve officers may be assigned to other areas within the Department as needed.

Reserve Officers in a field training program are required to attend the monthly Reserve Unit meeting and work a minimum of 40 hours per month with their assigned Field Training Officer. Once field training is completed, Reserve Officers are required to attend a monthly Reserve Unit meeting and work a minimum of 20 hours per month.

349.3.1 POLICY COMPLIANCE

Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

349.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

Qualified Reserve Police Officers shall be allowed to request special duty assignment programs within the Department to expand their knowledge of law enforcement and to serve as a motivation for extended and continued loyal service. Special duty assignment programs are considered a

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privilege and not a right. The duration of the special duty assignment will be at the discretion of the Reserve Coordinator. While assigned to a special duty assignment, Officers are expected to maintain their basic law enforcement skills. However, they are not required to work Patrol each month as part of their 20 hour commitment.

Qualified officers desiring a special duty assignment shall prepare a "Statement of Interest and Qualifications" memorandum summarizing the program to which they desire being assigned. The request memorandum will be submitted to the Reserve Coordinator who will confer with the supervisor of the unit where the Reserve Officer has requested assignment. If both concur with the proposed assignment, the request shall be submitted to the Reserve Commander for approval. The Reserve Commander may consult with higher authority and/or the department's Executive Staff before approving the proposal.

The Chief of Police retains ultimate discretion as to all assignments.

349.3.3 RESERVE COORDINATOR

- (a) The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator. The Reserve Coordinator shall have the responsibility of, but not be limited to:
 - 1. Assignment of reserve personnel
 - 2. Conducting or overseeing reserve meetings
 - 3. Establishing and maintaining a reserve call-out roster
 - 4. Maintaining and ensuring performance evaluations are completed
 - 5. Monitoring individual reserve officer performance
 - 6. Monitoring overall Reserve Program - excluding the Tactical Medic Program
 - 7. Maintaining liaison with other agency Reserve Coordinators
 - 8. Ensure Reserve Officers comply with POST and Department training mandates
- (b) A sufficient number of Reserve Unit Advisors shall be selected by the Reserve Unit Coordinator with the approval of the Reserve Commander to ensure program quality and efficiency. Reserve Unit Advisors shall assist the Reserve Coordinator in carrying out his duties and shall serve as mentors and supervisors for Reserve Officers in the absence of higher authority. They shall attend monthly Reserve Unit Staff meetings and monthly Reserve Unit meetings.
- (c) Duties performed by Reserve Unit Advisors may include but are not limited to:
 - 1. Field Training Program oversight
 - 2. Monthly training facilitation
 - 3. Policy and procedure review

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4. The completion of staff work related to programmatic changes or new legislation affecting Reserve Officers
5. Additionally, Reserve Unit Advisors may be assigned to oversee monthly Reserve Unit details at the discretion of the Reserve Unit Coordinator

349.4 FIELD TRAINING

Penal Code § 832.6(a)(2) requires Level I reserve officers, who have not been released from the immediate supervision requirement per Policy Manual § 350.4.3, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

349.4.1 TRAINING OFFICERS

P.O.S.T certified and department-appointed field training officers will train reserve officers. Field training officer assignments for reserve officers shall be the responsibility of the regular field training program supervisor.

The field training officer shall not be compensated at a rate above their normal pay while training reserve officers.

349.4.2 FIELD TRAINING MANUAL

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her field training phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the San Bernardino Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

349.4.3 COMPLETION OF THE FORMAL TRAINING PROCESS

Reserve Officers shall satisfactorily complete all training phases before being released from the training program.

349.5 SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer or a reserve peace officer who has completed a basic academy (Penal Code 832.6(a)(2)). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Captain.

349.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Captain, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

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In the absence of the Reserve Coordinator and the Captain, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

349.5.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

349.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer having a four-digit badge number. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

349.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

349.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Operations Captain.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

349.5.6 RESERVE OFFICER EVALUATIONS

While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

349.6 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

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349.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.

349.6.2 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

A Level I Reserve Officer may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing with the San Bernardino Police Department Reserve Officer Program.

349.6.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual, with the following exceptions:

- (a) All reserve officers are required to qualify once per quarter.
- (b) Should a reserve officer fail to qualify for the quarter, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency.

349.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

349.8 RESERVE OFFICER SEPARATION

Reserve officers in good standing, at least 50 years of age, with twenty (20) or more years of service as a non-compensated volunteer Reserve Police Officer with the San Bernardino

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Police Department may voluntarily separate from the Reserve Unit with the designation of Retired Reserve Police Officer. Such designation shall not indicate or infer that any employee/employer relationship ever existed between the City of San Bernardino and the Reserve Officer separating service. Additionally, such designation shall not confer any rights, benefits, compensation, or privileges not otherwise afforded by law.

Mutual Aid and Outside Agency Assistance

351.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

351.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Watch Commander's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to report action taken by San Bernardino Police Department personnel. Probation violators temporarily detained by this department will not ordinarily be booked at this department.

351.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

Registered Offender Information

355.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the San Bernardino Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, and arson offenders.

355.2 POLICY

It is the policy of the San Bernardino Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

355.3 REGISTRATION

The designated Registration Technician shall follow the established process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Employees assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the Registration Technician shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

355.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph, and any other information required by applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

355.4 MONITORING OF REGISTERED OFFENDERS

The Detective Bureau supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.
- (b) Review of information on the California DOJ website for sex offenders.
- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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The Detective Bureau supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to San Bernardino Police Department personnel, including timely updates regarding new or relocated registrants.

355.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the San Bernardino Police Department's website. Information on sex registrants placed on the San Bernardino Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Manager may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

355.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

- (a) The offender's full name
- (b) The offender's known aliases
- (c) The offender's sex
- (d) The offender's race
- (e) The offender's physical description
- (f) The offender's photograph
- (g) The offender's date of birth
- (h) Crimes resulting in the registration of the offender under Penal Code § 290
- (i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

355.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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- (a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The crime for which a person is convicted may not accurately reflect the level of risk.
- (e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.
- (f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

Major Incident Notification

357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

357.2 POLICY

The San Bernardino Police Department recognizes that certain incidents should be brought to the attention of the Chief of Police, Duty Chief, supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

357.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Captain. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Sensitive Professional Standards Bureau incidents
- Significant injury or death to employee - on or off duty
- Incidents involving elected officials, their families or other community VIPs.
- Arrest of a department or City employee
- Aircraft crash with major damage and/or injury or death
- In-custody deaths
- Significant use of force injury
- Homeland security issues
- Incidents requiring mutual assistance response
- Visits to the city by dignitaries or other VIPs requiring law enforcement attention
- Any incident, issue or circumstance which in good judgment requires the City Manager, Mayor or City Council to be notified

357.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as

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possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable.

357.4.1 STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.3, the Duty Chief shall be notified. The Duty Chief is responsible for ensuring additional notifications are made (i.e. City Manager, Mayor and Council, other department managers).

357.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

357.4.3 TRAFFIC BUREAU NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate accident investigator. The Traffic Sergeant will notify the Traffic Lieutenant.

357.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

Death Investigation

359.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

359.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations.

359.2.1 CORONER REQUEST

Government Code § 27491 and Health and Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).

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- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and police involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

359.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating officer shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

359.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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359.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

359.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form per the Report Preparation Policy (Death Cases). If the assigned officer suspects that a death involves a homicide or other suspicious circumstances, the appropriate members of the Investigations Bureau will be notified for immediate response to the scene and will assume responsibility of the investigation.

359.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

359.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

Identity Theft

361.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

361.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.
- (f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Parking and Traffic Infraction Warrant Arrests

362.1 PURPOSE AND SCOPE

To comply with California Vehicle Code § 40304.5 and standardize the procedure in handling parking and/or traffic warrant arrests.

362.2 POLICY

A police officer may take into custody any person with two or fewer outstanding warrants for failure to appear on citations for parking and traffic infractions. The person taken into custody shall be provided the opportunity to post bail and shall not be booked, photographed or fingerprinted, nor shall an arrest record be made when the amount of bail may be calculated by reference to the face of the warrant or to a fixed bail schedule unless all of the following requirements have been exhausted.

362.3 PROCEDURE

- (a) Three or more parking and/or traffic infraction warrants are to be processed as any other warrant arrest.
- (b) Two or fewer parking and/or traffic infraction warrants:
 - 1. If the person has sufficient cash, the person shall be given the opportunity to immediately post bail. They shall be taken to the San Bernardino County Sheriff's Department, Records Department, 655 E. 3rd Street, to post bail.
 - 2. If the person does not have sufficient cash in their possession to post bail, the individual shall be informed of his/her rights and given the opportunity to do all of the following:
 - (a) They should be transported to the police station where a telephone will be provided to assist them in making telephone calls.
 - (b) If the person has not been able to obtain bail and not less than three hours has elapsed, the arrested person may then be booked and transported to a booking facility. A completed booking report shall be made.

Private Persons Arrests

363.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

363.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

363.2.1 DISCLOSURE

Officers shall not disclose the address or telephone number of any person who is the victim or witness in the alleged offense to the arrestee or to any person who may be a defendant in the case.

363.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

363.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

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1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b) (1). The officer must include the basis of such a determination in a related report.
 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking
 2. Release the individual pursuant to a Notice to Appear
 3. Release the individual pursuant to Penal Code § 849

363.4.1 NOTICING

The arrested person shall be informed of the intention to arrest, the cause of the arrest, and the authority to arrest. Ideally, the private person making the arrest will provide this information; however, officers may communicate this information when the private person is unwilling to directly confront the suspect.

363.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form under penalty of perjury. The arrest shall not be accepted in cases of refusal to sign the form except:

- (a) Due to an infirmity
- (b) Due to a language barrier
- (c) Other instances which would make it impractical to do so

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

APB Arrests

364.1 PURPOSE AND SCOPE

To establish criteria for the preparation, approval, distribution, and retention of felony All Points Bulletins (APB's) as well as to define reasonable time periods for acting upon APB information.

364.2 POLICY

Employees shall prepare APB's on felony crimes when sufficient suspect or suspect vehicle information exists that if distributed to other employees or law enforcement agencies would aid in the identification and apprehension of responsible suspects or the recovery of evidence or stolen property, or would assist law enforcement in protecting the public. Employees will act upon APB information in a timely manner as outlined in this policy.

364.3 PREPARATION RESPONSIBILITIES

- (a) An APB will be completed when a felony crime report is taken and the suspect's identity is known or significant physical or suspect vehicle descriptions are available that may aid employees or other law enforcement agencies in later solving the crime.
- (b) The primary investigating officer is normally responsible for preparing the APB form and submitting it to supervision for approval and distribution.
- (c) When investigative personnel respond and assume control and responsibility for the investigation, it will be the assigned investigator's responsibility to ensure the APB is completed.
- (d) Teletypes or other information received from other law enforcement agencies will be placed on an APB by complaint desk personnel and forwarded to supervision for approval and distribution.

364.4 APPROVAL AND DISTRIBUTION

- (a) Supervisors or Watch Commanders are responsible for approving APB's, ensuring that sufficient information is available to warrant their release, and for determining the extent of distribution (i.e., local, county, or state wide).
- (b) An approved APB is to be assigned the next sequential APB number, and a copy of the APB is to be placed on the felony briefing board located at the complaint desk. If a photo is available, the original photo is to appear on the copy of the APB that is maintained on the felony briefing board. The original APB is routed to the Records Bureau for necessary teletypes and distribution to the assigned investigator. The original APB is filed with the original corresponding report.
- (c) APB's generated as a result of a teletype or other information received from another law enforcement agency not associated with an SBPD case by report number will not be retained by the Records Bureau beyond that time necessary to complete the

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dispatch notification process. These APB's will be assigned an APB number and a copy placed on the felony briefing board as covered above.

364.5 UPDATES

- (a) Employees having additional information related to approved APB's or who act upon the APB are responsible for updating the felony briefing board copy with the additional information or the results of the follow up investigative efforts, in addition to documenting the information in a followup to the report.
- (b) All updated information will include the date and time of the update as well as the employee's name.
- (c) Warrant information obtained by the assigned investigator will be added as received.

364.6 APB ARRESTS

Employees will only make arrests based on APB information within a reasonable time period as is generally outlined below:

- (a) 72 hours (excluding weekends and holidays) in cases where there is a suspect and/or vehicle description but neither the suspect's identity nor the vehicle license plate is known.
- (b) Seven days in cases where the suspect's identity or a suspect vehicle license plate is known.
- (c) In situations that fall outside the time periods described above, a supervisor may be summoned and an arrest may be made if there is a determination that extenuating circumstances exist.

364.7 CANCELLATIONS

- (a) When a suspect is arrested, with or without a warrant, it is the arresting officer's responsibility to place the cancellation information on the felony briefing board copy of the APB and to notify Dispatch of the cancellation. The felony briefing board copy will be forwarded to Records to be added to the original report.
- (b) APB's will be retained on the felony briefing board for a period of 30 days unless canceled prior to that date. After 30 days, those received from other law enforcement agencies will be placed in a shred box for destruction. Those reflecting an SBPD report number will be routed to the Records Bureau for filing with the original case.

Arrest for Temporary Restraining Order

366.1 PURPOSE AND SCOPE

Code of Civil Procedures §527.6 defines the method by which a party may seek to enjoin harassing activities by another. Provisions are made in the code for the clerk of the court to send copies of restraining orders and injunctions to local law enforcement agencies. This notification is to assure the officers called to the scene that the activities complained on are, in fact, prohibited. Violations of the restraining orders and injunctions are declared to be a misdemeanor, punishable under Penal Code § 166, criminal contempt, and the following procedure is implemented.

366.2 PROCEDURE

- (a) Often the harassing tactics will not stand alone to constitute a violation of the Penal Code. Officers should be aware that the orders are only valid for the period ordered by the court and there may have been subsequent modification or even termination of the order, which was not sent to the police agency.
- (b) A temporary restraining order granted under the section remains valid for a maximum of 15 days, but may be earlier modified or terminated by the court. An injunction may be issued for a maximum of three years. The court may extend an injunction upon application made within three months of the expiration date.
- (c) When called to the scene of an alleged harassing incident where a copy of an apparently valid order has been sent to the police agency; the investigation will continue along one of two lines, if the suspect is present or if the suspect has left the scene.
 1. Where the suspect is present - It is recommended that if an arrest is necessary, the complaining party should be required to make a private person's arrest for violation of the order unless the suspect's activity would otherwise justify a criminal arrest under the officer's general powers of arrest. Whether a private person's arrest or an officer's criminal arrest, complete investigative reports must be taken to the District Attorney's Office for filing of a criminal complaint.
 2. Where the suspect has left the scene - The officers shall make a determination as to whether or not an emergency temporary restraining order should be obtained. The totality of the circumstances should dictate the officer's decision. If an emergency temporary restraining order is not warranted, the officers shall inform the victim of the steps necessary to obtain a temporary restraining order.
- (d) A willful violation of a valid temporary restraining order or injunction is a misdemeanor under Penal Code § 166 and officers should check with the Records Bureau to determine if the TRO is on file and valid.

Limited English Proficiency Services

367.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

367.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the San Bernardino Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

367.2 POLICY

It is the policy of the San Bernardino Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

367.3 LEP COORDINATOR

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Investigations Captain or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

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- (a) Coordinating and implementing all aspects of the San Bernardino Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Police Communications Manager. The list should include information regarding the following:
 - 1. Languages spoken
 - 2. Contact information
 - 3. Availability
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

367.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

367.5 TYPES OF LEP ASSISTANCE AVAILABLE

San Bernardino Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

367.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

367.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

367.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

367.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

367.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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367.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

367.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

367.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The San Bernardino Police Department will take reasonable steps and will work with the Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

367.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

367.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

367.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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367.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

367.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

367.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the Watch Commander.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

367.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

367.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Personnel and Training Supervisor shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Supervisor shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

367.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Personnel and Training Supervisor shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Communications with Persons with Disabilities

369.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

369.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

369.2 POLICY

It is the policy of the San Bernardino Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

369.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Investigations Captain or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the City ADA coordinator regarding the San Bernardino Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.

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- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Police Communications Manager. The list should include information regarding the following:
 - 1. Contact information
 - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

369.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

369.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the San Bernardino Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

369.6 TYPES OF ASSISTANCE AVAILABLE

San Bernardino Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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369.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

369.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

369.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

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369.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

369.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

369.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

369.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

369.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

369.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

369.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

369.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the Watch Commander.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

369.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

369.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.

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- (c) Working with in-person and telephone interpreters and related equipment.

The Personnel and Training Supervisor shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Supervisor shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

369.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

Mandatory Employer Notification

371.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

371.2 POLICY

The San Bernardino Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

371.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

371.3.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

371.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

371.3.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

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371.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

371.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

Biological Samples

373.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

373.2 POLICY

The San Bernardino Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

373.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

- (a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.
- (b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) An adult arrested or charged with any felony.

373.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

373.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

373.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only

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with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

373.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

373.5.2 CELL EXTRACTIONS

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR 1059).

373.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

373.6.1 DOCUMENTATION RELATED TO FORCE

Supervisors shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

373.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (b) A court orders a blood sample following a refusal.

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The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

373.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

Chaplains

375.1 PURPOSE AND SCOPE

The San Bernardino Police Department Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department, their families and members of the public.

375.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational ministry provided by volunteer clergy without financial compensation.

375.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- (a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- (b) By providing an additional link between the community, other chaplain programs and the Department.
- (c) By providing counseling, spiritual guidance and insight for department personnel and their families.
- (d) By being alert to the spiritual and emotional needs of department personnel and their families.
- (e) By familiarizing themselves with the role of law enforcement in the community.

375.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

- (a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- (b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- (c) Must successfully complete an appropriate level background investigation.
- (d) Must have at least five years of successful ministry experience within a recognized church or religious denomination.
- (e) Participate in the Department's Ride-Along program at least one shift per quarter

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Chaplains

375.5 SELECTION PROCESS

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

- (a) Appropriate written application.
- (b) Recommendation from their church elders, board, or council.
- (c) Interview with Chief of Police or his/her designee
- (d) Successfully complete an appropriate level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

375.6 DUTIES AND RESPONSIBILITIES

The duties of a chaplain include, but are not limited to, the following:

- (a) Assisting in making notification to families of department members who have been seriously injured or killed.
- (b) After notification, responding to the hospital or home of the department member.
- (c) Visiting sick or injured law enforcement personnel in the hospital or at home.
- (d) Attending and participating, when requested, in funerals of active or retired members of the Department.
- (e) Assisting sworn personnel in the diffusion of a conflict or incident, when requested.
- (f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the Department's mission.
- (g) Being on-call and if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department personnel.
- (h) Counseling officers and other personnel with personal problems, when requested.
- (i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (j) Being responsible for the organization and development of spiritual organizations in the Department.
- (k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.
- (l) Providing liaison with various religious leaders of the community.
- (m) Assisting public safety personnel and the community in any other function of the clergy profession, as requested.
- (n) Participating in in-service training classes.

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- (o) Willing to train to enhance effectiveness.
- (p) Promptly facilitating requests for representatives or ministers of various denominations.
- (q) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contacts that was provided while functioning as a chaplain for the San Bernardino Police Department.

375.7 CLERGY-PENITENT CONFIDENTIALITY

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

375.8 COMMAND STRUCTURE

- (a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Senior Chaplain and/or Chaplain Coordinator.
- (b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Senior Chaplain/Chaplain Coordinator.
- (c) The Senior Chaplain shall serve as the liaison between the Chaplain Unit and the Chief of Police or his/her designee. He/she will arrange for regular meetings, act as chairman of all chaplain meetings, prepare schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

375.9 OPERATIONAL GUIDELINES

- (a) Chaplains are available 24 hours a day, seven days a week. The Chaplain Coordinator will be contacted by dispatch and in turn, notify the needed chaplain.
- (b) Generally, each chaplain will serve with San Bernardino Police Department and/or San Bernardino personnel a minimum of sixteen hours per month.
- (c) Chaplains will testify in court under subpoena as a percipient witness except in cases of privileged communication.
- (d) Chaplains will cooperate with Professional Standards Bureau investigations in all cases in which the chaplain is a percipient witness except those of privileged communication.

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- (e) Chaplains shall be permitted to ride with officers during any shift and observe San Bernardino Police Department operations, provided the Watch Commander has been notified and approved of the activity.
- (f) Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- (g) In responding to incidents, a chaplain shall never function as an officer.
- (h) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (i) Chaplains shall serve only within the jurisdiction of the San Bernardino Police Department unless otherwise authorized by the Chief of Police or his designee.
- (j)

375.9.1 UNIFORMS AND GROOMING STANDARDS

Chaplains are required to wear appropriate apparel and maintain reasonable grooming standards.

375.10 TRAINING

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Personnel and Training Supervisor.

375.11 CONFIDENTIAL INFORMATION

During the course of appointment, chaplains may be exposed to confidential information. Chaplains shall remember that all information regarding individuals and sensitive department information deemed confidential shall not be disseminated outside the department. Violations will be grounds for termination and possible criminal prosecution.

Chaplains shall not query or use department computers or otherwise request criminal record or warrant information unless specifically authorized by a supervisor.

375.12 RIDE-ALONGS

The purpose of the chaplain ride-along is to expose the chaplain to field patrol duties and to aid the department in those situations outlined in this policy. Chaplain ride-alongs are subjected to the following restrictions:

- (a) Chaplains must obtain approval for the ride-along from the chaplain coordinator. The Watch Commander has the ultimate authority to grant or rescind a chaplain ride-along.
- (b) Complete a shift summary or log and forward it to the chaplain coordinator.
- (c) Chaplains shall not be in possession of firearms while on duty unless authorized by department policy or pertinent laws.

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- (d) Chaplains shall not drive police vehicles unless specifically assigned to do so by the officer in charge.

375.13 DEPARTMENT EQUIPMENT

Police chaplains will be issued the following equipment:

- (a) San Bernardino Police Department volunteer identification card
- (b) Police chaplain pocket identification plaque
- (c) PRAC access card

These items are the property of the San Bernardino Police Department and will be surrendered upon the request of the Chief of Police or his designee.

Public Safety Video Surveillance System

377.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

377.2 POLICY

Cameras may be placed in strategic locations throughout the City at the direction or with the approval of the Chief of Police. These cameras can be used for detecting and deterring crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

377.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

377.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

- (a) To prevent, deter, and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending, and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.

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- (g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Watch Commander's office and Dispatch. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Watch Commander or trained personnel in Dispatch are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

377.3.2 TRAINING

Personnel involved in video monitoring will be appropriately trained and supervised.

377.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

377.4 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

377.5 REVIEW OR RELEASE OR OF VIDEO IMAGES

The review or the release of video images shall be done only with the authorization of the Chief of Police or his/her designee and only with a properly completed written request. Video images needed for a criminal investigation or other official reason shall be collected and booked in accordance with current departmental evidence procedures.

377.5.1 PUBLIC AND OTHER AGENCY REQUESTS

Requests for recorded video images from other government agencies or by the submission of a court order or subpoena shall be promptly submitted to the Police Department and will be researched. The request and results of such search will be submitted through the Chief of Police to

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the City Attorney's office for further handling. Every reasonable effort should be made to preserve the data requested until the request has been fully processed by the City Attorney's office.

Video images captured by public safety cameras that are requested by the public or media will be made available only to the extent required by law. Except as required by a valid court order or other lawful process, video images requested under the Public Records Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

377.6 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the San Bernardino Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Watch Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

Child and Dependent Adult Safety

379.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

379.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The San Bernardino Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

379.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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379.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 2. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (c) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (d) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

379.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

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379.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
1. Name
 2. Sex
 3. Age
 4. Special needs (e.g., medical, mental health)
 5. How, where and with whom or which agency the child was placed
 6. Identities and contact information for other potential caregivers
 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
1. Name
 2. Sex
 3. Age
 4. Whether he/she reasonably appears able to care for him/herself
 5. Disposition or placement information if he/she is unable to care for him/herself

379.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

379.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

379.5 TRAINING

The Personnel and Training Supervisor is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive

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approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Service Animals

381.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

381.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

381.2 POLICY

It is the policy of the San Bernardino Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

381.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

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- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

381.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the San Bernardino Police Department affords to all members of the public (28 CFR 35.136).

381.4.1 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

381.4.2 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

381.4.3 CONTACT

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

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381.4.4 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

Voluntary Honor Guard

382.1 PURPOSE AND SCOPE

To establish a permanent volunteer honor guard that will represent the police department at ceremonial functions.

382.2 STRUCTURE

The voluntary honor guard will be composed of a group of sworn officers who have volunteered their services. This group will consist of the rank of P-2 and below, and will be managed by a police lieutenant and commanded by a police sergeant (or, in his/her absence, by a senior officer).

382.3 USE OF HONOR GUARD

The honor guard will perform at ceremonial functions where it is appropriate for a group of officers to honorably represent the department in a military style formation. Such uses may include, but will not be limited to, community functions requiring the presentation of the colors, and funerals. The honor guard will perform only at those occasions approved by the Chief of Police or his/her designee.

382.4 SELECTION OF HONOR GUARD MEMBERS

Selection to the honor guard should be considered a privilege to department officers. The selection of officers and length of assignment to the honor guard will be at the sole discretion of the lieutenant responsible for managing the guard.

382.5 UNIFORM

The uniform worn shall be the Class A uniform and may incorporate the dress jacket. Use of other accouterments such as braids, gloves, ascots, display weapons, or other attire appropriate to an honor guard shall be approved by the Chief of Police or his designee.

Volunteer Program

383.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

383.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

383.2 VOLUNTEER MANAGEMENT

383.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Community Services Division Manager. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completion and dissemination as appropriate of all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Administering discipline when warranted.

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- (j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

383.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

383.2.3 SCREENING

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References
- (d) Credit check

A polygraph exam may be required of each applicant depending on the type of assignment.

383.2.4 SELECTION AND PLACEMENT

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

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Volunteer Program

Volunteers shall only report to the department for official business unless other arrangements had been made with the Watch Commander or higher authority.

383.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

383.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

383.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers with the exception of reserve officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

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Volunteers shall be required to return any issued uniform or department property at the termination of service.

383.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

383.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

383.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

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Volunteer Program

383.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

- (a) A driving safety briefing and department approved driver safety course.
- (b) Verification that the volunteer possesses a valid California Driver License.
- (c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should ensure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

383.5.2 RADIO AND MDC USAGE

Volunteers shall successfully complete CLETS and radio procedures training prior to using the police radio or MDC and comply with all related provisions. The Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

383.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

383.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

383.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

Police Explorer Program

384.1 PURPOSE AND SCOPE

It is the purpose of this policy to establish a guideline for the explorer program, its organization, policies regarding the use of explorers and procedures for the designation and compensation of its advisors.

The Law Enforcement Exploring program is designed to provide young adults who may be interested in a career in law enforcement with a comprehensive program of training, competition, service and practical experiences. Character development, physical fitness, good citizenship and patriotism are integral components of the overall program. Through their involvement in the program, Explorers will develop an awareness of the purpose, mission, and objectives of the department.

The function of the San Bernardino Police Explorer program is to give Explorers an opportunity to learn firsthand the duties and responsibilities of San Bernardino police officers and law enforcement agencies. Members of this program are allowed to assist in certain duties of the San Bernardino Police Department in order to obtain knowledge through experience. The program will also serve as a "farm system" for the recruitment of future San Bernardino police officers.

San Bernardino Police Department Explorer Post #303 is an official program of the San Bernardino Police Department and Boy Scouts of America. The Chief of Police or his designee shall be the final authority on all matters pertaining to the operations of this explorer program.

Explorers shall be registered with the Boy Scouts of America. Explorers do not have any police power or authority. Explorers shall not be classified as city employees for the City of San Bernardino; therefore, they are not entitled to any compensation or benefits normally given to city employees.

384.2 EXPLORER MANAGEMENT / SUPERVISION

The Explorer Liaison Sergeant and managing Captain and/or Lieutenant shall be appointed by the Chief of Police. The Liaison Sergeant reports to the assigned managing Captain and/or Lieutenant on all matters pertaining to the explorer program. The Liaison Sergeant shall have functional supervision of the explorer program and all personnel assigned to it.

384.3 SENIOR EXPLORER ADVISOR

Selection of the Senior Explorer Advisor shall be made by the Chief of Police, with input from the Explorer Liaison Sergeant and the managing Captain and/or Lieutenant. The Senior Explorer Advisor shall report to the Explorer Liaison Sergeant. The Senior Advisor shall be responsible for the daily operations of the explorer program.

384.4 ASSOCIATE EXPLORER ADVISORS

The Associate Advisors shall be selected by the Explorer Liaison Sergeant, with the approval of the managing Captain and/or Lieutenant. They shall report to the Senior Explorer Advisor on all

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matters pertaining to the explorer program. The duties of the associate advisors are to supervise, train and develop the explorers within the program.

384.5 EXPLORERS

Explorers are youth who range from 14 to 21 years of age. Explorers report directly to any explorer advisor. When under the guidance or direction of any other Department personnel, they shall obey any lawful direction or command given them, unless directed otherwise by an explorer advisor. Explorers shall at all times follow all policies, procedures, rules and regulations of the San Bernardino Police Department and the San Bernardino Police Explorer Program.

384.5.1 EXPLORER DUTIES

In order to obtain a complete education in the field of law enforcement, explorers are scheduled to work certain assignments and activities. These assignments are normally on the subjects of traffic control, crowd control, crime prevention, and other duties specified by the police department. Explorer activities, assignments and conduct are governed by Department policy and the Explorer Manual.

384.5.2 REQUESTS FOR USE AND EMERGENCY MOBILIZATION

Due to the nature of the San Bernardino Police Explorer Program, it sometimes becomes necessary that explorers respond to calls for assistance by the police department. These calls may be to search for a missing child or traffic and crowd control during minor and major disasters. For this reason, the following procedure has been established in assisting the Department and explorer post members with requests for use and calls for mobilization.

When requesting the use of explorers for routine functions, a "request for use" form must be completed. These can be obtained from any explorer advisor. The completed forms should then be submitted via email or placed in the mailbox of the Explorer Liaison Sergeant for approval and assignment.

In the case of a serious emergency or event, the decision to mobilize the explorer post shall be made by the on duty field supervisor. The field supervisor will notify the Explorer Liaison Sergeant or the Senior Advisor.

In the event of a mobilization during school hours, an advisor will call the individual school offices. Explorers are to follow the instructions of school officials. Explorers shall not leave school without permission

384.5.3 RIDE-ALONGS

Explorers shall follow the ride-along policy as covered under Policy 410 of this manual, as well as outlined in the Explorer Manual. Explorers under 18 years of age are prohibited from participating in ride-alongs between 0000 hours and 0600 hours. Explorers shall remain in the police vehicle on emergency calls or calls that would jeopardize their safety or cause undue stress to them or victims. Explorers shall follow procedures outlined in the Explorer Manual for approval to ride prior to any ride-along.

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384.5.4 DRIVING POLICE VEHICLES

Explorers (whether or not in uniform), regardless of their age or driver license status, are not permitted to drive marked police vehicles or other motorized police conveyances. Explorers shall not operate, drive, park, or move any private vehicle, not belonging to them. The exception to this policy is when Explorers are participating in an authorized training program or competition and are under the direct, on-site, supervision of a law enforcement officer.

In the event of an emergency requiring immediate movement of a department vehicle, an officer may direct an Explorer to do so if no department employee is available, provided the Explorer is currently licensed by the State of California to operate that particular type of vehicle.

While a passenger in any moving department vehicle, Explorers shall wear a seat belt for increased safety.

384.5.5 ACADEMIC PERFORMANCE

Explorers shall maintain a 2.0 grade point average. Explorers will turn in their quarterly report cards to the Senior Explorer Advisor at the end of each school quarter. Report cards are to be turned in at the meeting following the Explorers receiving their report cards. If on a semester school year, the Explorers will turn in their report cards at the end of each semester. The Senior Advisor may request progress reports/grade checks from the Explorers at any time during the school year. Explorers who fail to maintain a 2.0 GPA will be subject to discipline and suspension from the program until the GPA requirement is achieved.

Explorers shall be in good standing with their school at all times.

384.6 SUPERVISION OF EXPLORERS

In addition to the regular meetings and duties of the explorers, they often work various assignments in the City assisting the Police Department and other organizations. On occasion, the explorers also assist other police departments beyond city limits. These assignments require the explorers to perform different tasks such as traffic control, crowd control, crime prevention and other duties. The Department requires Advisors to be present to supervise the explorers in these functions. There should be a minimum of one advisor per every five explorers present at all explorer functions, with the exception of the weekly explorer meetings. There shall be a minimum of one advisor present for explorer meetings.

The explorer advisory staff is responsible for the training, development and safety of all explorers. At all times, explorer advisors are considered to be “on-duty” when working with the explorer post and are therefore subject to all rules and regulations of the City of San Bernardino and the San Bernardino Police Department.

384.6.1 FUNCTIONS WITHIN THE CITY OF SAN BERNARDINO

During any function within, or at the request of, the City of San Bernardino (i.e. festivals, parades, crime prevention programs, recruitments, call-ins, etc.), advisors shall be present to supervise the explorers at all times. With prior approval from the Explorer Liaison Sergeant, explorers may be supervised by Department personnel not specifically assigned or designated as explorer advisors.

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Prior to these functions, advisors are required to make appropriate notifications to their immediate supervisor.

384.6.2 FUNCTIONS OUTSIDE THE CITY OF SAN BERNARDINO

During any explorer function outside the City of San Bernardino (i.e. explorer academy, advisor (O.C.L.E.E.A.A.) meetings and requests by outside agencies for events such as parades, fairs, sporting events, disasters, etc.), advisors shall be present; however, under these circumstances and with the prior approval of their immediate supervisor, advisors are encouraged to flex their schedule or days off to make this part of their regular duty time.

Off-Duty Law Enforcement Actions

385.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the San Bernardino Police Department with respect to taking law enforcement action while off-duty.

385.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

385.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms and Qualification Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

385.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.

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- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

385.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an San Bernardino Police Department officer until acknowledged. Official identification should also be displayed.

385.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

385.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

385.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

385.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

Extraordinary Law Enforcement Services

388.1 PURPOSE AND SCOPE

To establish a procedure for enforcing San Bernardino Municipal Code § 8.82.

388.2 AUTHORITY

Fees may be charged in situations where an event generates extraordinary cost to the City over and above the cost of providing normal law enforcement services and police protection citywide.

These situations include, but are not limited to: loud and boisterous conduct, noises and activities; disturbing the peace; congregations of persons in intoxicated condition or under the influence of drugs or alcohol; fighting; use of obscene or inflammatory language; loud music constituting a nuisance or disturbing the peace; activities causing excessive pedestrian or vehicular traffic; parking problems and congestion; vehicular racing and cruising; events occurring after 11:00 p.m. to 6:00 a.m. of the following day; use and display of narcotics, illegal drugs, controlled substances and paraphernalia for its use; the congregation of two or more persons using illegal drugs, narcotics, or controlled substances; congregating in a noisy or rowdy crowd; indecent exposure and lewd conduct.

Examples of applicability are parties, abatement of residences, excessive disturbance calls at bars, narcotic search warrants, the disruptive congregation of persons/vehicles in the parking lots of convenience stores and fast food restaurants, and demonstrations such as those experienced at family planning clinics.

388.3 PROCEDURE

Procedure is divided into two sections:

- Scheduled events
- Unscheduled events

388.3.1 SCHEDULED EVENTS

- (a) The person planning a scheduled event where extraordinary law enforcement services may be required shall register the event with the Chief of Police at least five working days before the occurrence of such event. It shall be in writing and shall include the following:
1. The name, address, and phone number of the person in charge and who will be available at all times during the event.
 2. The place and time the event will occur.
 3. The nature of the event and number of requested police officers or other law enforcement services.
- (b) The written registration will be forwarded to the appropriate division captain who will evaluate the event and determine if, because of its nature, the event will require

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extraordinary police services. The division captain will determine the cost of these extraordinary services and advise the person planning the event prior to the event's commencement of the nature and extent of law enforcement services to be provided and the cost thereof. The person in charge of the event may:

1. Accept and pay said charges in advance of the event.
 2. Continue with the event but contest the charges. In that instance, the actual costs shall be determined upon the event's conclusion.
 3. Elect to provide private security for the event in the manner directed by the Chief of Police to include the number of security officers and qualifications/capabilities of those officers.
 4. Elect not to schedule the event and notify the Chief of Police or appropriate division captain no later than 24 hours prior to the scheduled event.
- (c) At the conclusion of the event (except as provided in Section B.1), the division captain will complete the Extraordinary Law Enforcement Services Utilization form, accounting for the actual cost to the City incurred by providing these police services. This form will be forwarded to the Chief of Police who will forward it to the City's Finance Department for billing.

388.3.2 UNSCHEDULED EVENTS

- (a) During the response to an event which appears likely to generate extraordinary cost to the City as listed in the Authority section of this policy, the police officer investigating the matter will:
1. Advise a field supervisor.
 2. Advise the person in charge that if a return call is required, a fee will be assessed for all personnel and equipment costs associated with any recalls.
 - (a) The person in charge is the owner, manager, or occupant in charge of or in control of the premises where the event is occurring.
 3. Complete the Extraordinary Law Enforcement Services Warning and have the person in charge sign it. If the person refuses to sign, write "refused" in the signature block.
 4. Give the person in charge his/her copy of the warning.
 5. If no return calls are required, the warning form will be routed to the appropriate area commander for nuisance monitoring.
- (b) Should a return call be required, the responding officer will:
- (a) Request a supervisor.

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- (b) Complete the Violation Notification portion of the Extraordinary Law Enforcement Services form and have the person in charge sign it, if practical.
- (c) Give the person in charge his/her copy of the violation.
- (c) In instances where it is not feasible to leave the location, such as an unlawful assembly; in addition to being notified of the unlawful assembly, the person in charge will be advised that a fee will be assessed for all personnel and equipment costs associated with the dispersal of the unlawful assembly. If the matter is not resolved as directed by the officer, the officer will complete the Violation Notification portion of the Extraordinary Law Enforcement Services form and have the person in charge sign it, if practical, and give the person in charge his/her copy.

388.4 SUPERVISOR'S RESPONSIBILITY

- (a) Respond to the location of the second and any subsequent return calls to the same incident.
- (b) Ensure that the Extraordinary Law Enforcement Services form is accurately completed.
- (c) Complete the Extraordinary Law Enforcement Services Utilization form, accurately recording the number and classification of personnel, vehicles, HT's, and any other equipment used (i.e., tear gas) or expenses incurred.
- (d) If there are any injuries to personnel or damage to city property, indicate so on the form and attach copies of the injury/damage reports to the form.
- (e) Route the completed forms to the appropriate division captain. These include:
 1. Extraordinary Law Enforcement Services form (warning/violation notification).
 2. Extraordinary Law Enforcement Services Utilization form.
 3. Any injury/damage reports.
 4. A CAD printout.

388.5 DIVISION COMMANDER'S RESPONSIBILITY

- (a) Compute the real cost of officer time plus any additional fees for special equipment or services.
- (b) Complete the Extraordinary Law Enforcement Services Utilization form by entering those cost figures.
- (c) Forward the entire package to the Chief of Police for approval and subsequent forwarding of the utilization form to the City's Finance Department.

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- (d) In cases where there are personnel injuries or damage to city property, the City Attorney's Office should be consulted prior to submitting a bill to the Finance Department

Counterfeit Currency Investigation

390.1 PURPOSE AND SCOPE

To establish a standard procedure for investigation and processing cases of counterfeit currency offenses.

390.2 POLICY

Crimes involving counterfeit currency are generally investigated and prosecuted as a federal offense by the United States Secret Service.

Any case involving major printing, possession, and distribution of counterfeit currency as well as plates, paper, and machinery used in these offenses will be handled by the Secret Service. Cases of simple passing of counterfeit currency shall be handled by this department. Information about all counterfeit currency activity shall be forwarded to the Secret Service Office in Riverside.

390.3 PROCEDURE

390.3.1 INITIAL INVESTIGATION - OPERATIONS DIVISION

- (a) Counterfeit bill discovered in normal course of business with the passer already gone.
 - 1. Recover all suspected counterfeit bills and issue a receipt to the reporting party.
 - 2. Take a complete report with the following heading: Code Section - "Incident/ Crime-Counterfeit Bill/s".
 - 3. Place bills in evidence after tagging properly.
- (b) Counterfeit bill discovered with the passer still present.
 - 1. Recover all suspected counterfeit bills and tag them into evidence.
 - 2. Completely identify and interview the passer.
 - 3. Search for additional bills.
 - 4. Establish probable cause to arrest suspect.
 - 5. Complete investigation with interviews of all parties involved.
 - 6. Take a complete report with the following headings:
 - Code Section: PC 470
 - Crime: Forgery
 - Classification: Bank note
 - 7. Book the suspect for PC 470, Forgery-Bank Notes, a felony.

390.3.2 FOLLOW UP INVESTIGATION - INVESTIGATIONS DIVISION

- (a) All counterfeit currency cases shall be assigned to the Property Crimes Unit.

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1. Incident counterfeit bill cases will be assigned to the CSO for processing to the Secret Service and disposition.
 - (a) All currency will be sent to the United States Secret Service, Resident Agent, PO Box 1525, Riverside CA 92502.
 2. PC 470 Forgery-Bank Note cases will be assigned to a detective for complete investigation and prosecution.
 - (a) The Secret Service will be notified of any persons arrested on counterfeit currency related cases.
 - (b) A determination will be made if the persons arrested will be prosecuted by the Secret Service on federal charges. If so, the case will be closed with a final disposition of EXCEPTIONALLY CLEARED - Case referred to Secret Service for prosecution.
 - (c) If federal charges are not pursued by the Secret Service, the case will be submitted to the District Attorney's Office for a complaint charging the suspect on state charges.
- (b) Notification Number
- (a) Resident agent in Riverside
 - (a) 951-276-6781

Checks/Forgery/Credit Card Crimes

392.1 PURPOSE AND SCOPE

To provide employees with guidelines in which to investigate and document check and credit card crimes.

392.2 POLICY

Employees will thoroughly investigate and document all check and credit card crimes that occur within the city limits.

392.3 PROCEDURE

392.3.1 INITIAL INVESTIGATION

- (a) Employees will document each fraudulent use of a check or credit card in a crime report charging the appropriate check or credit card Penal Code section.
 - 1. True name checks marked NSF, Account Closed, UTL (unable to locate), or Refer to Maker where the suspect is gone:
 - (a) If the amount of loss is less than \$2,500, the officer should take a "PC 476a" report, mark the report no further action, and refer the victim to the District Attorney's Check Diversion Program.
 - (b) If the amount of loss is \$2,500 or more, the officer should take a "PC 476a" report and mark the report further action.
 - 2. Use Penal Code § 484g(b) for crimes where the suspect orders merchandise via phone, fraudulently using the credit card number of another person.
- (b) For report purposes on checks and credit card fraud, Victim #1 will be the business where the check/credit card was passed or used, or where the attempt was made. The check/credit card account holder (owner) can be listed as Victim #2.
- (c) Interview the person who accepted the check. Be sure to ask if they witnessed the suspect making the face of the check, endorsing the back of the check, or signing the credit card sales draft. If the suspect has already left the scene, ask witnesses if they can identify the suspect at a later date.
- (d) If the check acceptor talked with a financial institution or credit card official about the account, attempt to call this official and obtain a statement from them.
- (e) If possible, contact the owner of the check or credit card and obtain a statement from them. Ask if they know the suspect and also the circumstances surrounding the loss/theft of their check or credit card. Don't forget to ask them if they gave anyone permission to possess or use their check/credit card.

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392.3.2 COLLECTION OF EVIDENCE

- (a) Take the evidence of the crime. Evidence may come in various forms, depending on the type and location of the crime. If you are dealing with a check cashing business, besides the check, you might have a membership card, photograph of the suspect, or some other type of paperwork involved in the transaction. When dealing with a financial institution, affidavits of forgery are also common forms of evidence. The best rule to follow is: secure all paperwork involved in the transaction.
- (b) Handle all written documents as little as possible to preserve latent print evidence. Record the names of all persons known to have handled the documents for later elimination purposes.
- (c) Tag the check/credit card/s into evidence as soon as possible. Be sure to make copies (backside when applicable) of all your evidence and submit with your report.

392.3.3 INTERVIEW OF SUSPECT

- (a) If the suspect is in custody, interview them as soon as possible. The crux of the interview will be their knowledge that the check/credit card was lost/stolen and that they did not have permission to use the check/credit card.
- (b) When dealing with a PC 476A crime, determine if the suspect had knowledge of the status of the checking account.
- (c) If the suspect is arrested for an appropriate misdemeanor, it is suggested they be cite released. Be certain the suspect meets the criteria set forth policy.

392.3.4 FRAUD CASES INVOLVING CHECKS AND CREDIT CARDS PREVIOUSLY REPORTED STOLEN TO SBPD

- (a) When these types of fraud occur within the city limits, employees will document each fraudulent use in a separate crime report that will be issued case numbers distinct from the original loss or theft report.
 - 1. The case number from the original loss or theft report will be cross referenced to the subsequent fraud case/s.
 - 2. Any new evidence will be tagged and listed with the fraud case.
- (b) In fraud cases occurring outside the city limits, employees will complete a follow-up report to the original loss or theft report and attach a copy of the fraudulent document. The original fraudulent document will be returned to the victim who will be given instructions on how to file a report with the law enforcement agency having appropriate jurisdiction

Native American Graves Protection and Repatriation

393.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

393.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

Native American human remains - Any physical part of the body of a Native American individual.

Objects of cultural patrimony - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

393.2 POLICY

It is the policy of the San Bernardino Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects,

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sacred objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

393.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

393.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

Gun Violence Restraining Orders

394.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

394.1.1 DEFINITIONS

Definitions related to this policy include:

Gun violence restraining order - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

394.2 POLICY

It is the policy of the San Bernardino Police Department to petition for and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

394.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the officer's supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

394.3.1 ADDITIONAL CONSIDERATIONS

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

- (a) When responding to a domestic disturbance where the residence is associated with a firearm registration or record.
- (b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

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- (c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

394.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An officer serving any gun violence restraining order shall:

- (a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).
- (b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).
- (c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).
- (e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Manager for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

394.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

- (a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.
- (b) Serve the order on the restrained person if the person can be reasonably located.
- (c) Forward a copy of the order to the Records Manager for filing with the court and appropriate databases.

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394.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
 - 1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
 - 2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

394.6 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for ensuring:

- (a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).
- (b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).
- (c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).
- (d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained (Penal Code § 18120).
- (e) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

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394.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition.
- (e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

394.8 RELEASE OF FIREARMS AND AMMUNITION

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

Chapter 4 - Patrol Operations

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

400.2 POLICY

The San Bernardino Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of San Bernardino Police Department. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
- (h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (i) Directing and controlling traffic.

400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

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Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.5 TERRORISM LIAISON OFFICER (TLO) PROGRAM

It is the goal of the San Bernardino Police Department to make every reasonable effort to gather and report any information that may relate to either foreign or domestic terrorism. The Terrorism Liaison Officer (TLO) Program has been created to facilitate the flow of information between the San Bernardino Police Department and appropriate agencies within the federal government.

400.5.1 REPORTING

- (a) Officers are urged to notify a TLO of any and all information, crime reports, Field Interview (FI) cards, etc., which appear to exhibit any signs of potential international criminal activity or terrorist activity. This also includes any and all Terrorist Screening Center (TSC) hits following NCIC queries. This will ensure the accurate and timely dissemination of information to pertinent agencies.
- (b) In the event there are no TLOs available at the time, and depending on the severity of the incident, the reporting officers should make telephonic contact with the Joint Regional Intelligence Center (JRIC) at (562) 345-1100 or (888) 705-5742 to provide any time sensitive or crucial information. Officers shall follow up with a TLO in a timely manner.
- (c) It is important to note that the TLO Program is not an intelligence unit and does not have the resources to operate as such. TLOs have received training that enhances their ability to detect sometimes subtle signs of terrorist activity and have knowledge of the proper procedures for reporting said information to the federal government. This increase the chances of the detection, determent and defunding of terrorist activity.

400.5.2 TLO RESPONSIBILITIES

Participation in the TLO Program is voluntary and responsibilities include but are not limited to;

- (a) Assisting with the detection, identification and reporting of potential terror related activity.
- (b) Relaying suspicious activity and information to appropriate governmental agencies via JRIC.
- (c) Disseminating incidents internally to ensure departmental situational awareness via roll call and department email.
- (d) Maintaining the Building Security Log and ensuring all incidents concerning potential security threats and/or breaches to the San Bernardino Police Department facility are properly and thoroughly documented. This log is maintained in the Watch Commander's office.

400.5.3 TLO SELECTION

Any police department member can potentially participate in the TLO Program. All prospective members of the TLO Program must have attended both the TLO Basic Course and the TLO

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Countering Violent Extremism (CVE) course. This training assists personnel in the recognition of terrorist tactics, activities, and pre-incident indicators. The training also provides a solid foundation for relaying information to the Joint Regional Intelligence Center (JRIC). Upon completion of the courses, prospective TLOs must receive a written recommendation from their immediate supervisor. The TLO Program Manager then selects candidates based on the recommendation of their supervisors.

400.5.4 TLO COORDINATOR RESPONSIBILITIES

The member assigned to the Joint Terrorism Task Force (JTTF) will act as the TLO Coordinator. If no one is assigned to the JTTF the Program Manager will assign an officer as the TLO Coordinator. The responsibilities of the Coordinator include but are not limited to;

- (a) Disseminate intelligence received from the intelligence community, JRIC and other sources.
- (b) Coordinate training to the department on issues related to homeland security, counter terrorism, emerging threats and other information pertinent to Law Enforcement operations.
- (c) Provide monthly status reports to the Program Manager.

400.5.5 TLO PROGRAM MANAGER RESPONSIBILITIES

The TLO Program Manager will be designated by the Chief of Police. The responsibilities of the Program Manager are as follows;

- (a) Assign TLOs to attend regional intelligence meetings.
- (b) Direct the dissemination of intelligence received from the intelligence community, JRIC and other sources.
- (c) Assign Security Vulnerability and Threat Assessments on potential targets within the city.

400.6 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

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Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

Community and Problem Oriented Policing

401.1 PURPOSE AND SCOPE

To provide definitions and guidelines for the administration of community and problem oriented policing.

The goal of the San Bernardino Police Department is to reduce crime and the fear of crime, strengthen community partnerships, and develop and empower personnel.

401.2 PROCEDURES

Community and problem oriented policing are comprised of three basic elements - each dependent upon the other:

- A permanent team of officers assigned to the community policing effort;
- Maximum interaction and communication among team members to bridge all shifts;
- Maximum communication and interrelation between team members and the citizens of San Bernardino; and
- Non-traditional methods to resolve traditional police problems.

To be successful, guidelines for community and problem oriented policing should allow for individual discretion, imagination, and flexibility. The following guidelines should not restrict, but should be used as a concept.

401.3 NON-TRADITIONAL POLICE SERVICE

Personnel must take a holistic approach to community safety and welfare. The total environment of an area can contribute to crime and, thus, adversely affect the safety and welfare of the citizens. Attacking blighted/problem areas by informing other city departments of their existence can be a major source of crime prevention.

Success must be measured by result. Activities aimed at achieving crime reduction and community safety will be accomplished through a method of thinking that is not restricted by the traditional police role. It is better to remove a problem that is allowing crime into an area than to arrest criminals who have been drawn to that area by existing conditions. For instance, abating a vacant building that is a refuge for narcotic users will remove a narcotics problem from the area more effectively than making narcotic arrests in that same area repeatedly.

401.4 POLICE COMMUNITY RELATIONSHIPS / CITIZEN PARTICIPATION

Community trust and citizen participation are the cornerstones of community and problem oriented policing. The human element consciously included in the delivery of police service is the most distinct difference between community and problem oriented policing and what may be called traditional police service delivery. Once supportive police/community relationships have been established, team members will be made aware of neighborhood problems and concerns through

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the area community service offices and Neighborhood Watch meetings. The teams are then able to work with community members and other city departments to resolve these problems.

If we are to be successful in our commitment to enhance the quality of life and to reduce crime, we must have the participation of the community in crime prevention and crime reduction. Community and problem oriented policing will have its most significant impact on crime problems when citizens of the community are conscious of and participate in crime reduction.

401.5 DEPARTMENTAL SUPPORT AND COMMUNICATION

Teams will greatly enhance their problem solving potential by the utilization of available resources throughout the department. Each department division has specific tasks, assignments, and duties; however, their work should be accomplished to enhance the success of the area teams and, therefore, the police mission.

401.6 TEAM STRUCTURE AND RESPONSIBILITIES

401.6.1 SERGEANTS

In addition to field supervision, personnel inspections, and training, the team sergeant has additional responsibilities. He/she will be responsible for building a liaison between team members to bridge all shifts. He/she will carry out those community and problem oriented policing policies as described under area command through training and example. He/she will encourage problem resolution by their subordinates. He/she will be responsible for the team area in the absence of the area commander.

401.6.2 CORPORALS

In addition to those duties normally associated with a field officer/training officer, the team corporals have additional responsibilities. They will communicate with the team sergeants to keep abreast of all current problems in their area of responsibility. They will assist the sergeants in notifying team members of these problems. They will set an example for team members to follow in initiating problem resolution and in promoting the concept of community and problem oriented policing.

401.6.3 PATROL OFFICERS

It will be the patrol officer's responsibility to thoroughly understand the concept of community and problem oriented policing and to apply those principles in his/her daily contacts with members of the community. He/she will no longer think in terms of temporary resolution; instead he/she will look for ways to work with community members for permanent solutions. He/she will no longer work within the narrow scope of believing that police action is the only recourse, but will, instead, look at police action as one tool in an arsenal of weapons that will include community involvement in crime prevention as well as the enlistment of other city agencies to get at the root of an environment that is harboring, or perpetuating crime.

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401.6.4 COMMUNITY SERVICE OFFICERS

The community service officers (CSO's) will assist the team in all concepts of community and problem oriented policing by performing those duties normally assigned to the patrol officer, which are of a non-hazardous nature. The CSO's responsibilities will include the investigation and reporting of crime, abatements (which will include notifications to appropriate city agencies), crime prevention/ Neighborhood Watch, the keeping of team records, and maintaining a liaison with Crime Analysis.

401.7 WATCH COMMANDER

Watch Commanders are responsible for the 24-hour supervision of station operations and are functionally responsible for the administration and management of the city (in the absence of a higher authority) on a shift basis. Included among the duties and responsibilities of the Watch Commanders will be the following:

- (a) Commander of a patrol district.
- (b) Supervision of all complaint desk personnel.
- (c) In the absence of a supervisor of higher rank, the watch commander will have functional control of all personnel on duty.
- (d) The Watch Commander will be responsible for the maintenance and inventory control of all divisional equipment. This includes, but is not limited to, vehicles, radios, vehicle keys, shotguns, and other weapons as may be assigned to the division.
 - 1. This provision does not relieve the senior shift sergeant from his/her responsibilities to check in and out equipment issued to field officers.
- (e) The Watch Commander will maintain the master copy of the Operations Division's daily work schedule.
 - 1. The Watch Commander will make modifications to the master work schedule to adjust for late assignment changes, sick time, training, court, and other unscheduled events that affect deployment.
 - 2. The Watch Commander will be responsible for approval of all unscheduled absences.
 - 3. On each shift, the Watch Commander will assign to the field sergeants responsibilities for those areas where an assigned sergeant is not on duty.
 - 4. The Watch Commander will have the responsibility and the authority to call in additional personnel to fill in when unscheduled or unanticipated personnel shortages occur.
- (f) The Watch Commander is responsible for seeing that the initial report on civilian complaints is made and forwarded to the division captain.

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- (g) The Watch Commander will coordinate requests for specialized investigative services initiated by field personnel.
- (h) The Watch Commander will cause notifications to be made as required to the Chief of Police, Assistant Chief of Police, and Division Captains.
- (i) The Watch Commander will be the official representative of the Chief of Police and will be functionally in charge of department operations during the absence of higher authority. The Watch Commander is authorized to make decisions and take necessary actions consistent with department policies and procedures.
- (j) The Watch Commander will be responsible for building security during his/her assigned watch.
- (k) The Watch Commander will complete an inspection log using the parameters set forth in the Policy Manual in order to report on his/her observations during each tour of duty.

Bias-Based Policing

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the San Bernardino Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

402.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing or improper profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

402.2 POLICY

The San Bernardino Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.

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- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

402.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

402.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

402.4.2 REPORTING OF STOPS

Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by Government Code § 12525.5 and 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the San Bernardino Police Department is the primary agency, the San Bernardino Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

402.4.3 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

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402.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
 - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review MAV recordings, portable audio/video recordings, Mobile Digital Computer (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
 - 1. Supervisors should document these periodic reviews.
 - 2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

402.6 ADMINISTRATION

Each year, the Operations Captain should review the efforts of the Department to provide fair and objective policing and submit an overview, including public concerns and complaints, to the Chief of Police.

This report should not contain any identifying information about any specific complaint, member of the public or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

402.7 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Professional Standards Bureau Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Manager for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Bureau Policy.

Supervisors should ensure that data stop reports are provided to the Records Manager for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

402.8 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

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- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

402.8.1 ADDITIONAL STATE REQUIREMENTS

Training should be conducted as directed by the Personnel and Training Unit.

- (a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved POST refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity, and cultural trends (Penal Code § 13519.4(i)).

Briefing Training

404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations
- (b) Notifying officers of changes in schedules and assignments
- (c) Notifying officers of new Departmental Directives or changes in Departmental Directives
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

Crime and Disaster Scene Integrity

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

406.2 POLICY

It is the policy of the San Bernardino Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

406.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

406.5 INVESTIGATOR NOTIFICATION

If the circumstances warrant investigators to respond, notify the Watch Commander and ensure a "Supervisor Checklist" is completed. If investigative personnel are called to the scene, continue to protect the scene until relieved by investigators.

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An investigator may be called out as follows:

- (a) All homicides or questionable death investigations.
- (b) When a serious assault occurs, and it is determined by the emergency room physician or other doctor that there is a strong possibility death may result, the Watch Commander may make the determination to call the Homicide Unit, even though death has not yet occurred.
- (c) All officer involved shootings and incidents where an officer is the victim of an assault resulting in substantial injuries.
- (d) Missing person investigations involving children under the age of 12 and all "at risk" missing persons as provided in Policy Manual § 332 dealing with missing person reports.
- (e) Burglary investigations where suspect/s or informants are willing to provide investigators information concerning the location of a major fence for stolen property.
- (f) Forgery or credit card investigations where suspect/s or informants are willing to provide investigators with information concerning the location of a significant number of forged or fraudulent documents or credit cards.
- (g) Auto theft investigations where suspect/s or informants are willing to provide investigators with information concerning the location of a major "chop shop" operation.
- (h) Major burglary or robbery investigations involving property loss exceeding \$50,000 with workable leads.
- (i) Take-over commercial or residential robbery investigations with workable leads.
- (j) Carjacking investigations with workable leads where the victim/s have sustained threatening injuries.
- (k) Rape investigations involving a serial rapist as identified by MO or physical description.
- (l) Child abuse investigations involving imprisonments or life threatening injuries.
- (m) Child molest investigations involving three or more victims with the suspect in custody or identity known.
- (n) Parental child abductions where the initial investigation has failed to recover the missing children and there is a strong indication that the suspect/s have fled the County of San Bernardino with the missing children.
- (o) In those special cases when, after careful review of the circumstances, the Watch Commander deems it necessary for an investigator to respond. The Watch Commander will contact the sergeant of the affected unit who will in turn call out the investigator/s who will respond and will notify the duty chief.

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406.6 INVESTIGATOR RESPONSIBILITY

On their arrival, the investigative personnel will assume responsibility for the crime scene investigation. The investigations personnel shall coordinate with the ranking patrol officer at the scene as to assistance needed by investigative personnel.

Upon responding, investigative personnel shall:

- (a) Contact the supervisor/senior officer at the scene for briefing and coordination.
- (b) When applicable, ensure that:
 - 1. Crime scene arrival log is being kept.
 - 2. APB on suspect/s has been broadcast.
 - 3. Witnesses have been transported to the station.
 - 4. "In Custody" suspect/s have been processed.
 - 5. Coroner notification.
- (c) Direct forensic personnel as to evidence collection, photos and fingerprint processing.
- (d) Complete crime scene investigation including search warrant if necessary.
- (e) Complete crime scene diagram.
- (f) Interview witnesses
- (g) Attempt to locate and arrest suspect/s.
- (h) Interview suspect/s.
- (i) Ensure a press release is issued.

406.7 FORENSIC TECHNICIAN RESPONSIBILITY

- (a) When the Forensic Technician is called to a crime scene, he/she will be responsible for the following portions of the investigation:
 - 1. Locate and preserve all latent, patent, and plastic physical evidence.
 - 2. Take sufficient photographs to ensure the scene is adequately preserved on film.
 - (a) Although photographing the scene is the Forensic Technician's responsibility, he/she will take specific photographs as requested by the investigators or supervisors at the crime scene.
- (b) During major crime scene investigations (defined in this order as those in which investigators have been called to the scene), Forensic Technicians will have the following additional responsibilities:
 - (a) Picking up, packaging, and securing items of physical evidence located at the crime scene.

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- (b) Forensic Technicians will use all universal precautions deemed necessary while processing the crime scene and when handling, collecting, packaging, and securing physical evidence that is known or suspected to be contaminated.
- (c) In order to fulfill these duties in the most expeditious manner, the Forensic Technician will frequently need assistance. The technician will obtain this assistance in the following areas:
 - (a) Utilize a second Forensic Technician.
 - (b) From a police officer at the scene.

406.8 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

406.8.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

406.9 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

Naloxone Program

407.1 PURPOSE AND SCOPE

San Bernardino Police Department personnel are sometimes the first responders to incidents where a person is experiencing or suspected of experiencing an opioid-overdose or poisoning incident. Whenever practicable, personnel should take appropriate steps to provide initial medical aid during such incidents. The purpose of this policy is to establish procedures to govern the San Bernardino Police Department's Naloxone Program through the deployment of Naloxone (Narcan) by San Bernardino Police Department personnel. The objective of the program is to reduce injuries or fatalities related to opioid overdoses during instances where San Bernardino Police Department personnel are present, and emergency medical aid personnel have not yet arrived.

407.2 POLICY

It is the policy of the San Bernardino Police Department that personnel shall be trained to administer Naloxone, in accordance with state law and medical guidelines, to persons who are experiencing, or suspected of experiencing, an opioid overdose at the earliest possible time to minimize the chances of death.

- (a) Personnel trained in the use of Naloxone may deploy Naloxone in the field to persons experiencing, or suspected of experiencing, an opioid overdose when they deem it necessary. Personnel in the field have discretion to administer or not administer Naloxone should circumstances prevent its safe administration. Personnel are under no legal obligation to administer Naloxone.
- (b) Personnel who administer Naloxone should do so in compliance with training protocols. Personnel are protected from civil and criminal liability by Good Samaritan laws if they act with, "reasonable care" and "good faith."

407.3 NALOXONE PROGRAM COORDINATOR

The Chief of Police will assign a Naloxone Program Coordinator. The Naloxone Program Coordinator's responsibilities will include:

- (a) Ensuring stored Naloxone kits are current and not past their expiration date.
- (b) Maintaining Naloxone supplies and managing proper storage.
- (c) Coordinating training and oversight of Naloxone deployments.
- (d) Collecting Naloxone Use Reports and ensuring records of deployments are maintained properly, reviewed by the Medical Advisor, and reported to the State as required.

407.4 TRAINING

Only personnel trained in the use of Naloxone are authorized to administer Naloxone in the field. The training will include an explanation of the symptomatology of opioid overdoses, instructions for Naloxone deployment, and the appropriate first aid procedures to follow when Naloxone

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is deployed. The training will also include the proper procedures for storage and handling of Naloxone by individual personnel and post use reporting requirements.

407.5 NALOXONE USE

When personnel encounter an incident involving a suspected opioid overdose or poisoning incident, they should adhere to the following procedures:

- (a) Ensure scene safety by checking for drugs/substances which may cause exposure to personnel and exercise universal precautions.
- (b) Call for medical aid as the member deems appropriate.
- (c) Attempt to rouse the victim.
- (d) If no response, position the victim safely on a flat surface.
- (e) Assess the victim's status and vital signs, including pulse and respiration.
- (f) Administer Naloxone and appropriate first aid, including CPR if needed.
- (g) Update dispatch regarding Naloxone deployment and first aid procedures such as CPR.
- (h) Notify medical aid personnel of Naloxone deployment and the circumstances leading up to it.

407.6 MAINTENANCE AND REPLACEMENT

After the use of a Naloxone kit, personnel should report the deployment to a supervisor. The supervisor will ensure that the employee's Naloxone kit is replaced with a fresh kit.

If the employee's Naloxone kit is damaged and rendered unusable, the employee will document the cause of the damage and need for replacement in the form of a memorandum. The memorandum shall be submitted to the employee's supervisor who will recover the damaged kit and ensure the employee receives a fresh Naloxone kit. The supervisor will forward the memorandum to the Naloxone Program Coordinator who will dispose of the damaged kit and report the kit's disposition to the State.

Employees should check their Naloxone kits regularly to ensure they are in good order and available for use when needed. Personnel should be cautious with the kits and ensure kits are stored at temperatures between 59 and 89 degrees.

407.7 REPORTING REQUIREMENTS

Personnel who use Naloxone shall document the use of Naloxone in a written report. Additionally, personnel shall ensure that a supervisor is notified when Naloxone is deployed. After a Naloxone deployment, the supervisor shall complete a Naloxone Use Report and submit the report to the Naloxone Coordinator via email within 24 hours. The Naloxone Use Report is available on the San Bernardino Police Intranet site.

Naloxone Use Reports shall be uploaded to the Police Department's Records Management System and maintained in accordance with the established records retention schedule.

Crisis Response Unit

408.1 PURPOSE AND SCOPE

The Crisis Response Unit (CRU) is comprised of two specialized teams: the Hostage Negotiation Team (HNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Crisis Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

408.1.2 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

408.2 LEVELS OF CAPABILITY/TRAINING

408.2.1 LEVEL I

A Level I SWAT team is a basic team capable of providing containment and intervention with critical incidents that exceed the training and resources available to line-level officers. This does not include ad hoc teams of officers that are formed around a specific mission, detail or incident (e.g. active shooter response). Generally 5% of the basic team's on-duty time should be devoted to training.

408.2.2 LEVEL II

A Level II, Intermediate level SWAT team is capable of providing containment and intervention. Additionally, these teams possess tactical capabilities above the Level I teams. These teams may or may not work together on a daily basis, but are intended to respond to incidents as a team. At

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least 5% of their on-duty time should be devoted to training with supplemental training for tactical capabilities above the Level I team.

408.2.3 LEVEL III

A Level III, Advanced level SWAT team is a SWAT team whose personnel function as a full-time unit. Generally 25% of their on-duty time is devoted to training. Level III teams operate in accordance with contemporary best practices. Such units possess both skills and equipment to utilize tactics beyond the capabilities of Level I and Level II teams.

408.3 POLICY

It shall be the policy of this department to maintain a SWAT team and to provide the equipment, manpower, and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and Control
- (b) Containment
- (c) Entry/Apprehension/Rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

408.3.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT Commander or his/her designee.

408.3.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures which should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing.
- (b) Team organization and function.
- (c) Personnel selection and retention criteria.
- (d) Training and required competencies.
- (e) Procedures for activation and deployment.
- (f) Command and control issues, including a clearly defined command structure.
- (g) Multi-agency response.
- (h) Out-of-jurisdiction response.

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- (i) Specialized functions and supporting resources.

408.3.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to CRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

- (a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
 - 1. All SWAT team members should have an understanding of operational planning.
 - 2. SWAT team training should consider planning for both spontaneous and planned events.
 - 3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
- (b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.
 - 1. When possible, briefings should include the specialized units and supporting resources.
- (c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.
- (d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.
- (e) The appropriate role for a trained negotiator.
- (f) A standard method of determining whether or not a warrant should be regarded as high-risk.
- (g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
- (h) Post incident scene management including:
 - 1. Documentation of the incident.
 - 2. Transition to investigations and/or other units.
 - 3. Debriefing after every deployment of the SWAT team.

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- (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
- (b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
- (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
- (d) When appropriate, debriefing should include specialized units and resources.
 - (i) Sound risk management analysis.
 - (j) Standardization of equipment deployed.

408.4 TRAINING NEEDS ASSESSMENT

The SWAT/CRU Commander shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (11 C.C.R. § 1084).

408.4.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.

- (a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

408.4.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

408.4.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

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408.4.4 SWAT ONGOING TRAINING

Training shall be coordinated by the CRU Commander. The CRU Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

- (a) Each SWAT member shall perform a physical fitness test every three months. A minimum qualifying score must be attained by each team member.
- (b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Retesting will take place at the next quarterly physical fitness test. The SWAT team member must attain a qualifying score at that time. Failure to qualify after a second attempt may result in dismissal from the team.
- (c) Those members who are on vacation, ill, or are on light duty status with a doctor's note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member, who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.
- (d) Quarterly, each SWAT team member shall perform the mandatory SWAT handgun and rifle qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require that officer to seek remedial training from a team range master approved by the CRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

408.4.5 TRAINING SAFETY

A designated safety officer shall be used for all tactical training.

408.4.6 SCENARIO BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

408.4.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained in the SWAT division file. Range qualification and all SWAT related training will be recorded documenting SWAT team member attendance and performance measures.

408.5 UNIFORMS, EQUIPMENT, AND FIREARMS

408.5.1 UNIFORMS

SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

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408.5.2 EQUIPMENT

SWAT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

408.5.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units, and the supporting resources shall be agency-issued or approved, including any modifications, additions, or attachments. Duty ammunition will be in accordance with department policy. Additionally, SWAT duty ammunition types may be approved at the discretion of the Chief of Police.

408.5.4 OPERATIONAL READINESS INSPECTIONS

The CRU Commander shall appoint a CRU supervisor to perform operational readiness inspections of all unit equipment at least quarterly. The result of the inspection will be forwarded to the CRU Commander in writing. The inspection will include personal equipment issued to members of the unit, operational equipment maintained in the CRU facility and equipment maintained or used in CRU vehicles.

408.6 MANAGEMENT/SUPERVISION OF CRISIS RESPONSE UNIT

The Commander of the CRU shall be selected by the Chief of Police upon recommendation of staff.

408.6.1 PRIMARY UNIT MANAGER

Under the direction of the Chief of Police, through the Investigations Captain, the Crisis Response Unit shall be managed by the SEB lieutenant.

408.6.2 TEAM SUPERVISORS

The Negotiation Team and each Special Weapons and Tactics Team will be supervised by a sergeant.

The team supervisors shall be selected by the Chief of Police upon specific recommendation by staff and the CRU Commander.

The following represent the supervisor responsibilities for the Crisis Response Unit.

- (a) The Negotiation Team supervisor's primary responsibility is to supervise the operations of the Negotiation Team which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.
- (b) The Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties as directed by the CRU Commander.

408.7 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES

The Hostage Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to deescalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

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The following procedures serve as directives for the administrative operation of the Hostage Negotiation Team.

408.7.1 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a memorandum of interest and qualifications to their appropriate Division Captain. A copy will be forwarded to the CRU Commander and the Hostage Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the CRU Commander, the Hostage Negotiation Team supervisor, and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and understanding of the critical role of a negotiator and the negotiation process.
- (c) Effective communication skills to ensure success as a negotiator.
- (d) Special skills, training, or appropriate education as it pertains to the assignment.
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The oral board shall submit a list of successful applicants to staff for final selection.

408.7.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Negotiation Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

408.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

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The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

408.8.1 SELECTION OF PERSONNEL

Interested sworn personnel who are off probation shall submit a memorandum of interest and qualifications to their appropriate Division Captain, a copy of which will be forwarded to the CRU Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the CRU Commander. The testing process will consist of an oral board, physical agility, SWAT basic handgun, and team evaluation.

- (a) Oral board: The oral board will consist of personnel selected by the CRU Commander. Applicants will be evaluated by the following criteria:
 - 1. Recognized competence and ability as evidenced by performance;
 - 2. Demonstrated good judgment and understanding of the critical role of a SWAT member;
 - 3. Special skills, training, or appropriate education as it pertains to this assignment; and,
 - 4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.
- (b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the CRU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.
- (c) SWAT basic handgun: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. A minimum qualifying score of 90% must be attained to qualify. The handgun course will be determined by the SWAT supervisor.
- (d) Team evaluation: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.
- (e) A list of successful applicants shall be submitted to staff, by the CRU Commander, for final selection.

408.8.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the CRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

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408.9 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Hostage Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Hostage Negotiation Team such as warrant service operations. This shall be at the discretion of the CRU Commander.

408.9.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Crisis Response Unit is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the CRU Commander.

408.9.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Crisis Response Unit:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages are taken, or are suspected to have been taken.
- (c) Cases of suicide threats.
- (d) Arrests of dangerous persons.
- (e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.
- (f) High-risk search warrant service.

408.9.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the San Bernardino Police Department Crisis Response Unit in response to requests by other agencies must be authorized by a Captain.

408.9.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, MOU's, or working relationships to support multi-jurisdictional or regional responses.

- (a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted; SWAT multi-agency and multi-disciplinary joint training exercises are encouraged.
- (b) Members of the San Bernardino Police Department SWAT team shall operate under the policies, procedures and command of the San Bernardino Police Department when working in a multi-agency situation.

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408.9.5 MOBILIZATION OF CRISIS RESPONSE UNIT

The On-Scene supervisor shall make a request to the Watch Commander for the Crisis Response Unit. The Watch Commander shall then notify the CRU Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the Watch Commander's office by the CRU Commander. The Watch Commander will then notify the Operations Captain as soon as practical.

The Watch Commander should advise the CRU Commander with as much of the following information which is available at the time:

- (a) The number of suspects, known weapons and resources.
- (b) If the suspect is in control of hostages.
- (c) If the suspect is barricaded.
- (d) The type of crime involved.
- (e) If the suspect has threatened or attempted suicide.
- (f) The location of the command post and a safe approach to it.
- (g) The extent of any perimeter and the number of officers involved.
- (h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The CRU Commander or supervisor shall then call selected officers to respond.

408.9.6 FIELD UNIT RESPONSIBILITIES

While waiting for the Crisis Response Unit, field personnel should, if safe, practical and sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a command post outside of the inner perimeter.
- (c) Establish an arrest/response team. The team actions may include:
 - 1. Securing any subject or suspect who may surrender.
 - 2. Taking action to mitigate a deadly threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communication with the suspect. Once the CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.
- (f) Be prepared to brief the CRU Commander on the situation.
- (g) Plan for, and stage, anticipated resources.

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Crisis Response Unit

408.9.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis Response Unit. Once the Incident Commander authorizes deployment, the CRU Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

408.9.8 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL

All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Crisis Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

Tactical Medic Program

409.1 PURPOSE AND SCOPE

To create guidelines and policy for tactical medics.

409.2 POLICY

The San Bernardino County Fire Department and the San Bernardino Police Department have agreed to a tactical medic program.

409.3 DEFINITION

Tactical medics are specialized police reserve officers whose full-time employment is with the San Bernardino County Fire Department as a paramedic, or who is a licensed physician.

409.4 UTILIZATION

For purposes of this policy, tactical medics will only be used in conjunction with SWAT call-outs or with the Mobile Field Force. Normal policies, procedures, and practices of the Fire Department will cover any other use of fire department paramedics.

409.5 SELECTION OF PERSONNEL

Tactical medics will apply for and be appointed sworn specialist police reserve officers. Normal reserve officer screening processes will take place after application. Because this is a specialist reserve officer position, tactical medics will be exempt from normal reserve officer requirements (monthly meetings, volunteer time) except as required by POST. Tactical medics will have reserve police officer powers only during the performance of their duties as a tactical medic.

The Police Department will receive applications for the position only after concurrence and endorsement by the Fire Department. Final appointment to the position requires both Fire and Police Department endorsement.

409.6 STANDARDS/INTERDEPARTMENTAL AGREEMENTS

Law enforcement issues surrounding the deployment of medics at police incidents, reserve police officer selection and training, and tactical training will remain the responsibility of the Police Department.

Issues surrounding medical training, initial selection of tactical medic applicants, overtime, medical and tactical medical equipment, and the application of medical aid will remain the responsibility of the Fire Department.

In the event of a catastrophic incident, tactical medics will be under the control and subject to assignment by the Fire Department. Their use in a tactical incident will be subservient to their primary mission with the Fire Department.

The Police Department will provide tactical medics with equipment normally assigned to reserve police officers (i.e., ballistic helmets and vests, sidearms, etc.).

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Interim approval of tactical medics (final appointment as reserve police officers remains with the police appointing authority) and resolution of any other issues will be made jointly by representatives of the police department (SEB lieutenant and SWAT sergeant) and Fire Department liaison.

409.7 ORGANIZATIONAL ACCOUNTABILITY

Functional and administrative control of the tactical medics rests with the SEB lieutenant, supervision by the SWAT sergeant, within the Police Department. Continuing reserve officer certification remains the responsibility of the police lieutenant commanding the reserve officer program.

When assigned to a MFF function, tactical medics will be under the functional control of the MFF command structure.

Fire Department organizational accountability rests with the designated Fire battalion chief.

409.8 TRAINING

Tactical medics employed by the Fire Department must maintain their certification as a paramedic and complete all training required for paramedics in the Fire Department.

Tactical medics who are licensed physicians must maintain their certification as a state-licensed physician and complete all training required by the state medical board.

All tactical medics shall participate in SWAT training as outlined in Policy Manual § 408.4.

All tactical medics shall complete the POST mandated Tactical Medic Course in compliance with POST and California Emergency Medical Services Authority requirements.

Ride-Along Policy

410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY

The San Bernardino Police Department Ride-Along Program is offered to residents, applicants for employment with the San Bernardino Police Department, relatives of a Department employee, students, those employed within the City, employee of a governmental agency related to law enforcement, or any other person approved by a division captain. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 18 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit or complaint against the Department or the City of San Bernardino
- Denial by any supervisor

410.1.2 AVAILABILITY

The Ride-Along Program is available on all days of the week and patrol shifts subject to the approval of the Watch Commander.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Watch Commander. The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form. Juvenile requests will be approved through the Operations Division Captain.

The Watch Commander will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

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Ride-Along Policy

410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every three months. An exception would apply to the following: Cadets, Explorers, Citizen Volunteers, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

An effort will be made to ensure that no more than two citizens will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for police cadets are covered in Policy Manual § 1048, "Police Cadet Program."

410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the San Bernardino Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the critique form shall be returned to the Watch Commander with any comments which may be offered by the participant.

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410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

410.4.1 PARTICIPANT CONDUCT

The participant's conduct is governed by the instruction sheet, which the participant is obligated to read and sign. Any deviation from these instructions could result in the participant being returned to the station, ending the ride-along. Participants who are related to a sworn officer will not be allowed to ride with the related officer unless approved by the Operations Division Captain.

410.5 MEDIA RIDE-ALONGS

In addition to the standard instructions and waiver for patrol car observers, media ride-alongs will:

- (a) Be approved by Executive Staff or the Watch Commander.
- (b) Ensure that media access is physically limited to areas open to the public. Media personnel will not accompany police personnel into any residence or private location without voluntary expressed consent of the individual/s in legal possession of that location.

Hazardous Material Response

412.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities. To comply with 8 CCR § 5194, the following is to be the policy of this department.

412.1.1 DEFINITIONS

Definitions related to this policy include:

Hazardous material – A substance which, by its nature, containment, or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

412.2 HAZARDOUS MATERIAL RESPONSE

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When members come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest, or statements from the person transporting).
- (b) Notify the fire department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

412.3 REPORTING EXPOSURE

Department members who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an employee memorandum that shall be forwarded via chain of command to the Watch Commander as soon as practicable. Should the affected member be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

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Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report as applicable.

412.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of members, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the fire department.

Hostage and Barricade Incidents

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

414.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

414.2 POLICY

It is the policy of the San Bernardino Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

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- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

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- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

414.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics Team (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
 - (b) Ensure the completion of necessary first responder responsibilities or assignments.
 - (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
 - (d) Establish a command post location as resources and circumstances permit.
 - (e) Designate assistants who can help with intelligence information and documentation of the incident.
 - (f) If it is practicable to do so, arrange for video documentation of the operation.
 - (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

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- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

414.6 SWAT RESPONSIBILITIES

The Incident Commander will decide, with input from the SWAT Commander, whether to deploy the SWAT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SWAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the SWAT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

414.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

Response to Bomb Calls

416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the San Bernardino Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

416.2 POLICY

It is the policy of the San Bernardino Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

416.4.1 SAN BERNARDINO POLICE DEPARTMENT FACILITY

If the bomb threat is against the San Bernardino Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the San Bernardino Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

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416.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

416.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of San Bernardino Police Department, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
 - 1. No evacuation of personnel and no search for a device.
 - 2. Search for a device without evacuation of personnel.
 - 3. Evacuation of personnel without a search for a device.
 - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.

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- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
 - 1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
 - 2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
 - 1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

416.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
 - 1. Two-way radios
 - 2. Cell phones
 - 3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Watch Commander including:
 - 1. The time of discovery.

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2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

416.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

416.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

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416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

418.2 POLICY

It is the policy of the San Bernardino Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

418.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

418.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints

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are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

418.3.3 MENTAL HEALTH DOCUMENTATION

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

418.3.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

418.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

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418.5 TRANSPORTATION

When transporting any individual for a 5150 commitment, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, supervisor approval is required before transport commences.

418.5.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

- (a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.
- (b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have been confiscated unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him or her of the right to a hearing on the issue and that he or she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon(s).
- (c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.
- (d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice which conforms to the provisions of Penal Code § 33865.
- (e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

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418.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

418.7 DOCUMENTATION

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

418.7.1 ADVISEMENT

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

418.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

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When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

418.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual

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informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

418.10 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

Cite and Release Policy

420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

420.2 POLICY

It is the policy of the San Bernardino Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

420.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

420.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

420.4 NON-RELEASE

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420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (f) Stalking (Penal Code § 646.9)
- (g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.
- (d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).
- (e) The person could not provide satisfactory evidence of personal identification.
 - 1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

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- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:
 - 1. Previous failure to appear is on record
 - 2. The person lacks ties to the area, such as a residence, job, or family
 - 3. Unusual circumstances lead the officer responsible for the release of arrested persons to conclude that the suspect should be held for further investigation
- (j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.
- (k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Bureau.

420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.
- (f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.
- (g) The person has other ineligible charges pending against themselves.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.

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- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

420.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the San Bernardino Police Department City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Bureau for further action including diversion.

420.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if the officer feels the situation should be documented more thoroughly in a case report.

Foreign Diplomatic and Consular Representatives

422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the San Bernardino Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

422.2 POLICY

The San Bernardino Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

422.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers
 - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

422.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

422.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Rapid Response and Deployment

424.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers as they make decisions in these rapidly unfolding and tense situations.

424.2 POLICY

The San Bernardino Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

424.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.

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- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

424.3.1 RESPONSE TO SCHOOL THREATS

Upon receiving a threat or perceived threat from a school official that involves grades 6 to 12, officers shall immediately investigate and conduct a threat assessment. The investigation shall include a review of the firearm registry of the California Department of Justice. A reasonable search of the school at issue shall be conducted when the search is justified by reasonable suspicion that it would produce evidence related to the threat or perceived threat (Education Code § 49394).

For purposes of this subsection a "threat" or "perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual (Education Code § 49390).

Reporting Police Activity Outside of Jurisdiction

426.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the San Bernardino Police Department.

426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify Dispatch before responding and thereafter notify a supervisor as soon as practical.

426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of the San Bernardino Police Department shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as practical.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Division Captain.

Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the San Bernardino Police Department relating to immigration and interacting with federal immigration officials.

428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

428.2 POLICY

It is the policy of the San Bernardino Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

428.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

428.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

428.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b) (2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

428.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

428.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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428.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

428.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.7.2 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

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428.7.3 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Detective Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Manager for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Bureau Policy).

428.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k)(3).
 3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).
 4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
 1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall

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include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).

- (e) Inform the victim liaison of any requests and their status.

428.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

428.8.2 REPORTING TO LEGISLATURE

The Assistant Chief of Police or Investigations Lieutenant shall ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

428.8.3 POLICE REPORTS

Upon request, the Department should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

428.9 TRAINING

The Personnel and Training Supervisor should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration violation has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

Emergency Utility Service

430.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

430.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. The Water Department can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by Dispatch.

430.1.2 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or Public Works should be promptly notified, as appropriate.

430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

The Water Department and Public Works maintain the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Dispatch.

430.2 TRAFFIC SIGNAL MAINTENANCE

Public Works furnishes maintenance for all traffic signals within the City, other than those maintained by the State of California.

430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

First Amendment Assemblies

432.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

432.2 POLICY

The San Bernardino Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

432.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers must be completely impartial and strive to avoid any actions which give the appearance of partiality; therefore, officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants. Officers shall make no public statement which reflects preference, in the form of support or opposition, for either side in a protest or labor dispute.
- (b) Officers shall not accept gifts of any sort, including food or beverages, from anyone involved in a protest or labor dispute.
- (c) Harass, confront or intimidate participants.
- (d) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

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Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

432.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct. Officers should use their Body Worn Cameras during protests and when interacting with members of the public at similar events.

432.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

432.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

432.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.

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- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

432.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan may contain the following but is not limited to:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) Liaison with demonstration leaders and external agencies.
- (h) Liaison with City government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

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432.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

432.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

432.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

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Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

432.1 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including an officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control and in accordance with the following requirements of Penal Code § 13652.

- (a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
- (b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- (c) Individuals are given an objectively reasonable opportunity to disperse and leave the scene.
- (d) An objectively reasonable effort has been made to identify individuals engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of individuals.
- (e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- (f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- (g) An objectively reasonable effort has been made to extract individuals in distress.
- (h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- (i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
- (j) Kinetic energy projectiles or chemical agents shall not be used solely due to any of the following:
 - 1. A violation of an imposed curfew.
 - 2. A verbal threat.
 - 3. Noncompliance with a law enforcement directive.
- (k) If the chemical agent to be deployed is tear gas, only an Incident Commander at the scene of the assembly, protest, or demonstration may authorize its use.

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432.1.1 USE SUMMARY

The Operations Captain or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the department website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Department at the time of the report and include the information required in Penal Code § 13652.1.

432.10 ARRESTS

The San Bernardino Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

432.11 MEDIA RELATIONS

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

432.11.1 MEDIA ACCESS

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in a protected activity pursuant to the First Amendment, officers shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

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432.12 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

432.13 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, Dispatch records/tapes
- (g) Media accounts (print and broadcast media)

432.13.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

432.14 ANTI-REPRODUCTIVE RIGHTS CALLS

Officer response to public assemblies or demonstrations relating to anti-reproductive rights should be consistent with this policy (Penal Code § 13778.1).

432.16 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

Patrol Rifles

433.1 PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the San Bernardino Police Department will make patrol rifles available to qualified patrol officers as an additional and more immediate tactical resource.

433.2 PATROL RIFLE

433.2.1 DEFINITION

A patrol rifle is an authorized weapon which is owned by the Department or purchased by a full time sworn officer. This weapon is made available to properly trained and qualified officers and is a supplemental resource to the officer's duty handgun or shotgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Chief of Police.

433.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities. The authorized patrol rifles are Colt, Bushmaster, Lewis Machine and Tool (LMT), or other rifles issued by the Department AR design (5.56/.223 caliber). Individually purchased patrol rifles shall have an overall barrel length of 16-inches. The Chief of Police may approve other AR-designed rifles under special circumstances. Officers are responsible for completing the additional registration process with DOJ Firearms Division (FD023) for personally purchased rifles.

433.3.1 RIFLE MODIFICATIONS

Authorized rifles shall not be modified in any way except by a department authorized armorer. Rifles will not be enhanced by adding or removing any accessories to or from them unless the accessories have been issued or authorized by the department as follows:

- (a) A sling, weapon-mounted flashlight, or aiming device may be added with the approval of the rifle supervisor.
 1. Any optical sights, installed on a Department-owned or personally purchased patrol rifles must be manufactured by Aimpoint, EOTech, Trijicon, or Vortex. Any other manufactured optical sights must be approved by the Range master prior to officers installing the optical sights on the rifle. Optical sights shall not have any magnification. Optical sights installed on patrol rifles carried by officers, currently assigned to SWAT, may have magnification only if the officer has been trained in the use of the sight system and the SWAT commander, in conjunction with the Range Master has approved the use of the system. All sight systems shall be inspected by the Range Master and the officer must qualify with the weapon system prior to deployment. All patrol rifles must be equipped with co-witnessed iron sights.

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- (b) Any additional enhancements must be requested via a memorandum to the Administrative Services Division Captain with an endorsement from the rifle supervisor.

433.4 RIFLE MAINTENANCE

- (a) Primary responsibility for maintenance of department-owned patrol rifles shall fall on the Rangemaster, who shall inspect each patrol rifle on a quarterly basis.
- (b) Each patrol officer carrying a patrol rifle will be required to field strip and clean an assigned patrol rifle as needed.
- (c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle.
- (d) Any patrol rifle found to be non-serviceable shall be removed from service. The rifle shall be clearly labeled as "out of service" and details regarding the weapon's condition shall be included on the label.
- (e) Each patrol rifle shall be subject to inspection by a supervisor or the Rangemaster at any time.
- (f) Those officers with personal rifles are responsible for the cleaning and maintenance of their rifle.

433.5 TRAINING

No officer shall carry or utilize the patrol rifle unless they have successfully completed departmental training. This training shall consist of an initial POST approved 16-hour patrol rifle user's course and qualification score with a certified patrol rifle instructor. Officers shall thereafter be required to successfully complete quarterly qualification conducted by the Rangemaster.

433.5.1 SELECTION PROCESS

The Personnel and Training supervisor shall act as the facilitator for the rifles deployed by authorized personnel.

Sworn full-time personnel, and active reserve officers, at the discretion of the Chief of Police, wishing to participate in the rifle program will submit a letter of interest to their Division Captain with a cover letter from their immediate supervisor, who will be responsible for reviewing the officer's 201 file. Officers' qualifications will then be submitted to the Division Captain for consideration and approval.

Prior to deployment, officers will complete the Department's 16-hour POST approved Patrol Rifle Course or an equivalent course and qualify with a Department Range Master.

433.6 DEPLOYMENT OF THE PATROL RIFLE

Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the officer reasonably anticipates an armed encounter.

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- (b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.
- (c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.
- (e) When an officer reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.

433.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department's Deadly Force Policy, Policy Manual § 300.

433.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty, the bolt is closed, and a fully loaded magazine is inserted into the magazine well. Rifles are not permitted in the police building at any time with the magazine inserted in the weapon or a round in the chamber.

433.9 RIFLE STORAGE

- (a) When not in use, patrol rifles will be stored in the department armory rifle racks individually locked to the rack with a gun lock.
- (b) At the start of each assigned shift, any qualified, on-duty officer may contact the Watch Commander or a patrol supervisor for access to the department armory.
- (c) When not deployed, in-service patrol rifles should be secured in the vehicle in a locked gun rack or locked in the trunk.
- (d) Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children and irresponsible adults. Officers shall be aware that negligent storage of a firearm could result in criminal prosecution under Penal Code § 25100.

433.10 SEPARATION FROM DEPARTMENT

Officers who purchase a rifle with a department letterhead will comply with federal and State laws at the time of retirement/separation from this department as it pertains to this weapon. Proper disposition of the rifle at the time of retirement/separation is the responsibility of the patrol rifle supervisor or his designee.

Aircraft Accidents

435.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

435.2 RESPONSIBILITIES

In the event of an aircraft crash the employee responsibilities are as follows:

435.2.1 OFFICER RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft accident include the following:

- (a) Determine the nature and extent of the accident.
- (b) Request additional personnel and other resources to respond as needed.
- (c) Provide assistance for the injured parties until the arrival of Fire Department personnel and/or other emergency personnel.
- (d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.
- (e) Provide crowd control and other assistance until directed otherwise by a supervisor.
- (f) Ensure the Coroner's office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The Fire Department will be responsible for control of the accident scene until the injured parties are cared for and the accident scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

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435.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

435.2.3 DISPATCH RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

- (a) Fire Department
- (b) The affected airport tower
- (c) Closest military base if a military aircraft is involved
- (d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

435.2.4 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for the following:

- (a) Forward and maintain an approved copy of the accident report to the California Department of Aeronautics
- (b) Forward a copy of the report to the Operations Captain and the manager of the affected airport

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435.2.5 PUBLIC INFORMATION OFFICER RESPONSIBILITIES

The Department Public Information Officer is responsible for the following:

- (a) Obtain information for a press release from the on-scene commander or his or her designee
- (b) When practical, the Department Public Information Officer should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the Media

Information released to the press regarding any aircraft accident should be handled by the Department Public Information Officer or in accordance with existing policy.

435.3 DOCUMENTATION

Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented.

Field Training Officer Program

437.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the San Bernardino Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

437.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

437.2.1 SELECTION PROCESS

P-1 Field Training Officers will be selected based on the following qualifications:

- (a) Minimum of two years continuous service as a police officer with the San Bernardino Police Department
- (b) Ability to model and mentor ethical and professional police service
- (c) Proven knowledge of the law and department policy
- (d) Strong investigative and report writing skills
- (e) Maintenance of a professional appearance and attitude at all times
- (f) High motivation and willingness to accept the challenges of teaching
- (g) No sustained discipline (higher than a written reprimand) within the last three years. No written reprimands within one year (waiver at the discretion of the Chief of Police).
- (h) Willingness to accept assignment to any shift to meet the needs of the training program

The selection process will be as follows:

- (a) A review will be conducted of each applicant's personnel files
- (b) Qualifying applicants will be evaluated by a panel of supervisors and/or managers who will recommend candidates for selection
- (c) Selections will be made by the Patrol Division Commander
- (d) The number of positions will vary based on the training needs of the Department

437.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

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All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

437.2.3 DURATION OF ASSIGNMENT

Field Training Officer - Assignment as a P-1 Field Training Officer is considered an extension of the Patrol function and is not a position covered by the San Bernardino Police Department's Lateral Transfer Policy. Those selected will be designated as a P-1 Field Training Officer for a one-year period or at the discretion of the Chief of Police. Those interested in serving as P-1 FTO's will need to apply for the position when it opens each year.

Training Corporal - Assignment as a P-2 Training Corporal is considered an extension of the Detective function and is not a position covered by the San Bernardino Police Department's Lateral Transfer Policy.

437.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Operations Captain or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

- (a) Assignment of trainees to FTOs
- (b) Conduct FTO meetings
- (c) Maintain and ensure FTO/trainee performance evaluations are completed
- (d) Maintain, update, and issue the Field Training Manual to each trainee
- (e) Monitor individual FTO performance
- (f) Monitor overall FTO Program
- (g) Maintain liaison with FTO coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

437.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the San Bernardino Police Department who has successfully completed a POST approved Basic Academy.

437.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

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The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

437.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the San Bernardino Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover those policies, procedures, rules, and regulations adopted by the San Bernardino Police Department.

437.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

437.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

437.6.2 IMMEDIATE SUPERVISOR

The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

437.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

437.6.4 TRAINEE

At the completion of the Field Training Program, the Trainee shall submit a confidential performance evaluation on each of their FTO's and on the overall Field Training Program.

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437.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Trainee Evaluations
- (b) Weekly examinations
- (c) End-of-Phase Performance Evaluations
- (d) The completed training manual
- (e) A Certificate of Completion certifying that the Trainee has successfully completed the required number of hours of field training

Obtaining Air Support

439.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

439.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

439.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, Dispatch will call the closest agency having helicopter support available. The dispatcher will apprise that agency of the specific details of the incident prompting the request.

439.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

- (a) When the helicopter is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
- (c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits
- (f) Foot pursuits
- (g) Rooftop checks on burglary calls
- (h) During service of search or arrest warrants in high profile cases

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

Contacts and Temporary Detentions

441.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

441.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

441.2 POLICY

The San Bernardino Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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441.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the San Bernardino Police Department to strengthen community involvement, community awareness, and problem identification.

441.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the officer

441.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.

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- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

441.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

441.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should note that consent was given in the accompanying report.

441.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

441.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Bureau.

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When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

441.5.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

441.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by San Bernardino Police Department members.
 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

Criminal Organizations

443.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the San Bernardino Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

443.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

443.2 POLICY

The San Bernardino Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

443.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

443.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Bureau. Any supporting documentation for an entry shall be retained by the Records Bureau in accordance

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with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Manager may not purge such documents without the approval of the designated supervisor.

443.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database (11 CCR 751.6).

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate, or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf, or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by the Department, the basis for that designation, and the name of the agency that made the designation. The Department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation, which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate, or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Bureau after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Bureau supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

443.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

443.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records Bureau or Property Unit, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

443.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

443.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.

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- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Personnel and Training Supervisor to train members to identify information that may be particularly relevant for inclusion.

443.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

443.7 CRIMINAL STREET GANGS

The SEB Lieutenant should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:
 1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
 2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
 3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

443.8 TRAINING

The Personnel and Training Supervisor should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

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- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

443.8.1 SHARED GANG DATABASE TRAINING

The Personnel and Training Supervisor should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the Department (Penal Code § 186.36; 11 CCR 751.6).

Watch Commanders

445.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

445.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

Mobile Digital Computer Use

449.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Digital Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

449.2 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

449.3 POLICY

San Bernardino Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

449.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Watch Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the MDC system is prohibited and may result in discipline.

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

449.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

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Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

449.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (a) All contacts or activity shall be documented at the time of the contact.
- (b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.
- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

449.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC.

449.5.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

449.6 EQUIPMENT CONSIDERATIONS

449.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

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449.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

Body Worn Camera

450.1 PURPOSE

This Department procedure establishes guidelines for Department members using body worn cameras (BWC), and procedures for preserving the digital media in Data storage environment.

Law enforcement's use of body worn cameras has proven effective in reducing violent confrontations and complaints against officers. Cameras provide additional documentation of police/public encounters and may be an important tool for collecting evidence and maintaining public trust. There is also a learning curve that comes with using body-worn cameras. Video cannot always show the full story nor does it capture an entire scene. The use of cameras does not reduce the requirement to provide thorough written documentation. Persons reviewing recordings must also be cautious before conclusions are reached about what the video shows.

The BWC data is not to be used for the purpose of random surveillance of officers, initiating an investigation or initiating disciplinary action against an officer. The data captured by BWC may be accessed and/or used as evidence relating to a complaint of misconduct made against an officer; or in situations where evidence of officer misconduct is discovered during the course of authorized access or review of BWC data with regard to pending administrative, criminal, civil, or traffic matters.

450.2 SCOPE

This procedure applies to all Department members.

450.3 DEFINITIONS

Body Worn Camera (BWC) - A camera worn on an individual officer's person that records and stores audio and video.

BWC Program Administrator (Personnel and Training) - Police Department program administrator for BWC data storage and the BWC system with full access to user rights, sets user access and parameters.

Digital Evidence - BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

Evidence Transfer Manager (ETM) - A portable multi-ported docking station installed at the station. The ETM simultaneously recharges the BWC while uploading all digitally encrypted data from the device. The docking station then transfers the digitally encrypted data to the designated data storage environment.

Data storage environment - A digital evidence management service either maintained on department servers or contracted for the city and accessed at [Evidence.com](https://evidence.com). The service stores digitally encrypted data in a highly secure environment accessible to San Bernardino Police Department personnel based on security clearance.

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Metadata - Case numbers, Incident numbers and other descriptors used to identify digital evidence.

450.4 TRAINING

All officers will receive training regarding the use and maintenance of the BWC prior to utilizing them in their daily duties.

450.5 PROCEDURE

450.5.1 OFFICER SAFETY

Officer safety takes precedence over recording events. Officers shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

450.5.2 GENERAL

- (a) Only authorized personnel shall use or be in possession of a BWC device.
- (b) BWC equipment is for official use only and shall not be utilized for personal use.
- (c) Officers shall not tamper with or dismantle any hardware or software component of any BWC device.
- (d) The use of any other personal recording device for the same purpose is not authorized, without permission of the Chief of Police or designee.
- (e) All digital evidence collected using the BWC is considered a record of the San Bernardino Police Department and is for official use only.
- (f) Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or his/her designee.
- (g) Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Using a secondary recording device such as video camera, cell phone or other to record or capture digital evidence from the SBPD data storage environment is strictly prohibited.

450.5.3 BWC MODES OF OPERATION (TASER MODELS)

The BWC system operates on rechargeable battery power for up to twelve hours of continuous buffering (see below) and records up to an entire shift of continuous video and audio media. The user can view recordings and add metadata via a specific monitor, computer or a smart phone with specific application. Viewing or adding metadata will not alter the video recording as it is protected with multiple layers of encryption on the aforementioned devices, the BWC itself and within the data storage environment.

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- (a) Buffering Mode is when a BWC is on but has not been activated to record both sound and video. While in the buffering mode, the camera will continuously record only video in 30 second loops.
- (b) Event Mode is when the Event button is activated. The BWC saves the buffered video from 30 seconds prior to pressing the button (video only) and continues recording video as well as audio for up to twelve hours. Repeated pressing of the Event button turns the recording on and off and creates separate media segments.

450.5.4 STORAGE

When not in use, the BWC devices **shall** be stored in the designated ETM or in a secure storage location in the SBPD equipment room.

450.5.5 PRE-SHIFT INSPECTION

- (a) Officers **shall** inspect their assigned BWC devices daily to ensure there is no visual damage and the device is in working order.
- (b) Visual damage **shall** be immediately reported to a supervisor upon discovery.
- (c) Inoperable equipment **shall** be tagged and returned to Personnel and Training as soon as possible.

450.5.6 CAMERA POSITION

Officers **shall** wear the BWC above the midline of their torso and in a position that provides for effective recording.

450.5.7 EQUIPMENT REPAIR, REPLACEMENT, AND MAINTENANCE

- (a) When a BWC malfunctions, the officer will notify his or her supervisor and Personnel and Training.
- (b) The officer will note the nature of the malfunction in their notification.
- (c) The inoperable equipment will be taken to Personnel and Training for repair as soon as possible.
- (d) If Personnel and Training cannot repair the unit, the manufacturer will be contacted to facilitate the repair. Repair and replacement of damaged or nonfunctional BWC equipment is coordinated through Personnel and Training and performed through an authorized service provider.
- (e) This procedure will be followed for all BWC related equipment and accessories.

450.5.8 ADVISEMENTS ABOUT RECORDING

- (a) Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer's official duties, even when the contact is in a private residence. Therefore, officers are **not** required to give notice they are recording. However, if asked, officers **shall** advise citizens they are being recorded.
- (b) Officers are **not** required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

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- (c) Officers and supervisors assigned to investigate a complaint against a member of the police department **must** inform complainants and witnesses they are being recorded.

450.5.9 WHEN AND WHERE TO RECORD

- (a) Enforcement Related Contacts
 - (a) Officers **shall** use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded.
 - (b) Enforcement related contacts include but are not limited to the following: Traffic stops, field interviews, detentions, arrests, search warrant service, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
 - (c) Covering another City employee or law enforcement officer during an enforcement contact; including, but not limited to: CSOs, Parking Enforcement Officers, Animal Control Officers, etc.
 - (d) Officers working plain clothes assignments are exempt from this policy while working in a plain clothes capacity.
 - (e) If an officer is unable to activate his or her BWC prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
- (b) Arrests
 - 1. Officers may stop recording in the event mode once the arrestee is no longer in their custody.
- (c) Suspect Interviews
 - (a) Officers shall record suspect interviews. Officers should not stop and start the recording during a suspect interview.
 - (b) When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.
- (d) Private Residences
 - 1. Private citizens have a reasonable expectation of privacy in their homes. However, when officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy.
- (e) During the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the officer is looking for evidence or contraband.

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- (f) Officers' use of BWCs at special events is at the discretion of the Special Event Incident Commander.
- (g) Victim and witness interviews
 - (a) Victim and witness interviews shall be recorded.
 - (b) Domestic violence victims often recant their statements as early as the following morning after a crime. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims should be recorded unless the victim expressly refuses to be recorded. Officers should also record the statements of children of domestic violence victims who are witnesses in these types of cases when possible.
 - (c) BWCs shall be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.

450.5.10 WHEN AND WHERE NOT TO RECORD

- (a) BWCs shall not be used to record non-work related activity.
- (b) BWC shall not be used to record in areas or activities such as pre-shift conferences, Department locker rooms, break rooms, coffee breaks (10-48), meal breaks (Code 7), or other activities not related to a criminal investigation.
- (c) BWCs shall not be activated in places where persons have a reasonable expectation of privacy, such as locker rooms, dressing rooms, or restrooms unless such presence is directly relevant to the criminal investigation.
- (d) When possible, officers should avoid recording exposed areas of the body that could cause embarrassment or humiliation, such as exposed breast, groin, etc. unless such condition is directly relevant to the criminal investigation.
- (e) Patient privacy
 - (a) Officers shall not record patients during medical or psychological evaluations by a clinician or similar professional, or during treatment. This includes during CCRT clinician interviews. Officers shall be aware of patients' rights to privacy when in hospital settings. When recording in hospitals and other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
 - (b) Officers shall not record while in a facility whose primary purpose is to provide psychiatric services unless responding to a radio call involving a suspect who is still present.
 - (c) Officers shall not record while inside jail facilities once the arrestee has been turned over to the custody of jail personnel.
- (f) Demonstrations
 - (a) When there is reason to believe that a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.

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- (b) During demonstrations, officers shall operate cameras in the buffering mode. If officers witness crimes occurring among the demonstrators and/or believe an arrest is likely, they should begin recording in the event mode.
- (g) Officers may record informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit sharing neighborhood information or developing strong ties between members of the community and officers.

450.5.11 TACTICAL OPERATIONS INVOLVING SWAT AND CNT

Tactical operations involving SWAT and CNT are unique and present circumstances that can endure over extended periods of time. These unique circumstances include discussions specific to strategies and tactics that can bring events to a peaceful conclusion. Development of new strategies and tactics is an ongoing process for law enforcement. If these strategies and tactics are disclosed in a public forum, they can be circumvented in future operations and put officers and members of the public at risk. For these reasons, SWAT and CNT personnel shall adhere to the following when responding to a tactical SWAT/CNT incident:

- (a) Command Post discussions related to specific tactics and strategies to be used during an incident generally should not be recorded on BWC.
- (a) Discussions among team members during an incident regarding the placement of specific equipment/devices should not be recorded on BWC.
- (a) Discussions among team members related to tactics, strategies, and their sequence of implementation should not be recorded on BWC.
- (a) Crisis negotiation discussions with the subject of a call, family members, or others assisting in the resolution of the incident should not be recorded on BWC.
- (a) Discussions on sniper positions, tactics and strategies used to conceal operators, or the specific use of armored rescue vehicles and other equipment to conceal and protect operators, should not be recorded on BWC.
- (a) Discussions on breaching tactics and the placement of breaching devices should not be recorded on BWC.

NOTE: While each of the above situations should generally not be recorded, the Commander in charge of the operation may direct that recording occur in any instance were deemed necessary for documentary purposes.

SWAT/CNT operations often require extended periods for safe resolution and may exceed the estimated runtime of the rechargeable BWC battery. In certain instances, it may be prudent for personnel to periodically switch the BWC from event mode to buffering mode in an effort to preserve battery life at various stages of the operation, when enforcement-related contacts are not occurring or anticipated. This practice will help to ensure the BWC remains functional to memorialize critical moments of citizen interaction during extended events. Body-worn cameras shall be activated during the execution of all search warrants and enforcement actions.

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450.5.12 MUTING WHILE RECORDING

Officers have the discretion to mute their BWC while in event mode. To maintain transparency, officers are encouraged to narrate their reason for muting. Muting shall only be done to protect personal conversations and tactics.

450.5.13 DOCUMENTATION OF RECORDED EVENTS

All recordings shall be documented, such as in a CR1, citation, FI, CR2, or CAD entry.

450.5.14 ENTERING METADATA

Each recorded segment may require metadata be entered, even if the segments are of the same event. Metadata should be added at the conclusion of the event. In case of a delay, metadata should be added as soon as possible

450.5.15 IMPOUNDING PROCEDURES

After verifying that any necessary metadata has been added to all recorded events, officers **shall** place the BWC into their assigned open slot on the docking station at the end of their shift. This will allow for the battery to recharge. The data will automatically be transferred from the BWC through the docking station to the Data storage environment. The data is considered impounded at this point.

450.5.16 ACCESSING IMPOUNDED DIGITAL EVIDENCE

- (a) All those given permission associated with the Data storage environment may review digital evidence based upon their individual security level.
- (b) Using a Department computer, log in to the [Evidence.com](https://evidence.com) in the browser.
- (c) Enter assigned user name and password. For help with problems, contact the Department Program Administrator in Personnel and Training.
- (d) Digital Evidence can be viewed and/or copied from this location where authorized.

450.5.17 RETENTION OF DIGITAL EVIDENCE

- (a) All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law.
 - 1. Evidentiary recordings shall be retained for a minimum of 2 years under any of the following circumstances (PC 832.18, et al):
 - (a) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.
 - (b) The recording is of an incident that leads to the detention or arrest of any individual.
 - (c) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

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2. Evidentiary recordings that may be relevant to a criminal prosecution should be retained in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.
- (b) Records or logs of access and deletion of data from BWC shall be retained permanently.

450.5.18 REVIEWING IMPOUNDED DIGITAL EVIDENCE

- (a) Digital evidence captured by the BWC is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers may review digital evidence prior to completing reports when necessary to ensure accuracy. Officers may review digital evidence prior to providing voluntary statements during critical incident investigations. Officers shall review digital evidence prior to providing testimony at hearings, trial, or depositions.
- (b) Officers may review their own recordings.
- (c) Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.
- (d)
- (e) In situations where there is a need to review digital evidence not covered by this procedure, the Chief or his/her designee must approve the request. Each such situation will be evaluated on a case by case basis.
- (f) Digital evidence may be viewed for administrative purposes limited to the following:
 - (a) Any incident in which a member of the Department is injured or killed during the performance of their duties.
 - (b) Any incident involving the use of force by a member of the Department, including canines.
 - (c) Any in-custody death.
 - (d) Any police pursuit.
 - (e) When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless whether an individual is struck.
 - (f) When any member of the Department, not involved in training, intentionally or unintentionally discharges a Conducted Energy Device (CED) at a person, including the application of a drive stun.
 - (g) Officer involved traffic collisions.
 - (h) Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).
 - (i) In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.

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- (j) When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
- (k) For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.
- (l) For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope shall be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators shall be documented as part of the chronological summary of any investigation undertaken by the Department.
- (m) Pursuant to the reasoning articulated in a Performance Improvement Plan (PIP) stemming from performance failures, footage may be audited for the timeline established by the PIP.

450.5.19 COPYING AND RELEASING DIGITAL EVIDENCE

Digital evidence captured by BWC shall be treated as evidence and handled pursuant to existing Department policies and procedures and state law.

450.6 DISCOVERY OF MISCONDUCT

Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the person who discovered the conduct in question shall notify a supervisor. Nothing in this procedure prohibits addressing policy violations.

450.7 USE OF DIGITAL EVIDENCE FOR TRAINING PURPOSES

Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents of which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded which may be of value as a training aid for a broad section of the Department, the recording officer or that officer's supervisor should contact the Training Sergeant who will review the digital evidence to determine the value of the incident for training. If the Training Sergeant determines the incident would be an appropriate training aid, the Training Lieutenant shall obtain approval from the Department Legal Advisor and the Assistant Chief. Should the recorded officer(s) object to the use of the recording as a training aid, they may speak with the Chief or his/her designee.

450.8 BWC PROGRAM ADMINISTRATOR RESPONSIBILITIES

BWC Program Administrators shall be sworn members assigned to Personnel and Training. BWC Program Administrators are responsible for performing the following duties:

- (a) Maintain and troubleshoot the BWC units.
- (b) Maintain a record of assigned BWC and related equipment.
- (c) Be proactive and able to complete minor repairs.
- (d) Arrange for the warranty and non-warranty repair of the BWC units.

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- (e) Repair or replace BWC components (cameras, docking stations, etc.).
- (f) Maintain BWC equipment repair and maintenance records.
- (g) Update software and system settings as necessary.
- (h) Train officers on current policy and the proper use of BWC units.

Portable Audio/Video Recorders

451.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any San Bernardino Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

451.2 POLICY

The San Bernardino Police Department provides members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

451.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

451.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Department, and that the recorder is in good working order. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful.

Each officer shall be responsible for maintaining his/her own recordings until the media is placed into evidence/safekeeping, or downloaded in accordance with the current procedure for storing digital files. All recordings shall be downloaded at least weekly in the digital storage system.

451.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops

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- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

451.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

451.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Division Captain. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

451.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

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A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

451.7.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

451.8 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

451.9 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.

Medical Marijuana

453.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

453.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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453.2 POLICY

It is the policy of the San Bernardino Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The San Bernardino Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

453.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a medicinal claim is made by a cardholder.
- (c) Investigations when a medicinal claim is made by a non-cardholder.

453.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

453.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

- (a) The information contained in the card is false or falsified.
- (b) The card has been obtained or used by means of fraud.
- (c) The person is otherwise in violation of the provisions of the MMP.
- (d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

453.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or, delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

453.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

- (a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 1. The suspect has been identified and can be easily located at a later time.
 2. The case would benefit from review by a person with expertise in medical marijuana investigations.
 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.
- (b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:
1. The amount of marijuana recommended by a medical professional to be ingested.
 2. The quality of the marijuana.
 3. The method of ingestion (e.g., smoking, eating, nebulizer).
 4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
 5. Whether the marijuana is being cultivated indoors or outdoors.
- (c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).
- (d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

453.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

- (a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).
- (b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).
- (c) Smoking marijuana (Health and Safety Code § 11362.79):
 1. In any place where smoking is prohibited by law.
 2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
 3. On a school bus.
 4. While in a motor vehicle that is being operated.
 5. While operating a boat.

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- (d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

453.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

453.5 PROPERTY UNIT SUPERVISOR RESPONSIBILITIES

The Property Unit supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property Unit supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property Unit supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property Unit supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Bureau supervisor.

Handling/Processing of Controlled Substance and Marijuana Related Cases

454.1 PURPOSE AND SCOPE

To establish a standardized procedure for dealing with, tracking, investigative assignment and filing of criminal charges in controlled substance related offenses and marijuana related arrests.

454.2 CONTROLLED SUBSTANCE RELATED OFFENSES

In arrests or investigations involving the seizure of controlled substances, a "Controlled Substance Face Sheet" will be completed except for marijuana cases involving citation releases. The completion of the form will provide a mechanism for assignment to a Narcotics investigator allowing for the tracking of arrests, processing of controlled substances and the subsequent review by the District Attorney's Office.

A "Controlled Substance Face Sheet" will be completed on all investigations involving the seizure of narcotics/drugs. Associated evidence will be documented on a Property Sheet (PR-1) and will be retained as evidence. The completed face sheet will be reviewed by a supervisor and submitted to Records for data entry, scanning, and routing to the Narcotics Unit supervisor for assignment.

The assigned Narcotics investigators will have the responsibility to ensure that the investigation is complete and will provide the case to the filing clerk for submittal to the District Attorney's Office for review.

454.3 MARIJUANA RELATED OFFENSES

454.3.1 CITATION OFFENSES

Simple possession of not more than 28.5 grams (less than 1 ounce) of marijuana is a misdemeanor and a citation will be issued for "HS 11357b" provided the person arrested has been properly identified. The issuing/arresting officer shall complete and submit for supervisor approval a CR-2 narrative bearing a SBPD issued case number. Transportation or furnishing of not more than 28.5 grams (less than 1 ounce) of marijuana is a misdemeanor and a citation will be issued for "HS 11360(c)" provided the person arrested has been properly identified. The issuing/arresting officer shall complete and submit for supervisor approval a CR-2 arrest narrative bearing a SBPD issued case number. Simple possession of not more than 28.5 grams (less than 1 ounce) of marijuana while driving a motor vehicle upon a highway is a misdemeanor and a citation for "CVC 23222b" will be issued provided the driver can be properly identified.

- (a) A citation will be issued for court appearance.
 1. Cite under applicable section, either Health and Safety Code §§ 11357b or 11360b.
 2. Offenders will not be booked (fingerprints or photographs) if they are properly identified and they sign the Notice to Appear.

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3. The issuing/arresting officer shall complete and submit for supervisor approval, a CR-2 attached arrest narrative bearing a SBPD issued case number.
 4. The interpretation of "properly identified" will have to be left to the officer's judgment based on the circumstances. It is suggested the officer use all resources available, including CII, DMV, and local record checks to verify identity.
 5. If the offender's identity cannot be verified or if they refuse to sign the Notice to Appear, lodge them in county jail.
 6. If it is necessary to lodge the offender into county jail, book under the applicable section (HS 11357b or HS 11360b) and explain in the narrative that the offender refused to sign. Also check the section on the booking application that indicates the subject refused to sign the Notice to Appear, under PC 853.6. Check with the Watch Commander before lodging when the identity is in question and this is the only reason for lodging.
 7. A San Bernardino Police Department case number shall be issued. When more than one person is issued a qualifying citation at the same incident, a single case number may be used. A single case number, however, shall not be used for all arrests at a special event.
- (b) Marijuana seized as evidence in citation offenses will be packaged in marijuana kits provided in the evidence processing area.
1. One kit will be used for each citation offense. If all the evidence in a single citation offense cannot be contained in a single kit, package all of the marijuana evidence in a larger container, attaching the blank kit envelope to the larger package. It is important to ensure that the marijuana packaging kit provided is filled out completely when attached to the larger package. This will preclude two separate packages, and eliminate the possibility of one of them being misplaced.
 2. DO NOT package other controlled substances in marijuana kits, even if seized in the same area.
 3. Use marijuana kits for marijuana seized in citation offenses only. Marijuana paraphernalia, if it has EVIDENTIARY VALUE, will be handled per policy.
 4. Weigh the marijuana, without packaging if possible, on the scales in the evidence processing area and note the estimated weight on the follow up.
 5. Fill out all the information on the marijuana kit envelope, including the date and time deposited in the central jail or crime lab. If the charge is "CVC 23222b", write this on the envelope next to the HS charge. Include the SBPD case number on all marijuana kit envelopes.

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6. A property tag will be attached to the marijuana kit and a property report (PR-1) will be completed listing the tag number and marijuana kit number.
 7. Deposit marijuana kit in the narcotics locker located in the evidence processing room.
- (c) If there are no marijuana kits available, place the marijuana into an envelope marked with all the necessary information, including the case number, citation number, offender's name, the charge, and date and time of offense. This envelope will be deposited into the narcotics chute.
- (d) DO NOT cite vehicle code, penal code, or municipal code violations on the same citation as the marijuana violation.

454.3.2 MISDEMEANOR OFFENSES

- (a) Simple possession of more than 28.5 grams of marijuana is a misdemeanor, Health and Safety Code § 11357c.
- (b) Simple possession of not more than 28.5 grams of marijuana by a person 18 years or older on school grounds during the hours school is open for classes is a misdemeanor, Health and Safety Code § 11358e.
- (c)
1. In misdemeanor cases, the citation release or booking of the offenders should follow normal procedures.
 2. The marijuana in these cases will be tagged as evidence using a property tag with documentation on a property sheet (PR-1). The marijuana will be deposited in the narcotics locker located in the evidence processing room.

454.3.3 FELONY OFFENSES

- (a) Sales of marijuana is a felony, Health and Safety Code § 11360a.
- (b) Transporting and/or furnishing over 28.5 grams of marijuana is a felony, Health and Safety Code § 11360a.
- (c) Possession of marijuana for sales is a felony, Health and Safety Code § 11359.
1. When in doubt as to what circumstances might constitute possession for sale, contact a supervisor or narcotics officer.
- (d) Simple possession of any amount of concentrated cannabis (hashish or hashish oil) is a felony/misdemeanor, Health and Safety Code § 11357a. This section is a "wobbler" and can be either lodged or cited as applicable.
- (e) Cultivation of marijuana is a felony, Health and Safety Code § 11358.
1. In felony cases, the booking of the defendant should follow normal procedures.

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2. The marijuana in these cases will be tagged as evidence using a property tag with documentation on a property sheet (PR-1).
3. If the amount of marijuana exceeds the drop chute capacity, cardboard boxes have been supplied and stored in the flammable locker. Use tape to build the boxes (which are 5' tall) and place the marijuana plants in the box to dry. Leave the boxed marijuana in the flammable locker and drop a copy of the evidence sheet into the narcotics locker, which will effectively notify the narcotics duty officer of the boxed marijuana in the flammable locker.

454.3.4 NARRATIVE REPORTS

(a) Health and Safety Code §§ 11357b / 11360b, misdemeanors only:

1. When the only offense is HS 11357b/11360b, use a CR 2 form and in the case number box, use the case number assigned to the report. Do not enter a citation number in the case number box. The heading will be - HS 11357b, possession of less than 28.5 grams of marijuana. The State of California is the listed victim. The report should include the following circumstances:
 - (a) Probable cause for stop and/or detention.
 - (b) Search and/or discovery of contraband.
 - (c) Chain of custody of evidence.
 - (d) The estimated weight of the marijuana.
 - (e) The marijuana kit number.
2. Attach the court and police copies of the citation to the follow up and route through normal channels to Records.

(b) California Vehicle Code § 23222b, citations only:

- (a) For misdemeanor and felony cases only, the officer shall obtain a case number and prepare the reports as with all other misdemeanor or felony cases.
- (b) When the marijuana found is an essential part of and/or probable cause for a separate and additional charge, then it must be included in the report. However, no mention of the fact that the defendant was arrested and cited for the charge of HS 11357b will be included in this follow up. That information will be documented on the separate citation follow up and routed as stated above.
 - (a) Be sure to include the report number of this case in your marijuana follow up so it can later be cross referenced if necessary.

454.3.5 JUVENILE ARRESTS

When a juvenile is arrested for a marijuana related offense, a juvenile application for petition shall be completed. In addition, an arrest follow up shall be prepared on a CR 2 form. If the offense

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is for CVC 23222b, the officer shall issue a Notice to Appear with this charge and no juvenile application for petition is needed.

- (a) If the only charge is &S 11357b or HS 11360b, use the case number assigned to the call by Dispatch on the juvenile application and on all follow ups.
 - 1. On the CR 2 follow up, label it on the top "HS 11357b FOLLOW UP" or "HS 11360b FOLLOW UP" to alert the Records Bureau to file it with the separate marijuana files.
- (b) If there are other charges, as well as the marijuana charge, list all of them on the offense line of the juvenile application form, including the marijuana charge.
 - 1. When the follow up reports are prepared, the marijuana follow up shall be prepared and labeled as noted above.
 - 2. **DO NOT INCLUDE THE MARIJUANA FOLLOW UP IN THE BODY OF THE MAIN REPORT.** Use a separate CR 2 form. This will allow the Records Bureau to file it separately and will cause a minimum of problems when the reports are pulled for destruction.

454.3.6 EVIDENCE TAGGING

In the event the officer making an arrest for a citation only offense has essential evidence that must be tagged, then the following will be done.

- (a) Obtain a case number.
- (b) Use the SBPD case number in the case number box on the CR 2 form and write the case number you obtained in the department number box on the citation.
- (c) In the body of this follow up, indicate the case number the evidence was tagged under and also the evidence tag number. You should also indicate a brief reason for the necessity to tag the evidence.
- (d) The case number with the citation will alert Records personnel to notify the Property Unit of the records destruction requirements when the citation is purged in compliance with Health and Safety Code § 11361.5.
- (e) When notified by the Records Bureau of the destruction requirement, the Property Unit shall:
 - 1. Completely obliterate the name of the cited individual from the property tag.
 - 2. Delete any reference of the cited individual's name from the property computer for this case.
- (f) Write the case number of the property tag line where it asks for the report number. Do not write the citation number on the property tag.

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454.3.7 SUMMARY

- (a) In all instances, at a minimum, the following elements of the incident shall be documented on a CR2 arrest narrative which shall have a Police Department case number assigned to it:
 - 1. Probable cause for stop and/or detention.
 - 2. Search and/or discovery of contraband.
 - 3. Chain of custody of evidence.
 - 4. The estimated weight/quantities of the marijuana.
 - 5. The marijuana kit number (when used).
 - 6. Citation number (when issued).
- (b) The officer **MUST** issue a citation when the charge is possession of not more than 28.5 grams of marijuana (HS 11357b), or when the charge is giving away, offering to give away, or transporting not more than 28.5 grams of marijuana (HS 11360b), and the suspect provides satisfactory identification and signs a Notice to Appear. Under these sections, the suspect cannot be booked and the evidence will be packaged in marijuana kits and deposited at the jail or the crime lab.
- (c) Juveniles will be handled as they are now when the violation causes them to come under Welfare and Institutions Code § 602.

BMET/Segway Unit

455.1 PURPOSE AND SCOPE

The San Bernardino Police Department has established the Bicycle Mounted Enforcement Unit (BMET) for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

455.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Watch Commander.

455.3 TRAINING

Participants in the program must complete an initial Department approved bicycle and/or Segway-training course after acceptance into the program. The initial training shall minimally include the following:

- Bicycle and/or Segway patrol strategies.
- Bicycle and/or Segway safety and accident prevention.
- Operational tactics using bicycles and/or Segways.

455.4 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle or Segway. Safety equipment includes department-approved helmet, riding gloves, protective eye wear and approved footwear.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

455.5 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

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Bicycles utilized for uniformed bicycle patrol shall be primarily black or white in with a "POLICE" decal affixed to each side of the crossbar or the bike's saddlebag.

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.

Each bicycle gear bag shall include a first aid kit, tire pump, repair tool, tire tube, security lock, equipment information and use manuals. These items are to remain with/on the bicycle at all times.

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to ensure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

455.6 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

- (a) In response to an emergency call.
- (b) While engaged in rescue operations.
- (c) In the immediate pursuit of an actual or suspected violator of the law.

Mounted Enforcement Unit

456.1 PURPOSE AND SCOPE

The San Bernardino Police Department has established the Mounted Enforcement Unit for the purpose of enhancing patrol efforts in the community. Mounted Enforcement has been shown to be an effective way to increase officer visibility for patrol and parade duties, crowd control, and other public relations efforts.

456.2 POLICY

Mounted Enforcement may be used for regular patrol duty, traffic enforcement, searches, special events, or during critical times such as natural disasters. The use of Mounted Enforcement will emphasize their mobility and visibility to the community.

Mounted Enforcement may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of Mounted Enforcement officers shall be coordinated through the Mounted Enforcement supervisor or the Watch Commander.

456.3 SELECTION OF PERSONNEL

Interested sworn personnel and/or active level one reserve officers, who are off probation, shall submit a memorandum of interest to the appropriate Division Captain. A copy will be forwarded to the Mounted Enforcement supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the Mounted Enforcement supervisor and a second person to be selected by the supervisor. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Have access to or own a horse suitable for use in the Mounted Enforcement Unit.
- (c) Special skills or training as it pertains to the assignment (i.e. adequate horsemanship skills and abilities).
- (d) Within one year of assignment, officers and their mounts must successfully complete at least a forty-hour POST approved basic mounted training course.
- (e) Members must have approval from their respective Division Captain to participate.

456.4 MOUNTED ENFORCEMENT UNIT SUPERVISOR

The Mounted Enforcement Unit supervisor will be selected from the rank of sergeant by the Operations Division Captain or his/her designee. Sergeants with riding experience are preferred.

The Mounted Enforcement Unit supervisor shall have the responsibility for the following:

- (a) Organizing Mounted Enforcement training.
- (b) Evaluating performance of Mounted Enforcement officers.
- (c) Coordinating activities with the Operations Division

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- (d) Other activities as required to maintain the efficient operation of the Mounted Enforcement Unit.
- (e) Approving all equipment used by the Mounted Enforcement Unit.

456.5 ADMINISTRATION

The Mounted Enforcement Unit is a voluntary, specialized patrol detail under the command of the Operations Division Captain. A designated lieutenant shall be the Unit commander.

- (a) All officers are assigned to the Mounted Enforcement Unit on a voluntary basis. The responsibilities of the Mounted Enforcement Unit are in addition to the officers' regular duty assignments.
- (b) All horses assigned for duty with the Mounted Enforcement Unit shall be obtained by the mounted officer. Maintenance of the horse is the responsibility of the officer.
- (c) A horse lease agreement with the City of San Bernardino will be completed prior to any field assignment with the Mounted Enforcement Unit. The lease agreement shall last for two years, and upon expiration, a new lease agreement shall be completed and submitted.
- (d) Mounted Enforcement officers are responsible for the care and condition of all equipment issued to them for use with the Mounted Enforcement Unit.
- (e) Horses used by the Mounted Enforcement officers will be sound and of temperament acceptable for mounted police work.

456.6 OPERATIONS

The Mounted Enforcement Unit ascribes to the goals and objectives set forth by the San Bernardino Police Department. Operational responsibilities are as follows:

456.6.1 DEPLOYMENT

- (a) All deployments will be at the discretion of the Mounted Enforcement Unit commander or supervisor.
- (b) The Mounted Enforcement Unit's primary responsibility is to serve the needs of the San Bernardino Police Department. The Mounted Enforcement Unit is also available, by request, to assist any law enforcement agency upon the approval of the Chief of Police. When operating with another agency, the Mounted Enforcement Unit shall follow the policies of the San Bernardino Police Department.
- (c) Mounted Enforcement officers shall be deployed in teams of at least two in order to ensure maximum control of situations.
- (d) Officers generally will not position their horse so close to a person sitting or lying on the ground as to constitute a hazard.

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- (e) Caution should be used when allowing any person to feed a police horse. Members of the public may inadvertently attempt to feed substances that are harmful to the health of the horse. If water is needed, the officer will obtain it to ensure the purity.
- (f) Officers shall run a horse in full gallop only when an emergency exists, such as an officer needing assistance, and when due regard is given to the safety and welfare of the horse and citizens.
- (g) Horses are not to be left unattended.
- (h) Civilians or officers who are not members of the Mounted Enforcement Unit will not be allowed to mount or ride on-duty police horses without the express approval of the Mounted Enforcement Unit supervisor or commander.
- (i) Mounted Enforcement officers will not lead prisoners via a rope or other device.

456.6.2 HORSE NUISANCE

If a Mounted Enforcement officer notices that a horse is about to defecate or urinate in a foot traffic area, the officer should make an effort to move the horse to a more appropriate location. If defecation is unavoidable, then the officer will immediately remove the manure from the foot traffic area (safety permitting).

456.6.3 REPORTING OF INJURIES TO CIVILIANS

- (a) In all instances of known, suspected, or reported injuries of a civilian by a police horse, the on-duty supervisor will be immediately notified and requested to respond to the scene. If the Mounted Enforcement Unit supervisor is not available, he/she will be notified as soon as possible. Photographs will be obtained of the injuries and medical aid will be summoned if requested or needed.
- (b) In all such instances, either a crime report or an incident report shall be taken to document the facts and circumstances surrounding the injury.
- (c) The on-duty supervisor shall advise the Watch Commander, who will make the appropriate notifications (duty chief, risk management, etc.).

456.6.4 INJURY OF AN ON-DUTY POLICE HORSE

- (a) Determine the need for medical treatment. In the case of minor injury, administer first aid.
- (b) In the event of a debilitating injury or sickness to a horse, the on-duty supervisor will be immediately notified.
- (c) If possible, the horse will be transported to a large animal veterinarian.
- (d) If the injury is of a nature that the horse cannot be transported, a veterinarian shall be summoned to the scene.

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- (e) A written account of the extent of the injury and how it was incurred will be submitted to the Mounted Enforcement Unit supervisor.
- (f) Payment for veterinarian service for an on-duty horse injury will be provided by the City of San Bernardino in compliance with the horse lease agreement. Payment for non-reported injuries requiring treatment will be the responsibility of the Mounted Enforcement officer.

456.6.5 GROOMING

- (a) Because of the high visibility and public exposure of the Mounted Enforcement Unit, the need for proper grooming is paramount.
- (b) Prior to working a detail, all horses shall either be bathed or thoroughly brushed. Horses should be properly trimmed with special attention paid to the face, legs, mane and tail. The mane and tail will not be matted or tangled.

456.7 TRAINING

Members in the program must complete an initial Department approved Mounted Enforcement training course after acceptance into the program. Thereafter, Mounted Enforcement officers will attend monthly in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

- (a) Mounted Enforcement patrol strategies.
- (b) Safety and accident prevention.
- (c) Operational tactics using the horse.
- (d) Horsemanship skills.

456.8 UNIFORMS

Uniform requirements are at the discretion of the Mounted Enforcement Unit commander/supervisor and may be changed at their direction.

- (a) Officers will wear long or short sleeve Class A or polo San Bernardino Police Department uniform shirts at the discretion of the Mounted Enforcement Unit supervisor or commander.
- (b) Officers will wear blue Wrangler 82NV Rancher pants or blue denim Wrangler-style jeans at the discretion of the Mounted Enforcement Unit supervisor or commander.
- (c) Officers will wear black cowboy-style boots with a riding heel. The boot may be a packer, roper or pull on style.
- (d) For public relations events or parades, officers may wear a black felt or white straw rancher style hat at the discretion of the Mounted Enforcement Unit supervisor or commander. For crowd control or disturbances, officers should wear their issued ballistic helmets with attached face shields.

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- (e) Mounted officers may wear a cross saber pin on Class A uniform shirts. The pin will be worn no more than ¼" above the name plate. The pin will measure no more than 1" by 2" and be made of chrome color metal.
- (f) Officers will wear department approved nylon or leather duty belt.

456.9 TACK AND EQUIPMENT

Maintaining tack and equipment is the responsibility of the Mounted Enforcement officer to whom it is issued. All equipment is to be kept in good repair.

- (a) Western or Australian saddle (saddle must fit the horse and rider properly).
- (b) Department issued blue saddle over pad with the San Bernardino Police Department patch or approved logo.
- (c) Breast collar with issued badge securely attached.
- (d) Department issued saddle bags and cantele bag.
- (e) Headstall, halter, reins and bit sufficient to control the horse.
- (f) Lead rope.
- (g) 40 inch horse baton.
- (h) Reflectorized leg wraps for night use.
- (i) Department issued plastic face protector for riot use.
- (j) Additional equipment at the discretion of the Mounted Enforcement Unit commander or supervisor.

456.10 FORCE POLICIES

All Mounted Enforcement Unit officers will follow the San Bernardino Police Department Use of Force Policy.

456.10.1 USE OF THE HORSE

The horse itself may be used as a control device by applying varying degrees of pressure to persons or objects.

456.10.2 HORSE BATON

- (a) The horse baton is a 40-inch one handed baton made of Dymondwood or comparable material in recognition of its durability in inclement weather. Mounted Enforcement officers may use a horse baton, which will be treated as an impact weapon. Its length, shape, weight, and balance make the baton ideal for mounted use. As a one-handed weapon, it allows the Mounted Enforcement officer to maintain control of the horse with the rein hand and control the baton with his/her strong hand.
- (b) The horse baton shall be affixed to the saddle. It is designed to be used while the officer is in the saddle. It generally shall not be used when the officer is dismounted.

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While off the horse, the officer should utilize his/her standard baton if the situation calls for the use of a baton.

- (c) While the officer is on duty and dismounted, the horse baton should remain affixed to the saddle. The officer should not walk around with the horse baton in his/her hand.
- (d) Officers may use the baton to defend themselves, their horse, or other officers or persons from attack.
- (e) Use of a horse baton will fall under the same reporting procedure as any other use of force.
- (f) Targeted areas will be the same as a standard police baton.

Foot Pursuit Policy

459.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the officer, the public or the suspect.

459.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

459.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area.
- (b) Canine search.
- (c) Saturation of the area with patrol personnel.
- (d) Aerial support.

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- (e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit.

459.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- (a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- (b) When the officer is acting alone.
- (c) When two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) When pursuing multiple suspects and the pursuing officers do not reasonably believe that they would be able to control the suspect should a confrontation occur.
- (f) When the physical condition of the officers renders them incapable of controlling the suspect if apprehended.
- (g) When the officer loses radio contact with Dispatch or with backup officers.
- (h) When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer definitely known.

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- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

459.4 RESPONSIBILITIES IN FOOT PURSUITS

459.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Unit identifier
- (b) Location and direction of travel
- (c) Reason for the foot pursuit
- (d) Number of suspects and description
- (e) Whether the suspect is known or believed to be armed

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify Dispatch of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

459.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

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Any officer who is in a position to intercept a fleeing suspect or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

459.4.3 SUPERVISOR RESPONSIBILITY

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

459.4.4 DISPATCH RESPONSIBILITIES

Upon being notified or becoming aware that a foot pursuit is in progress, communication personnel shall, as soon as practicable, notify the field supervisor and provide available information. Dispatch personnel are also responsible for the following:

- (a) Clear the radio channel of non-emergency traffic.
- (b) Repeat the transmissions of the pursuing officer as needed.
- (c) Relay all pertinent information to responding personnel.
- (d) Contact additional resources as directed by a supervisor.
- (e) Coordinate response of additional resources to assist with the foot pursuit.

459.5 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- (a) The reason for initiating the foot pursuit.
- (b) The identity of involved personnel.
- (c) The course and approximate distance of the pursuit.
- (d) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.
- (e) Any injuries or property damage.

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Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

Automated License Plate Readers (ALPRs)

463.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

463.2 POLICY

The policy of the San Bernardino Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

463.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Bernardino Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

463.3.1 ALPR ADMINISTRATOR

The Administrative Services Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

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- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

463.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

463.5 DATA COLLECTION AND RETENTION

The Administrative Services Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

463.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The San Bernardino Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

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- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

463.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Administrative Services Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

463.8 TRAINING

The Personnel and Training Supervisor should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Homeless Persons

465.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The San Bernardino Police Department recognizes that members of the homeless community are often in need of special protection and services. The San Bernardino Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

465.1.1 POLICY

It is the policy of the San Bernardino Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

465.2 HOMELESS COMMUNITY LIAISON

The Chief of Police will designate a member of this department to act as the Homeless Advocate. The responsibilities of the Homeless Advocate include the following:

- (a) Assigned to the Community Policing Unit under the management of the Community Services lieutenant.
- (b) Assist patrol with chronic calls or locations involving mentally ill and/or homeless.
- (c) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.
- (d) Meet with social services and representatives of other organizations that render assistance to the homeless.
- (e) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.
- (f) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
 - 1. Proper posting of notices of trespass and clean-up operations.
 - 2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.
- (g) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

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- (h) Develop training to assist officers in understanding current legal and social issues relating to the homeless.
- (i) Act as a liaison between the San Bernardino Police Department and the San Bernardino County judicial system.
 - 1. Refer qualifying arrestees to Homeless Court
 - 2. Assist the Public Defender's Office in identifying individuals who qualify for Homeless Court.
 - 3. Attend Homeless Court proceedings.
 - 4. Track Homeless Court adjudications to identify re-offenders.
- (j) Collaborate with other governmental agencies to best serve the needs of the homeless and/or mentally ill population and the community.
- (k) Attend community meetings to foster a cooperative relationship between the community and the various resources in providing help to the qualifying individual.

465.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

465.3.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.

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- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Senior and Disability Victimization Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

465.4 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

465.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (See Policy § 418).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

465.6 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to

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notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

Mass Arrest Policy

466.1 PURPOSE AND SCOPE

To ensure a uniform and professional response to situations requiring possible mass arrests, and the expeditious management of parties involved.

466.2 POLICY

The procedure relating to mass arrest will be divided into two sections with regard to response:

- (a) Known or pre-planned demonstrations.
- (b) Unplanned demonstrations or riot situations.

466.3 KNOWN OR PRE-PLANNED DEMONSTRATIONS

- (a) Confirm the planned activity, involved parties, and possibility of mass arrest situation.
- (b) Designate an Incident Commander for event (i.e. district commander).
 - 1. Planning and research for the event may be delegated by the Incident Commander
 - 2. Manpower, overtime, and mutual aid considerations should be addressed in a tactical action plan. Locations of the command post, staging areas, and detention areas should be designated.
 - 3. A liaison shall be established with the Sheriff's Central Detention Center commander regarding possible intake of arrestees and availability of transportation buses.
 - 4. If transportation is not available through the Sheriff's Department, arrange for transportation through other identified sources. (See 465.6)
 - 5. If needed, the Incident Commander will designate arrest teams, perimeter control teams, monitors, booking teams, and provide for security at the designated mass arrest detention location. In addition, the health needs of all arrestees (i.e. restroom facilities) will be assured.
- (c) Inform involved personnel of applicable laws for incident.
- (d) Notify the Police Department's Public Information Officer.
 - 1. Designate a press area at the scene of the event.
- (e) The Incident Commander will authorize the initiation of mass arrest activities.
- (f) When placing subjects into custody during an event, flex cuffs should be used along with manila identification tags.
- (g) Identification tags shall be attached to the flex cuffs with the following information:

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1. Arrestee's name.
 2. Arresting officer's name and ID number.
 3. Date and time of arrest.
 4. Charge.
- (h) Arrestees will be taken to the booking officer(s) at the on-site detention area.
1. Booking officer(s) will log the cuff tag information and issue an incident number to the arresting officer for report information (i.e. 2012-12345-001). The number will be placed on the cuff tag and on the envelope.
 2. Photos will be taken of each arrestee with a manila envelope held in front of them. Information on the envelope will include that from the flex cuff tag and the incident number issued. The envelope will be used for the arrestee's personal property (a property receipt will be prepared and placed in this envelope).
 3. Booking officer(s) will place arrestees in the bus to await transportation or cite release. Arrestees needing medical aid will be transported without necessary delay to a medical facility. If the arrestee is cite released, personal property will be immediately returned and a copy of the receipt released to the arrestee. If the arrestee is transported for booking, the personal property will be forwarded to the jail with the arrestee.
- (i) The arresting officer shall fill in the needed information on the pre-printed booking application prior to leaving the booking area.
- (j) All reports shall be completed at the close of the event.

466.4 UNPLANNED DEMONSTRATIONS OR RIOT SITUATIONS

- (a) Designate an Incident Commander and establish command post, staging area, and detention area as needed.
- (b) Request additional personnel as needed.
- (c) Notify the Watch Commander:
 1. Watch Commander to make notifications per SOP.
 2. If needed, Watch Commander shall notify the Sheriff's detention facility and ascertain the availability of transportation buses.
 3. If transportation is not available through the Sheriff's Department, arrange for transportation through the other identified sources. (See SOP 465.6)
 4. Watch Commander shall notify the Public Information Officer and request his/her response to the station or scene.

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- (d) Forensic personnel will respond for photos and will supply flex cuffs, tags, and manila envelopes. Forensic personnel will also be responsible for video recording the incident unless other arrangements are made by the Incident Commander.
- (e) Designate arrest teams, perimeter control teams, monitors, booking team, etc. as needed, and provide for security at the designated mass arrest detention location. In addition, the health needs of all arrestees' i.e., restroom facilities, will be assured.
- (f) Follow infield procedures for planned events.

466.5 MASS ARREST DETENTION LOCATIONS

Schools grounds will not be used as detention locations during normal schools hours. During school hours, utilize alternate detention sites.

- (a) Northern assembly area at Cajon High School tennis court area. Alternate site at Fiscalini Field, Perris Hill Park
- (b) Eastern assembly area at San Geronio High School tennis court area. Alternate sites at Fiscalini Field, Perris Hill Park and Mill Community Center, 503 E. Central
- (c) Western assembly site at King Middle School. Alternate site at Ruben Campos Community Center, 1717 West 5th Street
- (d) Southern assembly area at Richardson Intermediate School. Daytime use at tennis courts (no lighting). Nighttime use at courtyard area (lighting available). Alternate site at Rudy Hernandez Community Center, 222 N. Lugo Street

For use of schools, contact school police at 388-6130. They will open areas for access.

For use of alternate sites, contact Parks and Recreation at 384-5130

466.6 TRANSPORTATION

Transportation is also available from the following:

- (a) Roesch Lines - 40 passenger buses. During normal business hours, contact the Sales Representative supervisor at 885-4465;
 - 1. Weekends, holidays, or before or after normal business, call the Dispatch Supervisor at 1-800-545-4637.
- (b) First Student Bus Service, 844 E. 9th Street, San Bernardino, 384-7104

Fire Dispatch has phone numbers and pagers for the above listed personnel.

The police department must supply drivers for these two vans.

466.7 UNLAWFUL ASSEMBLY DISPERSAL

All officers giving the dispersal order are to use the same dispersal order wording.

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- (a) Police officers should familiarize themselves with the applicable Penal Code sections. Officers giving the dispersal order should be as close as possible to the crowd when giving the order.
- (b) Officers should be stationed at various places around the crowd to verify that the order was given and heard.
- (c) The dispersal order shall be read from a preprinted card. The card can also be used in court to testify exactly how the dispersal order was given.
- (d) The dispersal order shall be given three times whenever possible.

466.7.1 DISPERSAL ORDER

"I am Officer _____. I represent the San Bernardino Police Department. I command you, in the name of the people of the State of California, to disperse. If you fail to disperse, you will be subject to arrest for unlawful assembly and failure to disperse."

(Applicable Penal Code Sections - PC 726, PC 407, and PC 409).

Tactical Response Plan

468.1 PURPOSE AND SCOPE

In conjunction with the City of San Bernardino's Emergency Plan and SB 1841, the department has the responsibility and duty to provide planning for response to events, disasters, and/or emergencies that are beyond the scope of daily activity.

In order for all department members to know and understand their assignments and responses during such events, this plan was published.

468.2 AUTHORITY

- Stafford Act Public Law 100-707 / 93-288
- CA. SB § 1841
- CA Government Code §§ 8607 et. al.
- San Bernardino Municipal Code § 2.46
- City of San Bernardino Director Letter No. 38
- California Emergency Services Act

468.3 PLAN

- (a) A disaster and/or emergency exists when there are actual or threatened conditions of extreme peril to the safety of persons and property within the City of San Bernardino, caused by, but not limited to earthquakes, short term prediction of earthquakes, floods, fires of major proportion, storms, hazardous material or nuclear accidents, civil disturbance or unrest, or that proclaimed by the city under the authority of San Bernardino Municipal Code § 2.46.
- (b) At the onset or notification of an apparent situation falling under the above guidelines, the Watch Commander shall assume overall command of the department as Incident Commander until activation of an emergency operations center or relieved by higher departmental command. The Watch Commander will assess the overall situation and determine priorities for the department.
 1. The Watch Commander shall notify the Operations Division Captain with information regarding the situation.
 2. The captain will notify the Assistant Chief/Chief.
 3. The Assistant Chief will then make the determination for recall of personnel.
- (c) In the event of a prior known existence of an emergency situation, the Operations Division Captain shall notify the district commander, who will be designated as the Incident Commander. That commander will then cause the appropriate planning and staffing for the known event, utilizing those resources within the department. In the

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event of the unavailability of the district commander, the manager in charge of the MFF shall be the designated Incident Commander.

- (d) Those incidents involving pre-planned events, the designated special events coordinator or other designee will cause the appropriate planning and staffing for the known event utilizing those resources within the Department.

468.4 RECALL OF PERSONNEL

- (a) After determination is made to provide for the recall of department personnel, the Watch Commander or the Chief's executive officer will cause notification to local radio/television and cable operators to broadcast personnel recall messages. The Incident Commander will cause for the appropriate planning and staffing for the known event utilizing those resources within the department. In the event of the unavailability of the district commander, the manager in charge of the MFF shall be the designated incident commander.
- (b) Personnel recalled shall:
 1. Report directly to the police station.
 2. If the employee is unable to complete the above they should report to the law enforcement agency nearest their home.
 3. Upon response, contact their supervisor for assignment.

468.5 DUTIES AND RESPONSIBILITY

Generally, an Incident Command System will be initiated and assignments made as needed or required through the City Emergency Plan in accordance with SEMS regulations and requirements. However, the following list of assignments will assist in coordinating the department's response and welfare of all employees.

- (a) **Chief of Police:** Maintain communication and liaison with city officials and assume duties on the Disaster Policy Council per San Bernardino Municipal Code § 2.46. Cause reports of the situation, both verbal and written to be transmitted to the City Manager at regular intervals or as warranted. Request mutual aid per NIMS regulation through the operational area law enforcement coordinator. In the absence of the Chief, the following will assume these responsibilities in the listed order: Assistant Chief, Investigations Captain, and Operations Captain.
- (b) **Assistant Chief of Police:** Serve in the capacity of the Chief of Police when necessary. In the absence of the Chief, assume his role within the EOC and on the Disaster Policy Group. Approve the deployment of personnel and equipment for the duration of the emergency/disaster and related operations. Facilitate for the planning of alert, warning, movement and evacuation, access control per information from the EOC and in compliance with the City Emergency Plan.

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- (c) **Operations Division Captain:** Assume command of police operations. Allocate and maintain personnel strengths based on need as determined by information received from the field command post; or information from the EOC in regards to assignments or responsibilities. Monitor overall police response and incoming information for the purpose of prioritizing and designating assignments based upon need, prioritization and assignments from the EOC. Advise field command post of information regarding the allocation of personnel strengths, shift assignments, and mutual aid information. Coordinate and facilitate information between EOC, command post, and department personnel. Establish staging area for volunteer functions in the vicinity of a multipurpose staging area. Coordinate volunteer functions through EOC, command post, and needs of response. In the absence of the Operations Division Captain, the Assistant Chief will assign an unassigned lieutenant to fulfill these activities.
- (d) **Investigations Division Captain:** Coordinate with Operations Captain regarding the assignment of personnel. Provide staffing for shelter and casualty points as needed. Provide for security and relief of the EOC. In the absence of the Investigations Division Captain, the Assistant Chief will assign the duties to another command/management personnel.
- (e) **Field Commander** (district commander/watch commander or appointed): Assume in-field command of police personnel. Coordinate operations through patrol command and EOC. Joint command responsibilities of field command post with fire or other responding agencies. Cause for reconnaissance necessary to determine boundaries of affected areas and possible traffic and evacuation routes. Deploy, assign, or reassign manpower and equipment as dictated by the situation or action requests from the EOC. ALERT and WARN populace as needed per City Emergency Plan and/or instructions from EOC. Provide for and control traffic, access, evacuation, and movement within the affected areas. Coordinate search and rescue operations with fire personnel through the operations branch of the command post of EOC. Provide for, or cause to be provided, Code 7 reliefs, etc. through the command post. Advise EOC of needs for counselors for responders to the emergency. The field commander will normally be the area commander for the affected area, or that assigned by the Operations Division Captain. In the event of civil unrest/ disturbances, it is recommended that the Incident Commander be the manager of the MFF.
- (f) **Emergency Operations Manager:** Maintain communication and liaison with the Incident Commander. Determines response preparedness and addresses any deployment issues. Assess Department's capability/capacity to respond, and attends incident briefings to assist in the development of action strategies. Assists in receiving and directing incoming requests for information from section chiefs, executives of other responding agencies, industry, and the community. Coordinates and monitors response operations to identify current or potential issues. Coordinates proper response activation levels for the EOC, and serves in the capacity of the Department

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liaison for other agencies. Assumes duties as a Disaster Management Coordinator on the Disaster Policy Council per San Bernardino Municipal code 2.46.

- (g) **Watch Commander or appointed:** Command and responsibility for all personnel assigned and on-duty at the station and those assigned to regular law enforcement duties. With available personnel, direct continued law enforcement efforts to items of major concern regarding preservation of life above all. Provide station security or evacuation as needed. Reserve officers may assume security for facility or assist in the evacuation/security of the jail.
- (h) **Narcotics Sergeants:** Report to field commander for assignment and analysis, if during civil unrest. Coordinate personnel for recon and intelligence gathering through the division captain. Assist in gathering and filtering/verification of intelligence.
- (i) **Budget / Payroll Section:** Assume position within Finance/Admin section of the Incident Command system. Maintain an inventory of all available resources and provide plan for the rapid procurement of critical equipment (i.e., flashlight, batteries, barricades, etc.). Coordinate the acquisition, allocation, and accountability for all supplies used and/or received by the department. Arrange for payment of the expenses involved in the feeding, personal hygiene and rest areas for all personnel. If the EOC is active, forward copies of all agreements, purchase orders to the Finance section of the EOC. In the event of mass arrest situations, provide for payment of expenses involved in the transportation, feeding, and care of the arrestees. If EOC is active, forward copies of all to Finance section of the EOC. Keep accurate records of all expenditures, to include all personnel costs and outside agreements for forwarding to City Hall Finance for state and federal reimbursements.
- (j) **Training CSOs / Front Desk Personnel:** Assume duties of recalling personnel. Confer with the Assistant Chief, Operations Division Captain and EOC representatives for personnel amounts. Confer with above personnel for designation of recall location, i.e., station, staging area, etc. Advise recalled personnel of reporting location, time, uniform requirements, and special equipment needs. Provide for the appropriation of and issuance of specialized equipment, replacement of damaged equipment, and accurate record keeping of same. Forward all reports of same to the Budget section for inclusion in the department report to Finance. Develop 12-hour shift protocol and assignments if requested by the Assistant Chief or the EOC. Arrange for transportation of recalled personnel to work sites, staging areas, etc.
- (k) **Investigations Lieutenants and Sergeants:** Provide input to the division captain for assignment of personnel. Back up / relief EOC team.
- (l) **Chief Executive Officer / Patrol Executive Officer:** Primary and back up PIO. Other duties as assigned by the Chief of Police or his designee.

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468.6 COMMUNICATIONS

- (a) Communications personnel will report to their duty stations as assigned by communications supervision.
- (b) Provisions will be made for dispatch personnel to be assigned and relieved at the field command post.
- (c) Telephones, if functioning, will be staffed at the staging areas, assembly points, EOC, field command post, Dispatch Center, and police station. Cellular phones may be required due to land-line damage; however, personnel are reminded that cellular communications are not considered secure.
- (d) If functioning, use of MDC transmissions is advised to reduce radio traffic.
- (e) All radio communication will be conducted in "clear text" to avoid confusion.
- (f) The Watch Commander in coordination with field command, will be responsible for communication equipment issued to personnel for tracking purposes. Repairs will be coordinated through the EOC or Dispatch Center.

468.7 OPERATIONS

- (a) All operations during an emergency/disaster will be in accordance with the National Incident Management System regulations and the City Emergency Plan, and guided by the appropriate department Policy Manual.
- (b) Initial priorities shall be directed towards the preservation of life.
- (c) If possible, alert populace of impending emergency and possible hazards. Coordinate with PIO for evacuation information if time permits.
- (d) Field responders will conduct site surveys of their immediate areas with specific attention to critical facilities.
- (e) Where possible, field personnel will assist in organizing volunteer personnel into light search and rescue teams and first aid teams. This information will be passed on to the command post and/or EOC.
- (f) As manpower permits, search and rescue should be responded to as needed; coordination of activities through the command post or EOC should take place, and limited law enforcement activities (i.e. prevention of looting).
- (g) Functional duties, i.e., warning, alerting movement, etc., will be coordinated through the command post, with direction from either the EOC or command staff.
- (h) NIMS will be used during any emergency/disaster operation the department is involved with.
- (i) If another jurisdiction requests mutual aid, the MFF will be sent as a unit with its current command structure, after approval from the EOC or command staff.

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- (j) In the event that the department becomes functionally responsible for coroner operations, per the City Emergency Plan the Investigations Division Captain shall assume and coordinate that responsibility.
- (k) The department's Public Information Officer will assume duties assigned under the City Emergency Plan, or as assigned by the Assistant Chief.

468.8 WORK SCHEDULES

- (a) Where appropriate, and in conjunction with Department Director Letter No. 38 and the California Emergency Services Act, the management staff has the authority to alter work shifts to meet short and long-term needs in the event of an emergency/disaster.
- (b) Upon request of the EOC, and at the direction of the Assistant Chief or other executive staff member, department personnel will be assigned to a 12-hour work schedule.
- (c) Personnel will be divided into two shift schedules unless otherwise directed: 0600-1800 hours and 1800-0600 hours.
- (d) On-duty personnel will be notified of their family's status by a network of department personnel (Professional Standards Bureau) as soon as possible. It is recommended that department personnel prepare their families for disasters and emergencies in advance. Preparation assists in survival and existence during these types of situations.

468.9 SECURITY OF FACILITIES

- (a) Entry into the facility may be restricted to properly identified persons. This is especially true during times of civil unrest.
- (b) Multipurpose staging areas will be secured with entry by emergency vehicles and personnel only, unless specified otherwise by the Assistant Chief.
- (c) Personnel will park personal vehicles at assigned areas. All attempts will be made to make these sites as secure as possible.
- (d) Reserve officers will relieve regular officers of security details at the earliest possible time.
- (e) Building security will be enhanced by the use of cameras and monitored through the Watch Commander's office and the Dispatch Center.

468.10 EQUIPMENT

- (a) Mutual aid resources and equipment will be directed to the designated staging area by the EOC staff. Mutual aid responders will be advised of any specialized equipment needs prior to their arrival. If needed, equipment may be borrowed through O.E.S. by arrangement by the EOC or command post. Documentation of equipment use is vital to reimbursement and must be kept accurate at all times and at all levels.

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- (b) The reassignment of vehicles, radios, or other equipment may be necessary during the response and recovery phases of the event. Reallocation will be completed as circumstances arise or dictate. Every effort will be made to ensure all personnel have the needed equipment to perform their assigned tasks.

468.11 NON-EMERGENCY FUNCTIONS AND ACTIVITIES

- (a) Necessary records and reports for reimbursement of expenses during declared disasters/ emergency responses are of the utmost importance. Daily documentation of such items as overtime, vehicle mileage, flares, barricades, etc., must be submitted through Budget to the Finance section of the EOC. Assistance in this area is vital at all levels of the organization and the response. It is recommended that record keeping be done as it happens as soon as the situation has stabilized. Forms will be available at locations such as the EOC, command post, MPSA, and the department.
- (b) During the response phase to a disaster or emergency situation, normal crime control activities will become subservient to calls for service with priority given to the preservation of life. The department may also be receiving more calls than our resources can respond to; therefore, prioritization will occur in this area to ensure that we can provide the greatest good for the greatest number.

468.12 FAMILY LODGING

- (a) In the event of displacement of one or more families of employees during an event, those members may be brought to the station pending placement.
- (b) Placement may be accomplished through any available means; Red Cross, disaster response, etc.
- (c) All assistance possible will be given to employee's families during crisis events.

Crisis Intervention Incidents

469.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

469.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

469.2 POLICY

The San Bernardino Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

469.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

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469.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Captain to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

469.5 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
 1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

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469.6 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

469.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

469.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.

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- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Captain.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

469.9 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

469.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

469.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS

Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

469.11 EVALUATION

The Captain designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is

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conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

469.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

Public Recording of Law Enforcement Activity

470.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

470.2 POLICY

The San Bernardino Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

470.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him/herself or others.

470.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

470.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

470.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Chapter 5 - Traffic Operations

Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the San Bernardino Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

500.5 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

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500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be issued to and maintained by all field and sworn personnel. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure that they have their department-issued serviceable high-visibility vest.

A supply of high-visibility vests will be maintained in the Personnel and Training Unit for replacement of damaged or unserviceable vests. The Personnel and Training Supervisor should be promptly notified whenever a vest needs replacing.

Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The San Bernardino Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

502.2 RESPONSIBILITY

The Traffic Sergeant will be responsible for distribution of the Collision Investigation Manual. The Traffic Sergeant will receive all changes in the state manual and ensure conformity with this policy.

502.3 TRAFFIC COLLISION REPORTING

The California Collision Report Manual has been adopted as the official traffic manual to be followed by the San Bernardino Police Department as it pertains to classification, investigation, and preparation of reports involving traffic collisions. No part of this manual shall alter or supersede other departmental policies pertaining to traffic accidents as adopted by the San Bernardino Police Department.

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Bureau for approval and data entry into the Records Management System. The Traffic Sergeant will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Operations Division Captain, or other persons as required.

502.3.1 NON-INJURY AND PROPERTY DAMAGE ONLY REPORTS

Collisions that have been reported to the San Bernardino Police Department as non-injury and property damage only shall be handled in the following manner:

Under most circumstances, an officer will not be dispatched to assist on a non-injury traffic collision. The exception would include one party refusing to exchange information, hit and run, DUI, traffic control issues, City involved vehicle or property, and disturbances. If an officer is sent to a non-injury collision due to one party refusing to exchange information, or not having a valid license or insurance, the officer can assist in the exchange of information and take the appropriate enforcement action needed (i.e. issue citations, tow vehicles).

Dispatch personnel should instruct the involved parties to move their vehicles to a safe location and exchange information. They will also advise the involved parties that an officer will not be responding. If an involved party insists that an officer respond, they shall be referred to the Watch Commander for resolution. Watch Commanders will have the discretion to send an officer based on the totality of the circumstances.

If the party involved in a non-injury collision comes to the Police Department at a later time to report that they are now injured as a result of the collision, a written report shall be conducted by an officer, per California Vehicle Code § 20008(a). This will be done using the "report" format with the information available.

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502.3.2 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

502.4 REPORTING SITUATIONS

502.4.1 REPORT FORMAT

The report format will be used when documenting the following collisions:

- (a) Injury collisions where the injury is serious but not life threatening, whether transported or not.
- (b) If an arrest for DUI is made and the collision does not involve an injury.
- (c) Any collision involving a city vehicle or damage to city property. Photographs will be taken.
- (d) When an allegation is made that City-owned property or City-maintained property caused or contributed to the collision. Photographs will be taken.
- (e) Misdemeanor and felony hit-and-run collisions will be documented in the Report Format, with the addition of a HIT AND RUN INVESTIGATION heading, which will summarize the criminal investigation. If the suspect is still outstanding, the report should include whether the victim desires prosecution, if there is sufficient evidence to locate the driver or registered owner, if the driver can be identified, and the extent of the victim's injuries, if any. Photographs will be taken, and a CR-3 will be completed when applicable..

502.4.2 INVESTIGATION FORMAT

The investigation format will be used when documenting the following collisions:

- (a) Fatal collisions or injury collisions where the injury may be life threatening. Photographs will be taken and a diagram completed.
- (b) Any traffic collision where citations for collision cause will be issued.
- (c) If an arrest for DUI is made and the collision involves any injury. Photographs will be taken.

502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION

In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Traffic Sergeant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. The Traffic Bureau should be assigned to the investigation; however, the final decision to deploy traffic personnel will rest with the Watch Commander.

502.6 ISSUING CITATIONS AT THE SCENE OF A TRAFFIC COLLISION

Department personnel will only issue traffic citations at the scene of a traffic collision in accordance with the laws of arrest.

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- (a) If a law violation is committed in your presence you may make an arrest. If a driver has no license, he/she may be cited under California Vehicle Code § 16025(a), which requires that every driver involved in a traffic collision provide their driver's license number and proof of insurance. If a violation is not committed in your presence (i.e. CVC 20002), you must obtain a citizen's arrest.
- (b) If the investigating officer has attended a POST certified California Vehicle Code § 40600a class in accident investigation, a citation may be issued to the offending driver for the cause of the collision at the discretion of the officer. The investigation format will be completed.

Vehicle Towing and Release

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the San Bernardino Police Department. Nothing in this policy shall require the Department to tow a vehicle.

510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage, or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator, and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of San Bernardino Police Department. The officer will then store the vehicle using a CHP Form 180.

510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

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- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon obtaining a release from the Police Department.

510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

510.2.7 RECORDS BUREAU RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

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Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by mail as applicable and as provided in Vehicle Code § 22851.3(d), Vehicle Code § 22852(a), and Vehicle Code § 14602.6(a)(2). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage
- (c) The authority and purpose for the removal of the vehicle
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice

510.3 TOWING SERVICES

The City of San Bernardino Police Department periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal of vehicles obstructing traffic in violation of state or local regulations.

510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

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If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

510.6 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
 - 1. The vehicle was stolen.
 - 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
 - 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
 - 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

510.7 TOWING FOR EXPIRED REGISTRATION

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of

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Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the San Bernardino Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Traffic Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Captain. The hearing officer will recommend to the appropriate Captain that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

Impaired Driving

514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 POLICY

The San Bernardino Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Sergeant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in California or another jurisdiction.

514.4 FIELD TESTS

The Traffic Sergeant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

514.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

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- (b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

514.5.1 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of the person's blood or breath, and the officer shall advise the person that the person has that choice. If the person arrested either is incapable, or states that the person is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

514.5.2 BREATH SAMPLES

The Traffic Sergeant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an

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alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

514.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if the arrestee chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored, and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because the arrestee has a bleeding disorder or has taken medication that inhibits coagulation, the arrestee shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

514.5.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain the arrestee's dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored, and transported as required by the testing facility.

514.5.5 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

514.5.6 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, the person shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy the person's obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

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514.5.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of the person's blood, breath, or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

514.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

514.6.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

514.6.2 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that the person will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of the person's duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
 - 1. This dialogue should be recorded on audio and/or video if practicable.

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- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
 - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

514.7 ARREST AND INVESTIGATION

514.7.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic crash.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to themselves or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

514.7.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

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514.8 RECORDS BUREAU RESPONSIBILITIES

The Records Manager will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

514.9 ADMINISTRATIVE HEARINGS

The supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officers who receive notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified. The Records Bureau should forward this to the prosecuting attorney as part of the case file.

514.10 TRAINING

The Personnel and Training Supervisor should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Personnel and Training Supervisor should confer with the prosecuting attorney's office and update training topics as needed.

Recovery of Funds For Incidents Involving Drunk Drivers

515.1 PURPOSE AND SCOPE

Senate Bill 735 brought into effect Section 53150, Chapter 1, Division 2, Title 5 of the Government Code. This law enables public safety agencies (e.g. police and fire) to recover expenditures incurred in the arrest, investigation, and prosecution of drunk drivers involved in traffic collisions.

515.2 TRACKING

Tracking of the impaired driver begins with the arresting officer. As part of the investigation, officers shall complete the DUI Involved Collision Time Log form and submit it to supervisor with the completed DUI reports.

- (a) The reviewing supervisor will ensure that all involved department personnel are included on the form.

515.3 TRAFFIC BUREAU PROCEDURE

When the DUI/TC arrest package is received by the Traffic Bureau, the following steps shall be followed:

- (a) A DUI/TC Time and Expense Log will be started using the initial response information supplied on the DUI Involved Collision Time Log form. The DUI/TC Time and Expense Log will track time and expenses incurred up to the conclusion of the criminal process at which time a demand will be made.
- (b) Upon conviction of the DUI driver, the Traffic Bureau will prepare a billing invoice indicating the costs incurred by the department including time, chemical testing, and other allowable expenses. The invoice will be forwarded to the Finance Department with the following documentation:
 - 1. Copy of the court docket which declares conviction;
 - 2. DUI/TC Time and Expense Log showing time and costs;
 - 3. Any other documents that support the charges should the account become uncollected.
 - 4. Note: Finance will prepare an invoice and mail it to the offending driver. Included with the invoice will be pertinent information regarding payment, non-payment, and specific information regarding the Government Code authorizing such payment.
- (c) The DUI/TC Time and Expense Log and DUI collection form shall not accompany the completed DUI case to the District Attorney's Office for filing.

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515.4 TYPES OF SERVICES TO BE BILLED FOR

- (a) Billing will occur only when the impaired driver is arrested for violation of California Vehicle Code §§ 23152 or 23153. The arrest must be the result of a traffic collision and the driving under the influence must be the proximate cause of the collision. Billing will only occur after notification of conviction has been received.
- (b) Services billed for will include the following:
 - 1. Time (in hours) spent for investigation/diagrams.
 - 2. Time spent in preparing and reviewing reports.
 - 3. Time spent booking and jail check.
 - 4. Time spent by follow-up officer or detective.
 - 5. Time spent in court.
 - 6. Charges incurred in chemical sample collection.
- (c) Services excluded in billing include:
 - 1. Specimen sample evaluation.
 - 2. Emergency vehicle use and maintenance.
 - 3. Dispatch time.

Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES

The Traffic Sergeant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Bureau shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Manager may request the Operations Captain to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Operations Captain for review.

516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Bureau.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a citation amendment form to his/her immediate supervisor. The citation and the form shall then be forwarded to the Traffic Bureau. The Traffic Bureau shall distribute the correction to the court having jurisdiction and to the recipient of the citation.

516.5.1 RESPONSIBILITY FOR COMPLETION OF AMENDMENT FORM

- (a) The citing officer shall complete the form or attach a note to the citation, which identifies the amendment needs.

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- (b) The Traffic Bureau shall prepare amendment forms for all Vehicle Code violations.
- (c) The City Attorney shall prepare amendment forms for all Municipal code violations.
- (d) The Records Bureau shall prepare amendment forms for all other offenses.

516.5.2 DISTRIBUTION

- (a) If the citing officer prepares the form, that officer will issue the defendant the goldenrod copy and attach the remaining two copies to the original citation.
- (b) Once the Traffic Bureau, Records Bureau, or City Attorney either receives the prepared amendment form and/or prepares the form, final distribution is as follows:
 - 1. When the citing officer prepares the amendment form, distribution is:
 - (a) Yellow copy is attached directly under the court's copy of the citation.
 - (b) White copy is attached directly under the file copy of the citation.
 - 2. When the amendment form is prepared by the Traffic Bureau, Records Bureau, or City Attorney, distribution is as follows:
 - (a) Goldenrod copy is mailed to defendant.
 - (b) Yellow copy is attached directly under the court's copy of the citation.
 - (c) White copy is attached directly under the file copy of the citation.

516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records Bureau.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Bureau.

516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

- (a) Administrative reviews are conducted by the Traffic Bureau who will review written/documentary data. Requests for administrative reviews are available at the front desk or Traffic Bureau of the San Bernardino Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

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- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).
- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).
- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).
- (d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

516.7.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
- (c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

516.8 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

Parking Citations and Notice of Violation

517.1 PURPOSE AND SCOPE

To establish and standardize the policy for issuing citations by department personnel. To conform with San Bernardino Municipal Code § 9.90.010 empowering police personnel to issue Municipal Code parking citations for Vehicle Code infractions involving unoccupied vehicles and for Municipal Code parking violations.

517.2 POLICY

- (a) Department employees will complete a parking citation for California Vehicle Code infractions on:
 - 1. CVC parking violations using San Bernardino Municipal Code § 10.16.130.
 - 2. California Vehicle Code § 4000(a) - unregistered vehicle (provided that the vehicle is not towed per California Vehicle Code § 22651(o).
 - 3. Abandoned vehicles (California Vehicle Code § 22524). The LAST registered owner's copy of the citation shall be left in the vehicle when it is towed. No citation may be issued if there is "No Record On File" with the DMV. In that case, the vehicle may be towed but no citation issued.
- (b) Non-police officer personnel shall not issue citations to offenders or initiate personal contact with violators. If an uncooperative violator makes contact with the issuing employee while a citation is being issued, a police officer shall be requested to assist.
- (c) Vehicles being towed as abandoned vehicle violations will be towed in compliance with San Bernardino Municipal Code § 10.16.230 and California Vehicle Code § 22669.
- (d) Parking citation books may be checked out from the Records Bureau.

Disabled Vehicles

520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

520.3.2 TRANSPORTATION

In those cases where assistance cannot be obtained and all practical avenues have been exhausted, the employee with the approval of a field supervisor may transport the motorist to the nearest service station. Starting and ending mileage shall be annotated using the MDC.

520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

72-Hour Parking Violations

524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the San Bernardino Police Department City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code §§ 22652.6 and 22669.

524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of San Bernardino Police Department 72-Hour Parking Ordinance shall be marked and noted on the San Bernardino Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

524.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Marked Vehicle Cards.

Parking control officers assigned to the Traffic Bureau shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals

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having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

Processing DUI Drivers

525.1 PURPOSE AND SCOPE

To establish a standard procedure for reporting arrests of subjects who have been driving under the influence of an alcoholic beverage and/or drugs (California Vehicle Code § 23152 (a)/(b)).

525.2 DUI EXAMINATION

When an officer stops a driver suspected of being under the influence of alcohol, drugs, or a combination thereof, the following procedure will be followed:

- (a) Conduct a field sobriety examination to determine if the individual is under the influence of alcohol or drugs. If there is doubt, seek the assistance of a Drug Recognition Expert (DRE).

525.3 DUI ARREST

If an arrest is made for DUI, the following procedure will be followed:

- (a) Complete the SBPD DUI Evaluation/Arrest form.
- (b) Complete the arrest/booking application.
- (c) Complete the arrest report and attach any exemplar taken from the violator.
- (d) Complete a Notice to Appear charging California Vehicle Code § 23152 (a)/(b).
 1. The violator's signed copy of the citation will be left at the jail.
 2. If the violator is injured and to be admitted at the hospital, cite release him/her at the hospital. If they are unable to sign due to injury, indicate so on the citation and leave them the goldenrod copy.
 3. Do not issue a citation for California Vehicle Code § 23153 - DUI causing an injury, or California Vehicle Code § 23175 - DUI with three or more priors within a seven-year period.
- (e) Officers will complete a DS 367 form (Administrative Per Se Officers Statement) when the following circumstances are present:
 1. The subject refuses to submit to or fails to complete a chemical test pursuant to California Vehicle Code § 13353.
 2. The subject submits to a breath test, which shows a BAC of 0.08 percent or greater.
 3. The subject submits to a blood or urine test and the officer believes that the BAC is 0.08 percent or greater.
- (f) The arresting officer will provide a copy of the DS 367 form to the violator coupled with the violator's copy of the Notice to Appear citation. These documents will serve as the violator's 30-day temporary driver's license. Officers will not issue a 30-day

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temporary driver's license to out-of-state drivers or drivers whose license has expired, been suspended, or never issued.

- (g) The arresting officer will confiscate the violator's driver's license and staple it to the Order of Suspension form. Officers will not confiscate out-of-state driver's licenses.
- (h) The Traffic Bureau will ensure that the Officer's Statement form, the violator's driver's license, and a copy of the violator's Notice to Appear citation will be forwarded to DMV within five days.
 - 1. If the violator submitted to a blood or urine test, the chemical test results will be forwarded to DMV using the Test Results Supplement (DS 367) within 20 calendar days.
- (i) When a driver's license is confiscated, it is the department's policy to require the arresting officer to admonish the violator that their driver's license will be confiscated and that they will be issued a temporary 30-day permit to drive (when applicable). The violator will be informed of the toll free telephone number where he/she can obtain information or ask questions regarding the Admin Per Se action taken against them.

525.4 DUI INVOLVED COLLISIONS

When an officer responds to a traffic collision and the investigation reveals that a DUI is involved, the following procedure will be followed:

- (a) Complete all necessary DUI arrest processes as indicated above. Officers need not seek a citizen's arrest if they have probable cause to believe the violator was operating the vehicle under the influence of alcohol, drugs, or a combination of both at the time of the collision (California Vehicle Code § 40300.5).
 - 1. List witness/es on the Officer's Statement form (DS 367) who can place the driver behind the wheel driving at the time of the collision.
 - 2. The DUI narrative should be incorporated into the narrative portion of the collision report under the heading "Intoxication".
- (b) If the collision involved injury to someone other than the DUI violator, and the DUI driver caused the collision, the driver is in violation of California Vehicle Code § 23153 (a)/(b).
 - 1. Complete all necessary DUI arrest processes as indicated above.
 - 2. Complete a Probable Cause Declaration form.
 - 3. Do not issue a citation.
 - 4. Complete the collision report showing the primary collision factor as California Vehicle Code § 23152 (a)/(b).
 - 5. Ensure photographs of the collision scene are taken.

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- (c) If the collision involves a death, the procedure under Section (b) will be followed, the Traffic Sergeant will be notified, and he/she will coordinate a team to respond to the scene to assist with the investigation.

525.5 DUI DRIVER WITH PRIOR CONVICTIONS

When an officer makes an arrest for DUI and it is found that the violator has three or more DUI convictions within a seven-year period (California Vehicle Code § 23175, a felony), the following procedure will be followed:

- (a) Complete all necessary DUI arrest processes as indicated above with the exception of issuing a citation due to the felony status of the crime.
- (b) Use California Vehicle Code § 23175 on the booking application.
- (c) Include the date of offense for prior DUI convictions in the arrest narrative. Do not include conviction dates.

525.6 DRIVERS UNDER 21 YEARS OF AGE

The following are the procedures for handling drivers under 21 years of age who have an odor of alcohol on their breath or are under the influence.

- (a) If the driver has an odor of alcohol on their breath, the driver must submit to a preliminary alcohol screening device (PAS). If the device indicates a BAC between 0.01 and 0.04, no citation is issued and the officer completes the Admin Per Se form (DS 367m). The driver's vehicle may be towed pursuant to California Vehicle Code § 22651 (h)(2) since the action falls under California Vehicle Code § 23136.
- (b) The driver has an odor of alcohol on their breath, the driver must submit to a PAS. If the device indicates a BAC between 0.05 and 0.08, the driver is in violation of California Vehicle Code § 23140 (a). It is unlawful for a person under the age of 21 years who has a 0.05 percent or more, by weight, of alcohol in his/her blood to drive a vehicle. The officer completes the (DS 367m) form. The driver's vehicle may be towed under California Vehicle Code § 22651(h)(2).
- (c) The driver has an odor of alcohol on their breath, the driver must submit to a PAS. If the device indicates a BAC of 0.08 or greater, then proceed as you would for California Vehicle Code § 23152 (a)/(b) and use the DS 367m form.

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 MODIFICATION OF CHARGES FILED

Employees are not authorized to recommend to the District Attorney, City Attorney, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or City Attorney's Office only as authorized by a Investigations Bureau manager or supervisor.

600.3 CUSTODIAL INTERROGATION REQUIREMENTS

Any custodial interrogation of a person who is suspected of having committed any violent felony offense should be electronically recorded (audio/video or both as available) in its entirety as otherwise allowed by law. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Officers should also consider electronically recording a custodial interrogation, or any investigative interview, for any other offense when the officer reasonably believes it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of an interrogation should be destroyed or altered without written authorization from the District Attorney and the Detective Bureau supervisor. Copies of recorded interrogations or interviews may be made in the same or different format provided they are true, accurate and complete copies and are made only for authorized and legitimate law enforcement purposes.

Officers should not allow the recording to take the place of a thorough report and investigative interviews and should continue to obtain written statements from suspects when applicable.

600.4 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

600.5 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the San Bernardino Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined (e.g., online harassment).

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- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside department jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

The Detective Bureau supervisor should provide the Records Manager with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Bureau Policy for additional guidance.

600.6 STATE REQUIREMENTS FOR FIREARM INVESTIGATIONS

600.6.1 CALIFORNIA DOJ NOTICE OF LOCATION OF REPORTED LOST OR STOLEN FIREARM

When notification is received from the California Department of Justice (DOJ) that a firearm purchase matches an entry made into the Automated Firearms System by the Department as lost or stolen, the Detective Bureau supervisor shall assign an officer to retrieve the firearm and book the firearm into evidence in accordance with the Property and Evidence Policy. Recovery of the firearm shall be reported pursuant to Penal Code § 11108.2, Penal Code §11108.3, and Penal Code § 11108.5. If appropriate, arrangements may be made to have another state or local law enforcement agency retrieve the firearm on behalf of the Department (Penal Code § 28220).

600.6.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Detective Bureau supervisor shall designate a member to have access to the Armed Prohibited Persons System (APPS) to receive information regarding individuals in the jurisdiction of the Department who have become a prohibited possessor of a firearm registered in their name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Investigations Bureau for preparation of a quarterly report to the California DOJ (Penal Code § 29813).

Response to and Investigation of Crimes Occurring on School District Property

601.1 PURPOSE AND SCOPE

To establish guidelines for responding to and investigation of crimes occurring on San Bernardino City Unified School District property within the City of San Bernardino.

601.2 PROCEDURE

- (a) The San Bernardino City Unified School District will handle crimes regarding school events on or near (generally within 1,000 feet of) school campuses, with the exception of certain serious crimes, within the City of San Bernardino. This will include incidents and or crimes committed by, or against, students of this District, having nexus to school attendance or activities, occurring within the boundaries of the District during school hours; and incidents and or crimes committed by, or against, students of this District, while those students are directly en route between their residence and school, or between their school and residence, with the exception of certain serious crimes. These serious crimes would include, but are not limited to, felony crimes against persons, child abuse, injury traffic accidents, major narcotic cases, or any request for assistance by the school police. Follow up criminal investigations will be conducted by the San Bernardino Police Department on all appropriate cases which occur on school district property to include work normally completed by the Identification Bureau.
 1. On cases handled by the school police, they will be responsible for the initial investigation, collection, preservation, and packaging of evidence, preparing crime reports, and making arrests.
 - (a) The school police will use the same report forms as the San Bernardino Police Department with the exception of the name "School Police" appearing on the heading.
 1. The school police officers will obtain report numbers and will file original reports, which require additional investigation with the San Bernardino Police Department. The school police case number will be shown on the upper left corner of their report forms, the San Bernardino Police Department case number will be shown in the appropriate box (#1) of the SU 21 form.
 2. This case number will be assigned by the front desk upon receipt of the written report. The report will be placed in the incoming report basket to be picked up by Records personnel. The reports will be routed in the normal manner.

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Response to and Investigation of Crimes Occurring on School District Property

- (b) The school police will store evidence collected by their department at the San Bernardino Police Department after completion of the appropriate chain of custody requirements.
 - 1. Where evidence has been collected, our existing property tags will be used and filled out by school police personnel.
 - 2. All property reports shall be submitted so that proper accountability can be maintained.
 - (c) School police may request warrant checks and generate other telecommunication inquiries to the Records Bureau.
 - 1. When printouts of teletype messages are needed by school police, they will be generated by teletype and left in the basket marked "School Police/Fire" located at the officer's counter in the Records Bureau.
 - (d) School police officers will transport and book any prisoner they arrest.
- (b) The City's Police Department will notify the District's Police Department of any high risk operations that may involve or impact a school site. The City's Police Department will make a concerted effort to notify the District's Police Department before beginning any tactical operation that may impact a school site or district property at any time. The City's Police Department will notify the District's Police Department as soon as practical when it has a high risk tactical operation within a one block radius of a city school campus, that may cause harm to students or school personnel. Consideration will be given to channeling mobile students away from tactical situations. The City's Police Department will advise the District's Police Department upon completion of the operation or when the potential impact on schools is eliminated. An effort will be made to share information that may help to protect the safety of students, school personnel and school campuses. In those incidents where an officer of the San Bernardino Police Department takes appropriate action on a campus, the school police will provide assistance until the conclusion of the activity.

Sexual Assault Investigations

602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

602.2 INVESTIGATION CONSIDERATIONS

602.2.1 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code 293 § (a) and (b)).

- (a) Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).
- (b) The officer shall also complete the San Bernardino Police Department 293 form with the victim's information.

602.2.2 OFFICER RESPONSIBILITY

Whenever there is an alleged violation of Penal Code §§ 243(e), 261, 261.5, 262, 273.5, 286, 288a or 289, the assigned officer shall accomplish the following:

- (a) Immediately provide the victim with the "Victims Services" pamphlet containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).
- (b) Immediately provide the victim with the Victim's Bill of Rights per Marsy's Law.
- (c) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).
 - 1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of his/her right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).

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2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

602.3 TESTING OF SEXUAL ASSAULT EVIDENCE

- (a) Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits or other sexual assault victim evidence and other crime scene evidence, any member of this department assigned to investigate a sexual assault offense (Penal Code §§ 261, 261.5, 262, 286, 288a or 289) should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g).
- (b) In order to maximize the effectiveness of such testing and identifying the perpetrator of any sexual assault, the assigned officer should further ensure that the results of any such test have been timely entered into and checked against both the Department of Justice Cal-DNA database and the Combined DNA Index System (CODIS).
- (c) If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue is not going to be analyzed within two years of the crime, the assigned officer shall notify the victim of such fact in writing within no less than 60 days prior to the expiration of the two-year period (Penal Code § 680(d)).

602.4 VICTIM NOTIFICATION OF DNA STATUS

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned officer may inform the victim of the status of the DNA testing of any evidence from the victim's case.
 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or victim's designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights:
 1. To be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
 2. To be informed whether or not there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in

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the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed whether or not the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Data Bank of case evidence.
- (c) Provided that the sexual assault victim or victim's designee has kept the assigned officer informed with regard to current address, telephone number and e-mail address (if available), any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.
1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. No officer shall be required to or expected to release any information which might impede or compromise any ongoing investigation.

602.5 DESTRUCTION OF EVIDENCE

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

602.6 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

602.6.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

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- (a) Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
 - 1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
 - 2. A support person may be excluded from the examination by the officer or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

602.6.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.7 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

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602.7.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

602.7.2 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Sexual assault victims shall further have the following rights (Penal Code § 680):

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1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.
 2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.
 4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

602.7.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property Unit supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.7.4 COLLECTION OF DNA REFERENCE SAMPLES

Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.8 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Detective Bureau supervisor.

Classification of a sexual assault case as unfounded requires the Detective Bureau supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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602.9 CASE REVIEW

The Detective Bureau supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process.

The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

Asset Forfeiture

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the San Bernardino Police Department seizes property for forfeiture or when the San Bernardino Police Department is acting as the fiscal agent pursuant to a multi-agency agreement. This person will be a Criminal Investigation Officer.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney. This person will be a Criminal Investigation Officer.

Property subject to forfeiture - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Health and Safety Code § 11470; Health and Safety Code § 11470.1):
 1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
 2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
 3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
 4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
 5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
 - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
 - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

606.2 POLICY

The San Bernardino Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the San Bernardino Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

606.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

606.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):
 - 1. The property subject to forfeiture is legally seized incident to an arrest.
 - 2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

606.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

606.3.3 SEIZED VEHICLES

Vehicles seized subject to forfeiture will be delivered to the San Bernardino Police Department's secured lot. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the Narcotics sergeant or Asset Forfeiture Analyst of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to a secure storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

Within five working days, the Asset Forfeiture Analyst will have the seized vehicle moved to a designated storage facility.

606.3.4 ASSET SEIZURE LOG

A computerized inventory of all asset seizure cases shall be kept in the Narcotics/Vice Unit. The inventory shall include the following

- Case number
- Date of seizure
- Value

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- type of seizure (federal or state)
- Status of seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
 1. Cash seized subject to forfeiture will be counted by the seizing officer and a supervisor and placed in a money envelope with the denomination of the cash, totals of each denomination and the total amount of cash enclosed on the envelope. The officer counting the cash and the supervisor will initial the sealed envelope.
 2. Seized cash will be booked into property and notification made to the Asset Forfeiture Analyst. Within five working days, the Asset Forfeiture Analyst will retrieve the seized currency and deposit it in the San Bernardino Police Department's Asset Seizure Trust account.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

606.5 MAINTAINING SEIZED PROPERTY

The Property Unit Supervisor is responsible for ensuring compliance with the following:

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- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

606.6 FORFEITURE REVIEWER

The Chief of Police will appoint a Criminal Investigation Officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
 1. Names and contact information for all relevant persons and law enforcement officers involved.
 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 3. A space for the signature of the person from whom cash or property is being seized.

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4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
1. Written documentation of the seizure and the items seized is in the case file.
 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
 4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
 6. Any cash received is deposited with the fiscal agent.
 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
 8. Current minimum forfeiture thresholds are communicated appropriately to officers.
 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
- (k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to

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interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).

- (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
- (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

606.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

606.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the San Bernardino Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

606.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

Confidential Informants

608.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of confidential informants. To protect the integrity of the San Bernardino Police Department and the officers using informants, it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

608.2 INFORMANT FILE SYSTEM

The Narcotics Unit Supervisor or his/her designee shall be responsible for maintaining informant files. A separate file shall be maintained on each confidential informant.

608.2.1 FILE SYSTEM PROCEDURE

Each file shall be coded with an assigned informant control number. An informant history shall be prepared to correspond to each informant file and include the following information:

- (a) Informant's name and/or aliases
- (b) Date of birth
- (c) Physical description: height, weight, hair color, eye color, race, sex, scars, tattoos or other distinguishing features
- (d) Current home address and telephone numbers
- (e) Current employer(s), position, address(es) and telephone numbers
- (f) Vehicles owned and registration information
- (g) Places frequented
- (h) Informant's photograph
- (i) Copy of Department's contact history
- (j) Copy of criminal history (i.e. CII, FBI)
- (k) Copy of LA Clear/WSIN submission
- (l) Briefs of information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable"
- (m) Activity log to include monies paid
- (n) Name of officer initiating use of the informant
- (o) Signed informant agreement
- (p) Update on active, inactive or "no use" status of informant

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The informant files shall be maintained in a secure area within the Narcotics Unit. These files shall be used to provide a source of background information about the informant, enable review and evaluation of information given by the informant, and minimize incidents that could be used to question the integrity of detectives or the reliability of the confidential informant.

Access to the informant files shall be restricted to the Chief of Police, Assistant Chief of Police, a Division Captain, the Narcotics Unit Manager or Supervisor, or their designees.

608.3 USE OF INFORMANTS

Before using an individual as a confidential informant, an officer must receive approval from the Narcotics Unit Supervisor. The officer shall compile sufficient information through a background investigation in order to determine the reliability, credibility and suitability, of the individual, including age, maturity and risk of physical harm.

608.3.1 JUVENILE INFORMANTS

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business and Professions Code §§ 22950, et seq., the use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

608.3.2 USE OF SAN BERNARDINO POLICE EXPLORERS

- (a) Members of the San Bernardino Police Department Explorer Post who are between the ages of 16 and 18 may be used in police investigations only under the following circumstances:
 - 1. An Explorer Post advisor has given authorization
 - 2. A consent form is signed by a parent or guardian
 - 3. A Vice/Narcotics unit supervisor has given authorization
 - 4. The explorer is supervised in all field activities by at least two San Bernardino Police Department officers
- (b) Explorers may be used for the following types of investigations:
 - 1. Alcohol investigations such as "shoulder taps" or "sales to minors" investigations
 - 2. Sales of cigarettes to minors investigations pursuant to the Stop Tobacco Access to Kids Enforcement Act

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608.3.3 REQUEST MEMORANDUM

- (a) An investigator wanting to use an informant who has charges pending or who is going to be charged with a crime will submit a memorandum to his or her supervisor requesting authorization to use the informant.
- (b) The supervisor will then submit a memorandum to the District Attorney's Office requesting to use the informant.
- (c) The memorandum, addressed to the District Attorney, will include the following:
 - 1. A summary of the charges pending against the subject.
 - 2. Authorization for a sentencing agreement to be considered from the arresting officer or, if the arrest was made by another agency, by the agency that made the arrest.
 - 3. A general overview of investigation/s for which the subject's involvement is being considered, omitting suspect names.
 - 4. The type of assistance the subject is expected to provide (i.e. information, obtaining evidence, covert operative, testimony, etc.).
- (d) This document will outline the subject's understanding of the District Attorney's and the San Bernardino Police Department's position on pending cases, specifically stating that no promises or leniency or specific types of sentencing can be offered and that disposition of the pending charges will ultimately be handled by the court. The District Attorney and the San Bernardino Police Department can only make recommendations based on their evaluations of the subject's participation in the investigation.
- (e) The document will conclude with the statement, "I have read and understand the above", which will be signed and dated by the subject.
- (f) The document will also be signed by the investigator, the Investigations Division Captain, and the District Attorney or his designee.
- (g) The following documents shall accompany the request memorandum:
 - 1. Subject's current CII and FBI rap sheets
 - 2. Confidential Agreement form
 - 3. Consent Form
 - 4. Copies of any crime reports

608.3.4 FOLLOW-UP MEMORANDUM

- (a) At the completion of an investigation involving use of an informant, a follow-up memorandum shall be directed to the District Attorney outlining the informant's assistance in the case.

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- (b) The follow-up memorandum shall include:
 - 1. Present status of case/s pending against the informant
 - 2. Copies of investigations in which the informant was involved
 - 3. General appraisal of assistance rendered by the informant (i.e. very helpful, did not meet commitment, seemed insincere, etc.)
- (c) In the event that the informant fails to meet stated commitments, the District Attorney shall be advised immediately by interoffice memorandum. All follow-up memorandums and status memorandums sent to the District Attorney concerning confidential informants shall be reviewed by the Vice/Narcotics unit manager and Investigations Division Captain prior to being forwarded to the District Attorney.

608.3.5 BIFURCATED INVESTIGATIONS - "WALL CASES"

- (a) A "wall case" is any bifurcated criminal investigation in which the defendant's access to information is legally and ethically blocked by law enforcement and prosecutors. Generally, the information that is withheld from the defendant (and his attorney) relates to the existence of an informant and/or the linkage of the current case to another investigation which could be compromised should the information be released.
- (b) All "wall case" investigations will be coordinated through the District Attorney's Office in accordance with their existing policies regarding the filing of such cases.

608.3.6 PURCHASES OF CONTROLLED SUBSTANCES

- (a) Purchases of controlled substances by informants shall be approved by a Vice/Narcotics unit supervisor and shall comply with department and unit procedures for:
 - 1. Crime reporting
 - 2. Evidence handling
 - 3. Expenditures of investigative funds
- (b) Money handling
 - 1. Money used to purchase narcotics will be recorded by serial number and/or photocopy prior to purchase, when applicable
 - 2. Money will not be advanced to an informant unless approved by the supervisor
- (c) The purchase of controlled substances by informants shall be supervised by the investigator, who will ensure the following procedures are followed:
 - 1. The purchase is approved by the Vice/Narcotics unit supervisor
 - 2. A search is conducted of all informants and their vehicles prior to any purchase. This will be completed even if sworn personnel are to accompany the operative

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3. A search of all informants or non-sworn salaried special employees is conducted after any transaction to ensure:
 - (a) All money is accounted for
 - (b) All contraband has been turned over to the department
4. The receipt for money paid to informants shall contain:
 - (a) Case number
 - (b) Informant's name
 - (c) Amount paid
 - (d) Informant's signature
 - (e) Officer's signature
 - (f) Reason for the expenditure
5. Payment of informants **is not authorized** unless an informant file has been completed on the subject

608.3.7 RESTRICTIONS ON USE OF INFORMANTS

- (a) Informants shall not participate in activities such as:
 1. Arrests
 2. Searches of persons or places
 3. Surveillances
 4. Interviews
 5. Report writing
 6. Supervision or control of other informants
 7. Any other covert police activity
- (b) Informants **shall not** be authorized to carry any weapons, including:
 1. Firearms
 2. Knives
 3. Clubs
 4. Any other potentially dangerous instrument
- (c) Informants shall not use or keep any department equipment, including:
 1. Vehicles
 2. Records/reports

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3. Hand-held radios (HTs)

608.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS

All confidential informants are required to sign and abide by the provisions of the departmental Informant Agreement. The officer using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.

Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

608.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

No member of the San Bernardino Police Department shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. Members of the San Bernardino Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following must be adhered to:

- (a) Officers shall not withhold the identity of an informant from their superiors.
- (b) Identities of informants shall otherwise be kept confidential.
- (c) Criminal activity by informants shall not be condoned.
- (d) Informants shall be told they are not acting as police officers, employees or agents of the San Bernardino Police Department, and that they shall not represent themselves as such.
- (e) The relationship between officers and informants shall always be ethical and professional.
- (f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the Narcotics Unit supervisor.
- (g) Officers shall not meet with informants unless accompanied by at least one additional officer or with prior approval of the Narcotics Unit Supervisor.
- (h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

608.5 NARCOTICS INFORMANT PAYMENT PROCEDURES

The potential payment of large sums of money to any confidential informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

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608.5.1 PAYMENT PROCEDURE

The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case.
- The significance, value or effect on crime.
- The amount of assets seized.
- The quantity of the drugs seized.
- The informant's previous criminal activity.
- The level of risk taken by the informant.

The Narcotics Unit Supervisor will discuss the above factors with the Investigations Division Manager. The amount of payment may be based on a percentage of the current market price for the drugs or other contraband being sought.

608.5.2 PAYMENT PROCESS

Payments of \$2,500 or greater require a captain's review and authorization. Payments of \$500 to \$2,499 require the authorization of the Narcotics Unit manager.

To complete the transaction with the confidential informant the case agent shall have the confidential informant sign the cash transfer form. The form will indicate the amount received, the date, and the case number. A copy of the form will be kept in the confidential informant's file.

608.5.3 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the confidential informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.

Eyewitness Identification

610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

610.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process -Any field identification, live lineup or photographic identification.

Field identification -A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

610.2 POLICY

This department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

610.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

610.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Detective Bureau supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

610.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

610.5.1 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

The member presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

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Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The employee presenting the lineup to a witness should do so simultaneously (i.e., six-pack line up). The witness should view all persons in the lineup.

The order of the suspect or the photos and fillers should be randomized before being presented to each witness.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

610.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the officer should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.
- (d) A person should not be shown to the same witness more than once.
- (e) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.

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- (f) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

610.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

Brady Material Disclosure

612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

612.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information -Information known or possessed by the San Bernardino Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY

The San Bernardino Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the San Bernardino Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., confidential informant, protected personnel files, or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

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Brady Material Disclosure

612.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

612.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

Chapter 7 - Equipment

Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Captain, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Captain.

Off-Highway Vehicles (OHV)

701.1 PURPOSE AND SCOPE

This policy aims to define the operational standards for all OHVs and the maintenance and care of these vehicles. OHVs are classified as vehicles not licensed on public highways, including all-terrain vehicles (ATV) and utility vehicles (UV).

701.2 POLICY

It is the policy of the San Bernardino Police Department that department owned or controlled Off-Highway Vehicles (OHVs) will be operated in accordance with state and local laws and shall always be operated in a safe and lawful manner as dictated by the circumstances. Additionally, members utilizing the OHV shall adhere to Policy 706- Vehicle Use.

701.3 PROCEDURE

(a) Employees will adhere to safe driving techniques and obey all traffic laws when operating an OHV. OHV operators will drive the OHV in a safe and lawful manner during emergency responses, not exceeding the capabilities of the vehicle or his/her driving skills.

(b) Employees shall not operate department OHVs unless they are authorized to do so.

(c) OHV operators will properly use all authorized safety equipment while utilizing the OHVs.

1. ATV Safety Equipment: Helmet, protective eyewear, and gloves.

2. UV Safety Equipment: Safety belt.

3. ATV and UV Safety Equipment: Headlights and emergency lights and sirens will be used when appropriate.

(d) Employees shall wear a department approved uniform while operating an OHV.

(e) Employees shall not allow unauthorized persons to operate and/or ride on or in department OHVs.

(f) Ignition keys shall be removed from all OHVs when the employee leaves the vehicle's immediate vicinity.

(g) OHVs will always be kept clean and orderly. The storage compartments of every vehicle shall be kept clear of unnecessary or foreign items.

(h) Transport of subjects in custody is approved. OHV operators should maintain speeds not exceeding 15 mph. Subjects in custody should be seat-belted and provided with a helmet and protective eyewear.

701.4 TRAINING AND QUALIFICATIONS

OHV operators must complete a POST-certified Off-Road Vehicle training course and each operator shall conduct an orientation and demonstrate competency before operating the OHV.

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Off-Highway Vehicles (OHV)

701.5 CARE AND MAINTENANCE

In addition, members utilizing the OHV shall adhere to Policy 704- Vehicle Maintenance.

(a) Employees utilizing the OHVs shall be responsible for the care and maintenance of the vehicle while they are using it and for the condition of the vehicle at the termination of its use. All OHVs will be fueled at the end of service. After every refueling, the engine oil level will be checked, and necessary additions made.

(b) OHV operators will conduct a pre-ride inspection prior to use. The operator shall note any of the following conditions:

1. Vehicle damage observed.
2. Missing equipment.
3. Unsafe equipment (such as worn tires).
4. Malfunctioning equipment.
5. Poor running performance (this may become evident after driving the vehicle).

(c) Extended periods of idling are prohibited. OHVs are not to be left running if unattended.

(d) Any damage or missing equipment shall be noted on the inspection sheet and the employee's supervisor shall be immediately notified.

(e) All OHV repair requests will be forwarded to the designated internal contact. This individual shall ensure repair requests are handled promptly. This person will schedule the needed maintenance and service.

(f) The OHV should be transported using its assigned flatbed trailer. After its use, it will be safely loaded onto the trailer and transported back to its designated parking spot.

701.6 PRIMARY USES

(a) OHV's may be used for off-road movement of personnel and supplies as needed during critical incidents.

(b) OHV's may be used in search and rescue operations.

(c) Enforcement in the wash and other county flood control channels where a patrol vehicle cannot maneuver in the rough terrain.

(d) OHV's may be used for special events as approved by the Chief of Police or designee.

701.7 VEHICLE PURSUITS

This policy provides guidelines for vehicle pursuits to protect the safety of involved officers, the public, and fleeing suspects.

Members utilizing the OHV shall adhere to Policy 314 - Vehicle Pursuits.

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by Vehicle Code

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Off-Highway Vehicles (OHV)

§ 21055. Officers are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

Personal Communication Devices

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

702.2 POLICY

The San Bernardino Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

702.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for department-related business or when the use reasonably implicates work-related misconduct.

702.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or funded PCDs may not be used for personal business either on- or off-

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duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will be either secured in the workplace at the completion of the tour of duty or turned off when leaving the workplace.

702.5 PERSONALLY OWNED PCD

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications) or as otherwise authorized by department procedures.
 - 1. Use of a personally owned PCD for work-related business constitutes consent for the Department to access the PCD to inspect and copy the work-related data (e.g., for litigation purposes, public records retention and release obligations, internal investigations).
 - 2. Use of and data within a personally owned PCD may be discoverable in cases when there is reason to believe it is associated with work-related misconduct.
 - 3. Searches of a personally owned PCD by the Department should be limited to those matters reasonably associated with the work-related business or work-related misconduct.
- (e) The device shall not be utilized to record or disclose any department business-related information, including photographs, video, or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (f) If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings, and other public records created or received on a member's personally owned PCD should be transferred to the San Bernardino Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

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Except with prior express authorization from their supervisors, members are not obligated or required to carry, access, monitor, or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the member has prior express authorization from their supervisor, the member may engage in department business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate recordkeeping.

702.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means requires the express authorization of the Chief of Police or the authorized designee.
- (f) Members will not access social networking sites for any purpose that is not official department business. This restriction does not apply to a personally owned PCD used during authorized break times.
- (g) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

702.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.

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- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
 - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

702.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

702.9 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

Vehicle Maintenance

703.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

703.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

703.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

703.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 1 Roll Crime Scene Barricade Tape
- First Aid Kit
- Fire Extinguisher
- Spare Tire

703.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location. Officers shall refuel their assigned unit at the end of their shift unless special circumstances exist.

703.5 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

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703.6 CIVILIAN EMPLOYEE USE

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the “out of service” placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Military Equipment

704.1 PURPOSE AND SCOPE

The purpose of this policy ("Policy") is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment pursuant to Assembly Bill 481 ("AB 481"). (California Government Code § 7070 et seq.)

704.1.1 DEFINITIONS

Definitions related to this policy ("Policy") include those provided in Government Code section 7070, and as follows:

- (a) **Governing body** – The City of San Bernardino City Council ("City Council").
- (b) **Military equipment** – As defined in Government Code section 7070, Subsections (c) (1) through (c)(16).

704.1.2 MILITARY EQUIPMENT USE POLICY CONSIDERATIONS

- (a) The military equipment acquired or sought by the San Bernardino Police Department ("Department"):
 - 1. Is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - 2. Is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
 - 3. Will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (b) Military equipment shall only be used by Department personnel only after applicable training, including any course required by the Commission on Peace Officer Standards and Training has been completed, unless exigent circumstances arise.

704.2 POLICY

Pursuant to California Government Code section 7070, the Department will maintain a copy of the Policy on its website as long as the equipment is in use. It is the Policy of the Department that members of this Department will comply with the provisions of Government Code section 7071 with respect to military equipment.

704.3 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the City Council by way of ordinance adopting Policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed Policy is submitted to the City Council and is available on the Department website at least thirty (30) days prior to any public hearing concerning the military equipment at issue.

The Policy must be approved by the City Council prior to engaging in any of the following:

- (a) Requesting military equipment made available pursuant to 10 USC § 2576(a).

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- (a) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting, or accepting private, local, state, federal funds, in-kind donations, or other donations or transfers.
- (a) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (a) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this Department.
- (a) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the City Council.
- (a) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (a) Acquiring military equipment through any means not provided above.

704.4 CATALOGING OF MILITARY USE EQUIPMENT

All military use equipment kept and maintained by the Department shall be cataloged in a way which addresses each of the following requirements:

- (a) Description of each type of military equipment;
- (b) Quantity sought;
- (c) Capabilities of the equipment;
- (d) The expected lifespan of the equipment;
- (e) The purpose and authorized uses for which the Department proposes to use each type of equipment;
- (f) The fiscal impact of the equipment, both initially and for ongoing maintenance; and
- (g) Training including courses required by the Commission on Peace Officer Standards and Training.

704.5 MILITARY EQUIPMENT COORDINATOR

The Chief of Police will designate a member of this Department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the City Council for matters related to the requirements of this Policy.
- (b) Identifying Department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the City Council.
- (c) Conducting an inventory of all military equipment annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of the Department.

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- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting; and
 - 2. Preparing for public questions regarding the Department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring the report is made available on the Department website.
- (g) Establishing a procedure for a person to register a complaint or concern, or how that person may submit a question regarding the use of military equipment, and how the Department will respond in a timely manner.

704.6 ANNUAL REPORTING AND COMMUNITY ENGAGEMENT

The Chief of Police or authorized designee shall submit an annual military equipment report to the City Council that addresses each type of military equipment possessed by the Department.

- (a) The Department shall also make each annual military equipment report publicly available on its Internet website for as long as the military equipment is available for use.
- (a) The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:
 - 1. A summary of how the military equipment was used and the purpose of its use.
 - 2. A summary of any complaints or concerns received concerning the military equipment.
 - 3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
 - 4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following the submission of the annual military equipment report.
 - 5. The quantity possessed for each type of military equipment.
 - 6. If the Department intends to acquire additional military equipment in the next year and the quantity sought for each type of military equipment.
- (b) Within thirty (30) days of submitting and publicly releasing an annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the Department's funding, acquisition, or use of military equipment.

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704.7 ADDRESSING COMPLAINTS AND CONCERNS RELATED TO MILITARY EQUIPMENT

Pursuant to California Government Code section 7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of specific military equipment in this policy by any of the following means:

1. Via email to: militaryequipment@sbcity.org
2. Via phone call to: (909) 384-5742
3. Via mail sent to: San Bernardino Police Department. Attn: Military Equipment Coordinator. 710 N. D Street San Bernardino, CA 92401

704.8 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this Department shall be approved for use in accordance with Department policy. Military equipment used by other jurisdictions during mutual aid requests, collaborations, and while conducting operations within this jurisdiction, should comply with their respective military equipment use policies.

704.9 MAINTENANCE OF MILITARY EQUIPMENT SUPPLIES

Based on fluctuating Department responses throughout the year, coupled with ongoing training, stocks of military equipment will be maintained to ensure operational readiness for critical incidents and other significant public safety concerns.

704.10 COMPLIANCE

Department members are bound to adhere to this Policy, in addition to state and local laws and ordinances when employing the use of military equipment at any time. Violations of the law or this Policy may result in criminal or administrative investigations, or action.

704.11 EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment owned, sought, or utilized by the Department:

1. **Robots**
 - (a) **Description, capabilities, and purchase cost:**
 1. Recon Robotics-Throwbot. This equipment is an unmanned, battery powered, remote operated device. The light-duty robot is equipped with a camera and can be remotely operated from hundreds of feet away, providing protection and safety to the operator. Its stair climbing ability and overall maneuverability allows the robot to search condensed areas. This equipment is generally used during high-risk incidents. Use is limited to members of the Department who have received training. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/rescue. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject's location is very important, and the robot can provide that without placing anyone at risk. Cameras

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can also help determine if a suspect is armed and can also identify other subjects inside the location in need of assistance, or immediate medical attention. Cost: \$16,000.

2. iRobot Packbot. The iRobot Packbot is like the Throwbot, but is a larger, heavy-duty machine, which is also remotely operated. Cost: \$30,000.
3. Transcend Tactical-Vantage Patrol Robot. Similar capabilities as the iRobot Packbot. Cost: \$25,500.

(b) **Purpose:**

To be used to remotely gain visual/audio data, deliver CNT phone, open doors, disrupt packages, and clear buildings

(c) **Authorized Use:**

Only assigned personnel who have completed the required training shall be permitted to operate the robot. The SWAT team provides internal training for staff. Use is established by the Incident Commander, Watch Commander, or SWAT Supervisor.

(d) **Expected Lifespan:**

8-10 years

(e) **Fiscal Impact:**

Estimated annual maintenance cost is approximately \$500.

(f) **Legal and Procedural Rules:**

It is the policy of the Department to utilize robots for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

2. Unmanned Aerial Vehicles ("UAV")

(a) **Description, capabilities, and purchase cost:**

1. DJI Mavic 2 Enterprise. This miniature UAV is a battery-powered, remote-operated device that weighs approximately 249 grams and can record video and audio with approximately 30 minutes of flight time depending on weather and flight conditions. The UAV allows operators to view a live feed or take still photographs from mounted cameras. Cost: \$2,500.
2. DJI Phantom 4 2.0. This UAV is a battery-powered, remote-operated device that weighs approximately 899 grams. It is equipped with an inferred camera with recording capability, a spotlight, and an audible speaker with approximately 30 minutes of flight time depending on weather and flight conditions. Cost: \$2,200.
3. AARDVARK-Loki-MK2-UAVSDS-EU. This UAV is a battery-powered, remote-operated device that weighs approximately 508 grams. It is intended for close quarter, indoor and outdoor tactical scouting missions, and features a highly sensitive Night-Day + IR sensor camera giving it the ability to fly and see in complete darkness. It has a rapid deploy feature which can be hand thrown, for exigent circumstances requiring a quick deployment. The UAV can record video and audio for up to six hours when

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perched and has approximately 60 minutes of flight time depending on weather and flight conditions. Cost: \$9,500.

(b) **Purpose:**

UAVs may be utilized to enhance the Department's mission of protecting lives and property when other means and resources are not available or are less effective. To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

1. Major traffic collision investigations;
2. Search and rescue operations;
3. Suspect apprehension;
4. Natural disaster management;
5. Crime scene photography;
6. Hazard monitoring;
7. Tactical or other public safety and life preservation missions;
8. In response to specific requests from local, state, and federal fire; authorities for fire response and/or prevention;
9. Crisis communications; and
10. Legally authorized surveillance.

(c) **Authorized Use:**

Only assigned personnel who have completed the required training shall be permitted to operate the UAVs during approved missions. All UAV operators are licensed by the Federal Aviation Administration for UAV operation. Prior to piloting any UAV, personnel must secure a FAA Remote Pilot License and complete all training required by our FAA COA.

(d) **Expected Lifespan:**

5 years

(e) **Fiscal Impact**

Estimated annual maintenance and battery replacement cost is approximately \$1,200.

(f) **Legal and Procedural Rules:**

Use is established under Department Policy Manual Section 319. Any use of UAVs will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. The use of the UAVs potentially involves privacy considerations. Operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy. Operators and observers should take reasonable precautions to maintain privacy when operating UAVs. Reasonable precautions can include deactivating or turning imaging devices away from such areas or persons during UAV operation.

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3. **Armored Rescue Vehicles**

(a) **Description, capabilities, and purchase cost:**

2010 Lenco Armored Rescue Vehicle ("ARV"). The ARV is designed to provide ballistic protection during tactical events (designed to withstand various projectiles, low-level explosions, and provides greater safety for citizens and officers beyond the protection of a shield or body armor). The ARV is equipped with nuclear/radiological detection devices, self-contained breathing apparatus, and explosive gas detection devices. The ARV is also equipped with emergency lights/siren and a public address system. Common uses for the ARV include citizen and officer rescues, evacuations, deployment of officers during tactical situations, riots, vehicle borne interventions, and in the event of an active shooter or similar emergency. The ARV is currently deployed at large events in the City of San Bernardino, generally out of public view for potential rescue operations. The ARV is a regional mutual-aid asset that can be requested, deployed to, and utilized by allied agencies in the region. The asset was obtained via federal grant. Cost: \$306,175.

(b) **Purpose:**

To be used for rescues to enhance officer and community safety, improve scene containment, stabilization, transport personnel during tactical operations, and assist in resolving critical incidents.

(c) **Authorized Use:**

The deployment of the ARV is based on specific circumstances of a given incident or tactical operation. The ARV should only be operated by personnel familiar with the equipment unless exigent circumstances arise.

(d) **Expected Lifespan:**

20-25 years.

(e) **Fiscal Impact:**

Estimated annual maintenance cost is approximately \$1,500.

(f) **Legal and Procedural Rules:**

It is the policy of the Department to utilize armored rescue vehicles only for official law enforcement purposes, and pursuant to State and Federal law.

4. **Mobile Incident Command and Control Vehicles ("Mobile Command Post")**

(a) **Description, capabilities, and purchase cost:**

2001 BlueBird custom-built vehicle. The vehicle is a two-axle bus style vehicle with a front door and a rear door. It is painted black and white with police graphics affixed to the body. The equipment housed in the vehicle includes, but is not limited to, mobile data computer consoles, communications accessories, cables, charging stations, auxiliary power, lighting, miscellaneous office supplies, tabletops, chairs, and other miscellaneous storage. The vehicle is capable of being used as a mobile operation command post and dispatch center and is equipped with a restroom for long operations in remote areas. The vehicle is also capable of transporting personnel and equipment. The mobile command vehicle is used as an auxiliary command vehicle during major incidents. The asset was

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obtained via a CLETEP grant from the Office of Criminal Justice Planning. Cost: \$242,000.

- (b) **Purpose:**
To be utilized for critical incidents and large-scale events.
- (c) **Authorized Use:**
This mobile incident command and control vehicle will be used by police personnel who have been properly trained in the safe handling of the vehicle. The driver of this vehicle shall have a valid commercial driver's license.
- (d) **Expected Lifespan:**
25 years.
- (e) **Fiscal Impact:**
Annual maintenance cost of approximately \$2000
- (f) **Legal and Procedural Rules:**
It is the policy of the Department to use mobile incident command and control vehicles for official law enforcement purposes, and in accordance with California State law regarding the operation of motor vehicles.

5. **Mobile Incident Command and Control Vehicles ("RIMA")**

- (a) **Description, capabilities, and purchase cost:**
2019 Freightliner Chassis custom-built vehicle (Regional Incident Management Apparatus). The vehicle is primarily used by the Crisis Negotiation Team ("CNT"). It can operate as a mobile command dispatch center during natural disasters, large-scale operations, and community events. The equipment housed in the vehicle includes, but is not limited to, mobile data computer consoles, communications accessories, cables, charging stations, auxiliary power, lighting, CNT throw phones and associated equipment, office supplies, tabletops, chairs, and other miscellaneous storage. The vehicle is a regional mutual-aid asset that can be requested and utilized by allied agencies in the region. The asset was obtained via UASI grant. Cost: \$334,000.
- (b) **Purpose:**
To be used during critical incidents, large operations, natural disasters, or community events.
- (c) **Authorized Use:**
This mobile incident command and control vehicle will be used by police personnel who have been properly trained in the safe handling of the vehicle. The driver of this vehicle shall have a valid driver's license.
- (d) **Expected Life Span:**
20 years
- (e) **Fiscal Impact:**
Estimated annual maintenance cost is approximately \$1,500
- (f) **Legal and Procedural Rules:**

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It is the policy of the Department to use mobile incident command and control vehicles for official law enforcement purposes, and in accordance with California State law regarding the operation of motor vehicles.

6. **Mobile Incident Command and Control Vehicles ("SWAT VAN")**

(a) **Description, capabilities, and purchase cost:**

2008 Freightliner Chassis Utility Master custom built vehicle by Braun Northwest. This vehicle is primarily used by the Special Weapons and Tactics team ("SWAT"). The vehicle is used to transport SWAT personnel and equipment. The equipment housed in this vehicle includes, but is not limited to, manual breaching tools, weapons, ammunition, robots, unmanned aerial vehicles, less lethal launchers and munitions, tear gas, water, lighting, and a power generator. The asset was obtained via Homeland Security grant funds. Cost: \$132,964.

(b) **Purpose:**

To be utilized for critical incident callouts.

(c) **Authorized Use:**

This mobile incident command and control vehicle will be used by police personnel who have been properly trained in the safe handling of the vehicle. The driver of the vehicle shall have a valid driver's license.

(d) **Expected Lifespan:**

20 years.

(e) **Fiscal Impact:**

Estimated annual maintenance cost is approximately \$1,500

(f) **Legal and Procedural Rules:**

It is the policy of the Department to use mobile incident command and control vehicles for official law enforcement purposes, and in accordance with California State law regarding the operation of motor vehicles.

7. **Specialized Firearms and Ammunition .**

(a) **Description, quantity, capabilities, and purchase cost:**

(a) Beretta Tikka T3X TAC A1, .308 WIN, bolt action sniper rifle with magnified scope. The rifle does not have an expiration and will need to be serviced or replaced when the rifle fails or breaks. Cost: \$1,395.

(b) Hornady TAP (Tactical Action Police), .308 WIN, 168 grain sniper rifle ammunition. Cost: \$6,250.

(c) Hornady TAP (Tactical Action Police), .308 WIN, 165 grain GMX sniper rifle ammunition heavy barrier penetrator. Cost: \$1,140.

Purpose:

To be used as precision weapons, at greater distances, with additional accuracy and performance. The rifle(s) gives the operator more effective options in addressing the increasing level of firepower and body armor used by criminal suspects.

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(b) **Authorized Use:**

Beretta Tikka T3X TAC A1,.308 WIN, bolt action sniper rifle is reserved for qualified SWAT personnel who have completed a POST basic sniper course, followed by monthly competency training and function testing. Officers may deploy the rifles in any circumstances where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of general guidelines for deploying rifles may include but are not limited to:

- (a) Situations where the officer reasonably anticipates and armed encounter
- (b) When an officer is faced with a situation that may require accurate and effective fire at long-range
- (c) Situations when officer reasonably expects the need to meet or exceed a suspect's firepower
- (d) When an officer reasonably believes there may be a need to fire on a barricaded person or a person with a hostage
- (e) When an officer reasonably believes that a suspect may be wearing body armor
- (f) When authorized or request by supervisor

(c) **Lifespan:**

Beretta Tikka T3X TAC A1,.308 bolt action sniper rifle – No expiration
Hornady TAP.308 WIN, 168 grain – No expiration
Hornady TAP.308 WIN, 165 grain GMX – No expiration

(d) **Fiscal impact:**

Rifles – Annual maintenance costs are estimated between \$1,000 to \$3,000. Most maintenance is performed by Department staff.
The ongoing costs for ammunition will vary depending on usage, inventory, and market price based on current demand/availability.

(e) **Legal and Procedural Rules:**

Use is established under the Department Policy Manual Section 432. It is the policy of the Department to utilize rifles and associated ammunition only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

8. **Diversionsary Devices**

(a) **Description, quantity, capabilities, and purchase cost:**

A Noise Flash Diversionsary Devices (NFDD), or Light Sound Diversionsary Device (LSDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. They are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations. A distraction device is ideal for distracting dangerous suspects during assaults, hostage rescues, room entry, or other high-risk arrest situations. Diversionsary devices produce atmospheric over-pressure and brilliant white light, which as a result, can cause

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short-term (6-8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.

Defense Technology, 8925 multi-port, multi-bang diversionary device. Cost: \$52.

Combined Tactical Systems, 7290M, mini diversionary device. The mini exhibits all the same attributes of the 8925 but comes in a smaller, lighter package. Cost: \$49, quantity: (50).

Defense Technology, 8933, single-port diversionary device. Cost: \$62.

(b) **Authorized Use:**

Only officers who have completed diversionary device training that is conducted by a POST certified instructor will be authorized to deploy these devices.

Diversionary Devices are generally used:

- (a) In hostage and barricaded subject situations.
- (b) In high-risk warrant (search/arrest) services where there may be extreme hazards to officers.
- (c) During other high-risk situations where their use would enhance officer safety.
- (d) To produce humane fright for potentially dangerous animals encountered.

(c) **Lifespan:**

8925 – 5 years

7290 – 5 years

8933 – 5 years

(d) **Fiscal Impact:**

No annual maintenance. Costs for diversionary devices will vary depending on usage and inventory. Estimated cost is generally between \$500-\$3,000 annually.

(e) **Legal and Procedural Rules:**

It is the policy of the Department to utilize diversionary devices only for official law enforcement purposes, and pursuant to State and Federal law.

9. **Tear Gas**

(a) **Description, quantity, capabilities, and purchase cost:**

Chemical agent munitions and canisters, which are commonly referred to as "tear gas".

The Department deploys two chemical agents which are used by law enforcement agencies across the United States: CS (2-chlorobenzylidene malonitrile) and OC (Oleoresin Capsicum).

CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow).

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OC was deregulated in California in 1996 and is available to civilians to legally possess (2.5 oz or less). OC is an inflammatory agent which causes temporary involuntary closure of eyes and respiratory inflammation which generally subsides after several minutes.

1026 – Defense Technology, Tripple-Chaser Separating Canister CS. The Triple-Chaser CS Canister consists of three separate canisters pressed together with ability to separate when deployed. When deployed, the canisters separate and land approximately (20) feet apart, allowing increased area coverage in a short period of time. The canister can be hand deployed or launched from a delivery system. The canister is (6.5) inches by (2.7) inches and holds approximately (92) grams of agent. The device has an approximate burn time of (20) to (30) seconds. Cost: \$52.00.

1072 – Defense Technology, Spede-Heat, Continuous Discharge Canister. The Spede-Heat CS Canister is a high-volume continuous burn device and expels the agent for approximately 20-40 seconds. The agent is dispersed through four ports on top of the canister, three on the side, and one on the bottom. The device can be hand deployed or launched and measures (6.12) inches by (2.62) inches. The canister holds approximately (81.2) grams of agent. Cost: \$33.00.

1092 – Defense Technology, Han-Ball, CS. The Han-Ball CS is an outdoor use device expelling the agent in approximately 15-20 seconds. The rubber ball device has an overall size of (4.8) inches tall (including the fuze head) and a diameter of (3.1) inches. The device holds approximately (45.4) grams of agent which is expelled through three ports around the equator of the ball. Cost: \$40.00 quantity: (100).

1087– Defense Technology, Stinger, Rubber Balls. The Stinger Rubber Balls device delivers three stimuli for psychological and physiological effects: rubber balls, light, and sound. The device is used to deliver .60 caliber rubber balls with the stimuli of bright light and sound. It is widely used as a riotous crowd management tool by law enforcement and corrections. The device has an initial (1.5) second delay that initiates a fuse assembly separation, followed by another (0.5) second delay before the function of the device. Cost: \$53.00, quantity: (100).

1088 – Defense Technology, Stinger, CS. The Stinger CS device delivers four stimuli for psychological and physiological effects: rubber balls, light, sound, and CS. The device is used to deliver .60 caliber rubber balls with the stimuli of light, sound, and agent. It is widely used as a riotous crowd management tool by law enforcement and corrections. The device has an initial (1.5) second delay that initiates a fuse assembly separation, followed by another (0.5) second delay before the function of the device. The device holds approximately (2) grams of agent. Cost: \$56.00.

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2042 – Defense Technology, Flameless Expulsion, CS. The Flameless Expulsion, CS is a compact, non-pyrotechnic, chemical agent device that provides safe expulsion without the risk of fire. It is safe to use indoors, and the contents are expelled upon actuation of a CO2 cartridge that will affect a confined area of approximately 1500 square feet. The device measures approximately (7.5) inches by (1.65) inches and delivers approximately (4.5) grams of agent during its three second discharge time. Cost: \$49.00, quantity: (50).

2040 – Defense Technology, Flameless Expulsion, OC. The Flameless Expulsion, OC is a compact, non-pyrotechnic, chemical agent device that provides safe expulsion without the risk of fire. It is safe to use indoors, and the contents are expelled upon actuation of a CO2 cartridge that will affect a confined area of approximately 1500 square feet. The device measures approximately (7.5) inches by (1.65) inches and delivers approximately (4.5) grams of agent during its three second discharge time. Cost: \$50.00, quantity: (30).

1083 – Defense Technology, Military-Style Maximum HC, Smoke Canister. The Military-Style Maximum HC Smoke Canister is a slow burning, high volume, continuous discharge device designed for outdoor use to signal, obscure, distract, direct movement, and carry other chemical agent through the air. The steel canister emits grey-white smoke for approximately (1.5) to (2) minutes. Cost: \$39.00.

1073 – Defense Technology, Large Style Maximum HC Smoke. Like the 1083 Military-Style Maximum HC Smoke Canister except for the steel canister and slight size difference. The Large-Style Maximum HC Smoke Canister is a slow burning, high volume, continuous discharge device designed for outdoor use to signal, obscure, distract, direct movement, and carry other chemical agent through the air. The canister emits grey-white smoke for approximately (1.5) to (2) minutes. Cost: \$42.00.

1262 – Defense Technology, Ferret 40mm Round, CS Liquid. The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers such as windows, hollow core doors, wallboard, and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small amount of agent inside of a structure or vehicle. The round is used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous individuals. The round contains (8) grams of agent. Cost: \$25.00.

2262 – Defense Technology, Ferret 40mm Round, CS Liquid barricade penetrator. The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers such as windows, hollow core doors, wallboard, and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small amount of agent inside of a structure or vehicle. The round is used to dislodge

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barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous individuals. The round contains (8) grams of agent. Cost: \$25.00.

5230B – Combined Tactical Systems, Baffled CS Canister. The Baffled CS Canister is a continuous burning device which delivers approximately (23.5) grams of agent and measures (6.2) inches in length and (2.6) inches in diameter. The device is designed for indoor use and can deliver agent throughout multiple rooms with minimal risk of fire. The canister can be launched or hand deployed. The device is commonly used by tactical teams to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous individuals. Cost: \$50.00.

1210 – The 12-Gauge Muzzle Bang/Launching Cartridge incorporates an opaque shell and uses black powder as the propellant. It can be used alone as a muzzle bang for crowd management but is primarily used to launch chemical agents when paired with a 12-gauge less lethal shotgun and Combined Tactical Systems launching cup. Cost: \$7.00.

(b) **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to:

- (a) Self-destructive, dangerous and/or combative individuals
- (b) Riotous crowd control
- (c) Barricaded and/or armed individuals
- (d) Circumstances where a tactical advantage can be obtained
- (e) Potentially vicious animals

(c) **Authorized Use:**

Only officers who have received POST certification in the use chemical agents are authorized to deploy chemical agents.

(d) **Lifespan:**

- 1026 – 5 years
- 1072 – 5 years
- 1092 – 5 years
- 1087 – 5 years
- 1088 – 5 years
- 2042 – 5 years
- 2040 – 5 years
- 1083 – 5 years
- 1073 – 5 years
- 1262 – 5 years
- 2262 – 5 years

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5230B– 5 years

1210 – 5 years

(e) **Fiscal Impact:**

No annual maintenance. Annual costs vary significantly depending on usage and inventory.

(f) **Legal and Procedural Rules:**

Use is established under Department Policy Manual Section 308. They are to be used as an intermediate level of force.

10. **Projectile Launch platforms and associated munitions (PepperBall Launching System)**

(a) **Description, quantity, capabilities, and purchase cost:**

A less lethal launcher system that uses high pressure air to deliver projectiles (similar to a paintball delivery system). The system is designed to assist law enforcement in a variety of encounters. The PepperBall launching system can provide effective results from distances up to 150 feet. The Pepperball launcher provides a lightweight modular option for law enforcement, while also providing a multiple feeding system for different styles of deployment and encounters. This less lethal option allows law enforcement officers to deliver chemical agents and kinetic energy impacts to suspects in a potentially violent encounter. It is a de-escalation tool used to minimize injuries and reduce the chance of lethal encounters. The range of the launching system creates a barrier between officers and dangerous individuals, reducing the immediacy of the threat, which is a principal of de-escalation.

Tipman PepperBall launching system, TX model. Cost: \$591.

PepperBall Live-X projectile. Cost: \$244/375 rds.

PepperBall Inert projectile. Cost: \$323/375rds.

(b) **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. To provide law enforcement with a less lethal option to assist in resolving critical incidents. Situations for use of the less lethal weapon systems may include but are not limited to:

- (a) Self-destructive, dangerous and/or combative individuals.
- (b) Riotous crowd control.
- (c) Circumstances where a tactical advantage can be obtained.
- (d) Potentially vicious animals.

(c) **Authorized Use:**

Only personnel certified as having completed department-approved training on the use of PepperBall launching systems will be allowed to deploy the system.

(d) **Expected Lifespan:**

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PepperBall Launcher: No expiration

Live-X Projectile: 3 years

Inert Projectile: 3 years

(e) **Fiscal Impact:**

PepperBall Launcher: Estimated between \$0 and \$100 annually

Live-X Projectile: Estimated between \$0 and \$500 annually

Inert Projectile: Estimated between \$0 and \$325 annually

(f) **Legal and Procedural Rules:**

Use is established under Department Policy Manual Section 308.7.2. It is the policy of the Department to utilize PepperBall launching systems only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

11. **Projectile Launch platforms and associated munitions (40mm system, 12-Gauge less lethal shotgun)**

(a) **Description, capabilities, and purchase cost:**

40mm and 12-Gauge launching systems are less lethal options which allow law enforcement officers to deliver chemical agents and kinetic energy impacts to suspects in a potentially violent encounter. It is a de-escalation tool used to minimize injuries and reduce the chance of lethal encounters. The range of the launching system creates a barrier between officers and the suspect, reducing the immediacy of the threat, which is a principal of de-escalation.

(a) Defense Technology, 40mm, single-shot launcher, #1425. The 40mm less lethal launching system uses smokeless powder to deliver 40mm projectiles from a safe distance. Cost: \$1,000.

(b) Defense Technology, 40mm, tactical multi-shot launcher, #1440. The launcher is a low profile and lightweight system which provides multi-shot capability. Cost: \$1,975.

(c) Penn Arms 40mm, multi-shot launcher, pump advance version, PGL65, double action, 6-shot capability with an adjustable stock. Cost: \$2,250.

(d) Defense Technology, 40mm Exact Impact sponge munition, #6325. A less lethal lightweight plastic and foam projectile fired from a single or multi-shot 40mm launcher. The 30-gram foam projectile delivers 120 foot-pounds of energy on impact at 325 feet per second. The munition provides accurate and effective performance when fired from the approved distances (no less than 5 feet and up to 130 feet from the target). Cost: \$18.

(e) Remington 870 less lethal shotgun. The dedicated less lethal launching system with an easily identifiable bright orange stock, used to deploy a 12-gauge drag stabilized beanbag munitions up to 75 feet. Cost: \$946.

(f) Defense Technology 12-Gauge Drag Stabilized beanbag munition #3027. A less lethal 2.4 inch, 12-gauge shotgun munition, firing a ballistic fiber bag filled with 40 grams of lead shot at a velocity of 270 to 290 feet per second. Cost: \$5.

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- (b) **Purpose:**
To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.
- (c) **Authorized Use:**
40mm and 12-Gauge less lethal shotgun launching systems are authorized for use by police personnel who have completed the required Department training. Situations for use of the less lethal weapon systems may include, but are not limited to:
 - (a) Self-destructive, dangerous and/or combative individuals
 - (b) Riotous crowd control
 - (c) Circumstances where a tactical advantage can be obtained
 - (d) Potentially vicious animals
- (d) **Expected Lifespan:**
40mm Launcher #1425: No expiration
40mm Launcher #1440: No expiration
40mm Sponge Round #6325: 5 years
Remington 870 dedicated less lethal shotgun: No expiration
Defense Technology 12-Gauge drag stabilized beanbag: No expiration
- (e) **Fiscal Impact:**
40mm Launchers: Estimated maintenance between \$0 and \$500 annually
40mm #6325 Sponge Round: Estimated between \$0 and \$1,000 annually
Remington 870 dedicated less lethal shotgun: Estimated maintenance between \$500 and \$1,500 annually
Defense Technology 12-Gauge drag stabilized beanbag: Estimated between \$0 and \$1,500 annually
- (f) **Legal and Procedural Rules:**
Use of kinetic energy projectiles and chemical agents is established under Department Policy Manual Section 308. It is the policy of the Department to utilize kinetic energy projectiles for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

12. **Long Range Acoustic Device (LRAD)**

- (a) **Description, capabilities, and purchase cost:**
A high intensity directional acoustical array for long-range, crystal-clear hailing, notification, and an unmistakable warning tone. The LRAD is primarily used as a communication device.

LRAD 100x Mag- HS Wireless Kit. Self-contained, portable, and featuring an extended voice broadcast range out to 600 meters, the LRAD 100X ensures voice messages are clearly heard and understood. LRAD's optimized driver, waveguide, and power efficiency technologies enable the LRAD 100X to provide several hours of clear, continuous communication from a single battery charge. Cost: \$16,455.

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LRAD 300x-RE. A long, medium, and near-range acoustic hailing device to warn and communicate to crowds, individuals, and potential vehicle/vessel threats over distances up to 3,000 meters. These acoustic devices broadcast warnings and can determine the intent of potential threats. Cost: \$12,000.

LRAD 500x-RE. A compact, lightweight LRAD designed for applications ranging from fixed security installations to mid-sized vehicles and vessels, the LRAD 500X-RE easily mounts and transports to provide law enforcement personnel unparalleled long-range communication and safe, scalable non-kinetic escalation of force. Cost: \$9,500.

(b) **Purpose:**

To be used to issue dispersal orders during crowd and riot control situations or to address the public in the event of civil emergencies, natural disasters, evacuations, and police incidents (e.g., missing persons, perimeters for wanted suspects, K9 deployments, etc.). The LRAD may also be used to issue a warning tone.

(c) **Authorized Use:**

The LRAD should only be used by officers trained in its deployment.

(d) **Expected Lifespan:**

25 years

(e) **Fiscal Impact:**

No annual Maintenance

(f) **Legal and Procedural Rules:**

Use of the LRAD is for official law enforcement purposes and will be used according to applicable State and Federal law.

13. **Explosive Breaching Tools**

(a) **Description, capabilities, and purchase cost:**

Explosive breaching tools are used to breach fortified structures to establish a point of entry. Explosive breaching effectively reduces the time spent overcoming fortified gates, doors, locks, and structures. The reduction in time in mitigating a hardened structure increases officer safety during high-risk operations and increases the safety of civilians during hostage rescue situations.

Remington 870 Express, 12-gauge breaching shotgun. The system is a lightweight, tube fed, pump operated, shoulder fired weapon. It has a 15-inch breaching barrel and is used exclusively for breaching applications. Cost: \$1,000.

Defense Technology, TKO 12-gauge breaching munitions. The 12-Gauge shell is loaded with a compressed zinc slug and utilizes smokeless power as the propellant. The round is used for defeating door lock mechanisms, doorknobs, hinges, dead bolts, safety chains, and pad locks. Upon impact the zinc slug disintegrates into a fine powder eliminating fragmentation. Cost: \$7.00.

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Royal Arms, MB-70S, 12-gauge, muzzle blast, flash bang soft. The 12-Gauge shell loaded with light media powder and no hard wads. The round can be used for less lethal / diversionary applications and is 170 db. The round is also used for breaching windows, sliding glass doors, vehicle windows, light wooden doors, and interior doors. Cost: \$6.00, quantity: (100).

Royal Arms, FB-82H, 12-gauge, 82 grain flash, flash bang hard. The 12-Gauge shell loaded with compressed powder and two hard fiber wads. The round can be used for diversionary applications and is 185 db. The round is also used for breaching solid wood doors, light steel doors, sliding glass doors, vehicle windows, and can be used in crawl spaces. Cost: \$5.00, quantity: (100).

Royal Arms, TESAR-5, blue cap, 500 grain, copper frangible. The 12-Gauge 500 grain round is loaded with a copper powder slug. The round can be used to breach metal doors, heavy locks, cross bolts, and heavy hinges (steel doors on steel frames). The round has an average velocity of 1450 feet per second (FPS). Cost: \$6.00, quantity: (100).

Royal Arms, TESAR-4, yellow cap, 750 grain, copper frangible. The 12-Gauge 750 grain round is loaded with copper and S-70 steel shot. The round can be used to breach heavy class 3 steel doors, heavy locks, and heavy hinges. The round has an average velocity of 1285 feet per second (FPS). Cost: \$6.00, quantity: (100)

Royal Arms, TESAR-2, black cap, 425 grain, copper frangible. The 12-Gauge 425 grain round is loaded with a copper powder slug. The round can be used to breach metal doors, solid oak doors, heavy locks, dead bolts, and hinges. The round has an average velocity of 1525 feet per second (FPS). Cost: \$5.00, quantity: (100).

Royal Arms, TESAR-1, orange cap, 275 grain, copper frangible. The 12-Gauge 275 grain round is loaded with a compressed copper frangible slug. The round can be used to breach solid wood doors, hollow wood doors, locks, and hinges. The round has an average velocity of 1750 feet per second (FPS). Cost: \$5.00, quantity: (100)

Royal Arms, HP cutter, 12-gauge, hollow point, rebar cutter. The 12-gauge 450 grain round is loaded with a hardened chromoly steel slug. The round can be used to cut rebar, penetrate security glass, penetrate vehicle doors, and disable vehicle engine blocks. The round has an average velocity of 1400 feet per second (FPS). Cost: \$6.00, quantity: (100).

- (b) **Purpose:**
To expedite entry into fortified structures, locations, and vehicles. The breaching shotgun in conjunction with a breaching round is designed to gain entry quickly and safely in most cases during a search, arrest, or rescue.
- (c) **Authorized Use:**

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Use of breaching munitions are authorized for use by SWAT personnel who have completed the required Department training.

(d) **Expected Lifespan:**

Remington 870 Express breaching shotgun – No expiration

All breaching ammunition – 5 years

(e) **Fiscal Impact:**

Annual maintenance for the shotgun is completed by Department staff at an estimated cost of \$0 to \$100.

(f) **Legal and Procedural Rules:**

It is the policy of the Department to utilize breaching tools only for official law enforcement purposes, and pursuant to State and Federal law.

Vehicle Use

705.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of San Bernardino Police Department to provide assigned take-home vehicles.

705.2 POLICY

The San Bernardino Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments, and other considerations.

705.3 USE OF VEHICLES

City-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours.

Members shall not operate a City-owned vehicle at any time when impaired by drugs and/or alcohol.

705.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during the member's shift, the new vehicle number shall be documented on the roster.

705.3.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than their normally assigned duties shall first notify the Watch Commander of the reasons for use and a notation will be made on the shift roster indicating the operator's name and vehicle number, this includes officers attending court on their regular day off. This section does not apply to personnel permanently assigned an individual vehicle (e.g., command staff, detectives), or to Property and Evidence personnel assigned transportation duties to and from the maintenance yard, etc. Property and Evidence personnel shall be responsible for maintaining records of the property transportation vehicles for a minimum of two years.

705.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

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The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any person in custody, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

705.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

705.3.5 MDC

Members assigned to vehicles equipped with a Mobile Digital Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify Dispatch. Use of the MDC is governed by the Mobile Digital Computer Use Policy.

705.3.6 PARKING

Except when responding to an emergency or other urgent official business requires otherwise, members driving City-owned vehicles should obey all parking regulations at all times.

City-owned vehicles should be parked in their assigned stalls. Members shall not park privately owned vehicles in any stall assigned to a City-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

705.3.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

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705.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

705.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

705.5 KEYS AND SECURITY

All uniformed field personnel approved to operate marked patrol vehicles shall be issued their own personal unit key as part of their initial equipment distribution upon hiring. Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle. The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

705.6 DAMAGE, ABUSE AND MISUSE

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

705.7 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

Routine maintenance and oil changes shall be done in accordance with the shop schedule. The vehicles will normally be serviced at the City maintenance shop. When leaving a vehicle at the maintenance shop, the employee will complete a vehicle repair card explaining the service or repair.

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Vehicle Use

705.7.1 ACCESSORIES AND/OR MODIFICATIONS

No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Captain.

705.8 VEHICLE DAMAGE, ABUSE AND MISUSE

When a City-owned or leased vehicle is involved in a traffic collision, the involved employee shall promptly notify a supervisor. A traffic collision report shall be filed with the agency having jurisdiction.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander.

An administrative investigation will be conducted to determine if there is any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

705.9 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

- (a) Members operating department vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.
- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Captain within five working days explaining the circumstances.

Gas Cards - Mainstem Computer System

706.1 PURPOSE AND SCOPE

To establish a procedure for obtaining fuel and/or oil after normal business hours via the Mainstem Automated Dispensing System currently in use at the City Yards.

706.2 CAR SYSTEM

The dispensing system uses two plastic keys and requires the entry of the odometer mileage. The white key identifies the person who obtained the fuel/oil and the black key identifies the unit receiving the product.

706.3 SYSTEM OPERATION

Both keys must be used to obtain fuel and/or oil.

- (a) Accurate odometer mileage must be entered. Mileage digits must be entered slowly and each employee shall check the numerals on the screen to ensure accuracy.
- (b) Only the black vehicle key assigned to the vehicle for which the product is being obtained will be used.
- (c) The white personnel key assigned to the person obtaining the fuel and/or oil must be used. Borrowing or trading keys will result in inaccurate records. Use **ONLY** the key issued to the vehicle and **ONLY** the key issued to the individual.
- (d) The white key actuates the entrance/exit gate.

706.4 KEY REPLACEMENT

Employees will promptly notify the Watch Commander in the event that either key is lost, mutilated, or fails to actuate the pump.

- (a) The Watch Commander will fill out the Key Request Form, which is maintained in the Report Room. The form shall be marked appropriately for either personal or vehicle key. The original (white) copy will be directed to the department's Fleet Maintenance Expediter. The yellow copy will be processed as follows:
 - 1. Personnel key requests will be placed in the officer's file located in the Sergeant's Office. These will be purged as per normal process during the annual evaluation time.
 - 2. Vehicle key requests will be filed in the Unit Damage Control file. The Watch Commander should assure that the vehicle is thoroughly checked for keys that were reported missing.
 - 3. The department's Fleet Maintenance Expediter will obtain and distribute the reissued keys from the City Yards.
 - 4. Broken or damaged keys shall accompany the original (white) copy.

Chapter 8 - Support Services

Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

License to Sell Concealable Firearms

801.1 PURPOSE AND SCOPE

To establish a policy to ensure conformity to Penal Code § 12071.

801.2 POLICY

Processing will be performed by the clerk assigned to the applicant permit processing area.

Applicant must furnish a copy of their seller's permit, certificate of eligibility, and current federal firearms license.

Except for large corporations and/or chain stores, the application for license to sell concealable firearms must include the names, residence addresses, and dates of birth of each individual with financial interest in the business.

801.3 PROCEDURE

- (a) Processing procedure to be conducted on each subject having financial interest in the business.
 - 1. Completion of application for business license or permit form.
 - 2. Livescan prints obtained on each subject involved with the license.
 - (a) Payment by cash, Visa, or Master Card in the amount prescribed by the state for such fingerprint processing.
 - 3. Warrant check and local record check performed. Record check NOT to include automated history inquiry.
 - 4. Existing ID card updated or new applicant ID card initiated. Applicant ID number is to be used as license number. If more than one applicant number exists, the number for the primary individual will be used as the license number.
 - 5. The actual license will not be issued until such time as a positive response is received from the Department of Justice. The license is to be signed by the Chief of Police.
 - 6. Upon issuance of the license, the applicant will be furnished with a copy of the state form titled, "Summary of California Law Regarding Sales of Concealable Firearms."
 - 7. The license will expire one year from date of issue. Annual renewal is required. Fingerprinting will not be required for renewals. A warrant check and local record check will be performed for renewals.
- (b) Background
 - (a) Application for a city business license will be accepted by the City Clerk only after a license has been approved by this department.

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- (b) Before the city business license is issued, certain conditions must be met. If the business premises are located at a residence, application must be made through the Planning Department for a Home Occupation Permit. If this permit is approved by the Planning Commission, a Certificate of Occupancy is the next step. Before such certificates are issued, both Building and Safety and the Fire Department must conduct inspections of the site. If the license site is to be other than a residence, the requirement for a Home Occupation Permit does not apply. All other procedures are the same.
- (c) Processing by the police department is not required for the sale of firearms not concealable upon a person. Applicants for city business licenses must be made directly to the City Clerk without prior involvement by the police department.

Dispatch

802.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

802.2 POLICY

It is the policy of the San Bernardino Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability providing continuous communication between Dispatch and department members in the field.

802.3 DISPATCH SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of Dispatch, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for Dispatch.

Access to Dispatch shall be limited to Dispatch members, the Watch Commander, command staff and department members with a specific business-related purpose.

802.4 RESPONSIBILITIES

802.4.1 POLICE COMMUNICATIONS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Police Communications Manager. The Police Communications Manager is directly responsible to the Operations Captain or the authorized designee.

The responsibilities of the Police Communications Manager include, but are not limited to:

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
 - 1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of Dispatch information for release.
- (f) Maintaining Dispatch database systems.
- (g) Maintaining and updating Dispatch procedures manual.
 - 1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim

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of a sexual assault to ensure that his/her health and safety needs are met, as well as steps that he/she may take to preserve evidence.

2. Ensuring dispatcher compliance with established policies and procedures.
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
 - (i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

802.4.2 ADDITIONAL PROCEDURES

The Police Communications Manager should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.
- (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
- (d) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
- (e) Assignment of field members and safety check intervals.
- (f) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (g) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
- (h) Protection of radio transmission lines, antennas and power sources for Dispatch (e.g., security cameras, fences).
- (i) Handling misdirected, silent and hang-up calls.
- (j) Handling private security alarms, if applicable.
- (k) Radio interoperability issues.

802.4.3 DISPATCHERS

Dispatchers report to the Police Communications Manager. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
 1. Emergency 9-1-1 lines.
 2. Business telephone lines.
 3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.

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4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
 5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (CLETS, DMV, NCIC).
 - (c) Monitoring department video surveillance systems.
 - (d) Maintaining the current status of members in the field, their locations and the nature of calls for service.
 - (e) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:
 1. Vehicle pursuits.
 2. Foot pursuits.
 3. Assignment of emergency response.

802.5 CALL HANDLING

This Department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is not available in Dispatch, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller's language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

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Dispatchers should be courteous, patient and respectful when dealing with the public.

802.5.1 EMERGENCY CALLS

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. The dispatcher should try to ensure that a reporting party not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

802.5.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

802.6 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the dispatcher with their radio identification call signs and current location.
- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Police Communications Manager shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

802.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

San Bernardino Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

802.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can

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acknowledge the appropriate department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

802.7 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

802.8 CONFIDENTIALITY

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel.

802.9 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

Property and Evidence

804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

804.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (c) Place the tag number in the upper left hand corner of the bag or envelope.
- (d) The original property form shall be submitted with the case report.

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- (e) When the property is too large to be placed in a locker, the item may be retained in the auxiliary storage room at the B-Building via the roll-up door.

804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property tag. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker.

804.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property and Evidence Technician is responsible for contacting the Fire Department or bomb squad, on a regular basis, for any fireworks or signaling devices that are not retained as evidence.

804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Property and Evidence Technician, or placed in the bicycle storage area until a Property and Evidence Technician can log the property.
- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

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Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
 - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property and Evidence Technician shall ensure the Records Manager is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Bureau Policy).

804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs.
- (b) Firearms (ensure they are unloaded and booked separately from ammunition and magazines).
- (c) Property with more than one known owner.
- (d) Paraphernalia as described in Health and Safety Code § 11364.
- (e) Fireworks.
- (f) Contraband
- (g) Serialized items (only one serialized item per evidence tag).
- (h) Currency (monies of all types shall be placed in a white currency envelope.)

804.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife blades are to be wrapped for safety and placed in envelopes or bags.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker.

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Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the tagging room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

Syringes, needles, and glass pipes will be photocopied and placed in a hazardous container for destruction. The photocopy will be included with the report.

804.5 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date the property was received, and where the property will be stored on the property control card.

A property tag shall be obtained for each item or group of items. This number shall be recorded on the property tag and the evidence file card.

Any changes in the location of property held by the San Bernardino Police Department shall be noted on the evidence file card and RMS.

804.6 PROPERTY CONTROL

Each time the Property and Evidence Technician receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the Property and Evidence Technician at least one day prior to the court day.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence file card shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from authorized personnel.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property and Evidence Technician. This request may be filled out any time after booking of the property or evidence.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date on the property file card and the request for laboratory analysis.

The Property and Evidence Technician releasing the evidence must complete the required information on the property file card. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the employee will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it

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was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Bureau for filing with the case.

804.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the evidence file card, indicating date, and the initials of the person who received the property.

804.6.4 AUTHORITY TO RELEASE PROPERTY

Case agents or authorized personnel shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will

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remain with the Property Unit. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The assigned detective should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Narcotics Bureau will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health and Safety Code § 11364.

804.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the Property and Evidence Technician shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

804.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court

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orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

804.6.10 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the San Bernardino Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

804.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)

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- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.7.3 DISPOSITION OF CURRENCY

The Property room safe is to be used to temporarily store monies and other items of value which are found/ taken as safekeeping or seized as evidence. A separate and specific record will be maintained on each deposit. All items and funds within the Property room safe will be under the custody and control of the Property/Evidence Technicians.

- (a) The amount of money in the safe will normally not exceed \$5,000 for any 24 hour period during a normal work week.
- (b) All monies (not designated hold for evidence) shall be deposited with the City of San Bernardino Finance Department (Police Evidence Impound Account/deposit account) or designated banking institution as soon as practical; normally the next business day after such funds come into the department. The transaction paperwork shall indicate the case number and amount being deposited. A hard copy of the transaction shall be

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maintained by the Property/Evidence Supervisor. The transaction shall be recorded in LERMS.

804.7.4 FOUND/SAFE KEEPING MONEY

- (a) Found/safekeeping money will be deposited into the deposit account with the City Finance Department.
- (b) The Property and Evidence Technicians will await a completed Property Release Authorization Form or check with the appropriate Detective Sergeant to ascertain the proper disposition of the money.
- (c) After a minimum of 90 days for found money and 60 days for safely kept money; and where the owner of the found/safekeeping money cannot be located or he/she fails to respond to notifications, the Property/Evidence Technicians will complete the necessary paperwork to transfer the money from the deposit account to the City's general fund account.

804.7.5 CURRENCY TAKEN AS EVIDENCE

- (a) When money is received as evidence, it shall be held in the Property room safe.
- (b) The Investigations Division Lieutenant or designee will be notified to determine evidentiary value of retention of the currency. If no evidentiary value is determined, the money will be transferred to the deposit account. In rare cases, if approved by the Investigation Division Captain, monies may be kept for an extended period of time for evidentiary reasons.

804.7.6 DISCREPANCY

If at any time during the process it is determined that the amount of the money that is reported on the money envelope/evidence tag or original report is incorrect, the appropriate supervisor will be notified so the discrepancy can be justified and corrected.

804.7.7 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Supervisor shall ensure that no biological evidence held by the Department is destroyed without prior approval from the Investigations Division supervisor or his designee. The Investigations supervisor or his designee shall ensure that there is adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigations Division supervisor

Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9), the Property and Evidence Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications

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should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigations Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Detective Bureau manager and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of an applicable statute of limitations, the Investigations Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3)..

804.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Captain (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

Security Clearance Information Act of 1985

805.1 PURPOSE AND SCOPE

To establish acceptable guidelines that ensure compliance with the Security Clearance Information Act of 1985.

805.2 POLICY

Only the Records Bureau is authorized to release information for this purpose.

A record of the release of information and a copy of a valid written consent or waiver form must be maintained with the original report.

805.3 AGENCIES ELIGIBLE TO RECEIVE INFORMATION

Department of Defense (DOD).

Office of Personnel Management (OPM).

Central Intelligence Agency (CIA).

805.3.1 CONDITIONS

The information must be provided only whenever those agencies are determining eligibility for access to classified information or assignment of sensitive national security duties. A written request for the information must be received which specifically states an appropriate need prior to any information being released.

The written consent of the individual must be obtained by this department prior to information being furnished.

805.3.2 LIMITATIONS

Criminal history record information covered in SCIA includes conviction and non-conviction adult arrests or other formal charges and any disposition information available.

Information NOT to be released includes: Juvenile information, sealed record information, non-criminal fingerprint information, the taking into custody under Welfare and Institution Code § 5150, or intelligence and investigative files information.

The information released by this department will include local record information only. Requests for statewide records must be referred to the Department of Justice.

Clearances for enlistment or retention in the armed services is not considered an appropriate need. Therefore, military recruiters are not eligible to receive the information.

Fingerprints may be required to prevent misidentification when a name-only inquiry results in several hits.

Records Bureau

806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the San Bernardino Police Department Records Bureau. The policy addresses department file access and internal requests for case reports.

806.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Bureau by Records Bureau personnel. Reports are numbered commencing with the four digits of the current year followed by a sequential number beginning with 00000001 (8 digits) starting at midnight on the first day of January of each year. As an example, case number YYYY-00000001 would be the first new case beginning January 1 of a new year.

806.2 POLICY

It is the policy of the San Bernardino Police Department to maintain department records securely, professionally, and efficiently.

806.3 RESPONSIBILITIES

806.3.1 RECORDS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Records Manager. The Records Manager shall be directly responsible to the Administrative Services Captain or the authorized designee.

The responsibilities of the Records Manager include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Bureau.
- (b) Scheduling and maintaining Records Bureau time records.
- (c) Supervising, training, and evaluating Records Bureau staff.
- (d) Maintaining and updating a Records Bureau procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected information (see the Protected Information Policy).
- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:
 1. Homicides.
 2. Cases involving department members or public officials.
 3. Any case where restricted access is prudent.

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806.3.2 RECORDS BUREAU

The responsibilities of the Records Bureau include but are not limited to:

- (a) Maintaining a records management system for case reports.
 - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.
 - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:
 - (a) Suspected hate crimes (Penal Code § 13023).
 - (b) Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
 - (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
 - (c) Anti-reproductive rights crime information required by Penal Code § 13777.
- (e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible member's supervisor.
- (g) Updating the Automated Firearms System to reflect any firearms relinquished to the Department and the subsequent disposition to the California DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).
- (h) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered in relation to a private party firearms transaction or registration, relinquished pursuant to a court order, or under observation, within seven calendar days of the precipitating event (Penal Code § 11108.2).
- (i) Entering into the California DOJ automated property system descriptions of serialized property, or non-serialized property that has been uniquely inscribed, which has been reported stolen, lost, found, recovered, held for safekeeping, or under observation (Penal Code § 11108).
- (j) Maintaining compliance with the state and California DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).
- (k) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

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806.3.3 RECORD'S PROCEDURE MANUAL

The Records Manager should establish procedures that address:

- (a) Identifying by name persons in reports.
- (b) Classifying reports by type of incident or crime.
- (c) Tracking reports through the approval process.
- (d) Assigning alpha-numerical records to all arrest records.
- (e) Managing a warrant and wanted persons file.

806.4 FILE ACCESS AND SECURITY

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Watch Commander.

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

806.5 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Records Bureau. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Records Manager. All original case reports removed from the Records Bureau shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records Bureau.

All original case reports to be removed from the Records Bureau shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records Bureau. The photocopied report shall be shredded upon return of the original report to the file.

806.6 CONFIDENTIALITY

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Bureau procedure manual.

806.7 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the San Bernardino Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to

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destroy the related arrest records. Petitions should be forwarded to the Administrative Services Supervisor. The Administrative Services Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administrative Services Supervisor should forward the petition to the Detective Bureau Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Detective Bureau Supervisor and the Administrative Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administrative Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Administrative Services Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

806.8 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Operations Captain should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

- (a) The individual is issued a certificate describing the action as a detention.
- (b) All references to an arrest are deleted from the arrest records of the Department and the record reflects only a detention.
- (c) The California DOJ is notified.

Citation Book Accountability

807.1 PURPOSE AND SCOPE

To establish a method of recording the issuance of citation books that provides better accountability for those citation books.

807.2 POLICY

Once an employee has been issued a citation book, the employee is responsible for those citations. It is the employee's responsibility to turn in any unused portion of the citation book when it is no longer of any use to the employee.

807.3 PROCEDURE

The Records Bureau issues citation books.

The issuance of citation books will be recorded in RMS using the citation number sequence and the officer's employee number.

The return of unused citations will be appropriately recorded in RMS. The unused number series will be recorded accordingly.

If a returned citation book is reissued, that information is to be appropriately recorded in RMS using the remaining citation number sequence and the officer's employee number.

Restoration of Firearm Serial Numbers

808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

808.2 PROCEDURE

Any firearm coming into the possession of the San Bernardino Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

808.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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Restoration of Firearm Serial Numbers

808.2.3 OFFICER RESPONSIBILITY

The case agent investigating a crime with a firearm where the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

808.2.4 DOCUMENTATION

Property tags and evidence reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

808.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the case agent will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

808.3 BULLET AND CASING IDENTIFICATION

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

NIBIN Test Fire and Entry

809.1 PURPOSE AND SCOPE

The purpose of this standard operating procedure is to identify the steps San Bernardino Police Department members shall process firearms and ammunition components to ensure the timely submission of components information to the National Ballistic Information Network (NIBIN).

All personnel involved in test fire procedures and NIBIN entries shall follow the following guidelines.

809.2 POLICY

The San Bernardino Police Department will be proactive in using the Integrated Ballistics Identification System (IBIS) to enter fired ammunition components into the National Ballistic Information Network (NIBIN) to determine whether various shooting incidents can be linked to the same firearm or a particular firearm.

809.3 PROCEDURE

809.3.1 GENERAL CONSIDERATIONS AND PRECAUTIONS

Always render a firearm safe to handle before proceeding with further investigation, examination, and packaging. All firearms should be submitted to the evidence, and property division unloaded (Policy 804.4)

(a) **Unloading the Semi-Automatic Pistol**

1. Note the positions of any manual safety devices or cocking indicators. Carefully disengage the magazine and remove it from the firearm. Open the action and visually check the chamber for a cartridge or cartridge case. If possible, lock the slide to the rear, keeping the action in the opened position. If not, let the action close, then engage any manual safety devices on the firearm. (Make sure no unfired cartridge is left in the chamber.

(b) **Unloading Rifles**

1. These are handled similarly to the handguns listed above. Safety and preservation of physical evidence should always be considered.

(c) **Firearm Processing**

1. It is preferred, when possible, to have a Forensic Specialist respond to the scene to process evidence for fingerprint or biological evidence. Every firearm does not require processing, this will be determined by the circumstances of the investigation the firearm is associated with. When a Forensic Specialist is unavailable, the police officer shall photograph and properly collect the item(s) of evidence. It is important proper measures are taken while collecting and packaging evidence in need of forensic processing. When handling or in the proximity of evidence that will need to be processed for potential DNA, do not cough or talk near or over the item(s). Doing so will help prevent possible contamination of the evidence. Wear a mask and proper glove protection when

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handling the evidence. If a firearm needs to be processed, it shall be placed in the dedicated evidence locker. The keys to the lockers are located in the Watch Commander's office.

(d) **Test Fire Label**

1. Test Fire stickers are used to indicate if a firearm has been test fired. The Test Fire sticker shall only be placed on the evidence envelope that contains the firearm. If a firearm is collected that cannot be packaged, such as a rifle, place the label on the back of the property tag. The Test Fire sticker shall not be placed directly on the firearm. If a firearm can not be test-fired note the reason on the evidence envelope or on the evidence tag.

(e) **FIRED CARTRIDGE CASING**

1. Fired cartridge cases and test-fired cartridge cases will be entered into NIBIN. If a fired cartridge case needs to be processed for prints or DNA, it must be done before entry. Fired cartridge cases and test-fired cartridge cases must be submitted and entered within 48 hours to be in compliance with ATF guidelines and procedures. When a Forensic Specialist is available, it is preferred they respond to the scene to photograph and process the fired cartridge cases properly. If a Forensic Specialist is unavailable, personnel shall photograph and properly collect the fired cartridge cases. All crime scene cartridge cases shall be placed in the dedicated safe labeled "CRIME SCENE CASINGS ONLY." All test-fired cartridge cases shall be placed in the safe labeled "ATF NIBIN." Crime scene or test-fired cartridge cases shall not be placed into any other safe or evidence locker.

809.4 EXAMINATION OF FIREARMS FOR IBIS ENTRY

(a) Preparation

1. Firearms received into the Property/Evidence Division for IBIS® entry are to be securely stored at the Property & Evidence Unit until they can be test-fired by trained personnel.
2. Prior to test firing, personnel will check out the item by denoting it on the property sheet/evidence file. Once finished, the item will be checked back in. (Policy 804.6)
3. If needed, for each firearm that is to be test-fired, personnel will ensure processing of the firearm has been completed. If prints are found to exist, forensic personnel will dust and collect viable prints for entry into the Automated Fingerprint Identification System (AFIS). This will be completed by trained personnel.
4. DNA swab(s) may be performed on a case-by-case basis. Any patrol officer can request that a DNA swab be performed on a firearm prior to test-fire.
5. Process the firearm for DNA and latent prints following the appropriate procedures for collection and preservation. At a minimum, ammunition magazines and unfired ammunition should not be handled or used, thereby preserving them for DNA and/or latent print processing at a later date.

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6. If the firearm requires a magazine to be inserted to function, the magazine associated with the firearm may be used to conduct the test fire. If a magazine is not associated, one can be requested from Property/Evidence if they possess a magazine compatible with the firearm.
7. Once firearms are cleared for test firing, personnel shall complete a test fire envelope (SBPD case number, make, model, serial number, exhibit or tag number of the firearm, and date of seizure should be noted) that will contain the test-fired cartridge cases.

(b) Test Firing

1. Each firearm is to be assessed to determine if the firearm functions and for safety. If deemed unsafe to be fired, it shall not be fired. Personnel who deem a weapon unsafe to test-fire shall document their findings accordingly with the date, time, and reason.
2. The firearms with completed test fire envelopes will be transported to an appropriate location (Test-fire water tank or range), where they will be test-fired by personnel trained in the proper NIBIN procedures. **All test fires will be conducted by two employees/ personnel.**
3. Personnel responsible for test firing (Officer who took possession of the firearm or personnel tasked with conducting the test-fire of the firearm(s)) the firearms shall test fire one firearm at a time. Completion of the test-fire, recovery of the fired cartridge cases, and packaging of the test-fired cartridge cases will be completed before proceeding to the next firearm. Each firearm is test-fired twice, with two fired cartridge cases collected and placed in a single test fire envelope
4. Firearms and test-fired cartridge cases are to be returned to their proper storage location at the Property & Evidence Unit.
5. Personnel shall wear proper safety equipment during the test-fire procedure, including eye and ear protection.
6. Test-firing shall only be conducted by trained personnel. Test-fires can be conducted at the bullet recovery tank unless the caliber exceeds the tank's specified ability. A ventilated shooting range can be used when it is not necessary to recover the fired bullets. The station watch commander and dispatch personnel should be notified of test fires.
7. When test-firing a weapon that has been contaminated with body fluids or other biohazard material, non-porous latex gloves, and other appropriate biohazard safety equipment (i.e., a biohazard suit, mask, safety glasses or visor, etc.) will be worn.
8. Firearms labeled as biohazard will be evaluated on a case-by-case basis. If necessary, the firearm will be wrapped in a new property bag or plastic bag before test fire to reduce any blowback. Personnel shall exhaust all efforts and employ all measures to conduct the test fire.
9. If someone sustains an injury during the test-fire process, including but not limited to an injury received from a projectile, ejected cartridge case, firearm

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malfunction, or any other injury, those present will seek appropriate emergency medical attention and notify a supervisor immediately.

10. Under the Department's MOU with ATF, NIBIN systems may be used only for imaging of firearm(s) related evidence and test-fires of firearms illegally possessed, used in a crime, or suspected by law enforcement officials having been used in a crime.
 11. Any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime or act of terrorism will be processed and test-fired by authorized, trained personnel.
 12. NIBIN test-firing is required for all operable firearms that meet the following criteria: center-fire, semi-automatic pistols including 22 caliber and larger, .223 and 7.62 semi-automatic rifles, 12-gauge shotguns, and long guns that use handgun ammunition under the aforementioned guidelines.
 13. Firearms that are not typically test-fired include revolvers, single shot or bolt action rifles, shotguns in other gauges, weapons never fired, or firearms deemed unsafe, inoperable, or incomplete. This Standard does not preclude the entry of test fires from these firearms, however.
- (c) Correlation Reviews/NIBIN Leads
1. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will perform correlation reviews for NNCTC (NIBIN National Correlation and Training Center) in Huntsville, Alabama will perform correlation reviews.
 - (a) Generated Leads
 1. When a NIBIN Lead is made, the ATF will notify SBPD investigative personnel via email. Personnel included in the distribution of this information should include Investigations Lieutenant and Sergeants along with SIU Sergeants and Crime Analysts assigned to Violent Crime investigations and VIP shoot reviews.
 2. ATF / SBPD CGIC personnel will complete the NIBIN Lead Log associated with the lead generated.
 3. ATF / SBPD CGIC will notify all identified personnel of the lead and produce a visual product linking the evidence in question.
 4. NIBIN Leads DO NOT establish probable cause and do not necessarily identify a particular suspect (additional information would need to be collected to establish probable cause for an arrest).
 5. It is not necessary to confirm NIBIN Leads unless a direct comparison is necessary for trial or to further an investigation. In the event a direct comparison is needed to confirm a NIBIN Lead, a Forensic Firearms Request will need to be completed by the lead investigator.

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809.5 DATABASE MAINTENANCE

- (a) When a firearm has been returned for circulation regardless of how investigative or property personnel shall notify NIBIN personnel of the return. NIBIN personnel will access the case file in BRASSTRAX™ and designate the acquisition for that firearm as a "Test Fire Return." This **is not** to be done unless it is known that the firearm has been returned into circulation (Policy 804.6.1)
- (b) Test Fire Returns are treated as evidence cartridge cases from the point of the test-fire acquisition forward.

809.6 OUTSOURCING

- (a) Outside police agencies requesting assistance with their test-fires and/or entry of crime scene cartridge casings into IBIS will be allowed with the approval of an ATF / SBPD CGIC personnel.
- (b) Upon request, ATF / SBPD personnel will provide documentation of the NIBIN entry process when assistance is provided to an outside police agency.
- (c) This documentation may be in the form of an RMS generated Incident Report or completion of a Microsoft Word document that will be provided to the outside agency for inclusion into their departmental report.

809.7 CORRECTIVE ACTION

If during a review of test firing and entry procedures a deficiency is noted causing no compliance with MROS standards, SBPD policies and procedures will be reevaluated to gain compliance. This may include but not limited to evidence tagging, hours of operation, test firing personnel and qualified test firing procedure.

Records Maintenance and Release

810.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

810.2 POLICY

The San Bernardino Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
 1. Identifying the minimum length of time the Department must keep records.
 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in

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a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).

810.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).
 2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).

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- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

810.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 7922.200).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
 - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
 - 2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).

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1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
 2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).
1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the [District/CountyAttorney], the City Attorney, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

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- (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).
- (n) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).
- (o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

810.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

810.7 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

810.8 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or

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conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Manager shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

810.8.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Manager should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

810.9 SECURITY BREACHES

The Records Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following (Civil Code § 1798.29):

(a) Social Security number

1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
3. Medical information
4. Health insurance information
5. Information or data collected by Automated License Plate Reader (ALPR) technology
6. Unique biometric data

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7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that permits access to an online account

810.9.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
 1. The date of the notice.
 2. Name and contact information for the San Bernardino Police Department.
 3. A list of the types of personal information that were or are reasonably believed to have been acquired.
 4. The estimated date or date range within which the security breach occurred.
 5. Whether the notification was delayed as a result of a law enforcement investigation.
 6. A general description of the security breach.
 7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the San Bernardino Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
 1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
 2. When the breach involves an email address that was furnished by the San Bernardino Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

810.9.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
 1. Written notice.

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2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
 3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
 - (a) Email notice when the Department has an email address for the subject person.
 - (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
 4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

810.10 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Bureau supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

810.10.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.

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- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

810.10.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

810.10.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

810.10.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the person's authorized representative.

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- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

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812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the San Bernardino Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

812.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the San Bernardino Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

812.2 POLICY

Members of the San Bernardino Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

812.3 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

812.4 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.

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- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

812.5 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, San Bernardino Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

812.5.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

812.5.2 CORI

PC 11105 identifies who has access to DOJ CORI and under what circumstances it may be released. Access is based upon the “right to know” and the “need to know”. The “right to know” is defined as “authorized access to such records by statute” and the “need to know” is defined as “the information is required for the performance of official duties or functions”.

To facilitate compliance, staff must complete the three mandatory fields when accessing CORI.

They consist of:

- A five-character ID number field.
- A nine-character case number or incident number, which shall include a two-digit year followed by a dash and then the number without any zeros in front of it, i.e. 20-123456.
- The third field contains 14 characters and is requesting the reason and/or charge related to the investigation, for instance, PC 29800(a)(1) arrest. Generic terms, such as “Investigation” or “Inquiry” are unacceptable for use as an inquiry reason.

All three fields must be completed in order to process the request.

If the inquiry has no case or incident number, the individual inquiring shall obtain a number and place the reason for the inquiry in CAD or in the notes tab in LERMS.

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Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

- (a) Criminal Records Security Officer
- (b) Records Manager
- (c) Full-time employees of the Records Bureau
- (d) Dispatch personnel
- (e) Personnel specifically designated in writing by Captains with the concurrence of the Criminal Records Security Officer

812.5.3 RELEASE OF CORI TO FIELD PERSONNEL

Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

812.6 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Bureau to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

812.6.1 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

812.6.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDC or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

812.7 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

812.7.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended

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table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

812.8 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

812.8.1 COMPUTER TERMINAL SECURITY

Computer terminal equipment capable of providing access to automated criminal offender record information is located in appropriate locations (Dispatch, Records, Detective Bureau, Fire Department - Arson etc...) to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

812.8.2 DESTRUCTION OF CORI

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

812.8.3 CUSTODIAN OF CRIMINAL RECORDS

The Records Manager, unless otherwise directed by the Administrative Services Captain, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Administrative Services Captain may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Administrative Services will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

812.9 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Personnel and Training Unit shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

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812.10 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

Computers and Digital Evidence

814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (f) Tag and place all computer items into evidence as per policy. Do not store computers where normal room temperature and humidity is not maintained.
- (g) At minimum, officers should document the following in related reports:
 1. Where the computer was located and whether or not it was in operation.
 2. Who was using it at the time.
 3. Who claimed ownership.
 4. If it can be determined, how it was being used.

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- (h) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

814.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a trained forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

814.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

814.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request that a trained forensic computer examiner copy the contents to an appropriate form of storage media. The case agent then can view the copied media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

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- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

814.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

814.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

814.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property and Evidence as soon as possible for submission into evidence.
- (b) Officers are not authorized to review or copy memory cards. The trained forensic computer examiners are the only employees authorized to copy and/or distribute digital media made from the memory cards. The copied media will be provided to the case agent for review and distribution as necessary. Case agents can copy CD-ROMs for the District Attorney when necessary and/or requested.

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814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

814.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only trained forensic computer examiners are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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822.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) as well as applicable California Education Code requirements.

822.2 POLICY

The San Bernardino Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any San Bernardino Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the San Bernardino Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the San Bernardino Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

822.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the San Bernardino Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into written agreements as appropriate with local law enforcement agencies to (Education Code § 67381.1):
 1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
 - (a) This includes identification of the responsibilities for sexual assault, hate crimes and Part 1 violent crime investigations (e.g., willful homicide, forcible rape, robbery or aggravated assault as defined in the FBI's Uniform Crime Reporting (UCR) Handbook), and establishing the specific geographical boundaries of each agency's responsibility, including maps as necessary (Education Code § 67381).
 2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

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3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).
 4. Notify the San Bernardino Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
 5. Notify the San Bernardino Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
 - (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
 - (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
 - (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

822.3.1 ADDITIONAL REQUIREMENTS

The Chief of Police or the authorized designee will also (Education Code § 67386):

- (a) Assist the institution with the development of policies and procedures relating to sexual assault, domestic violence, dating violence, and stalking involving a student whether it occurred on- or off-campus including:
 1. The differences between standards of proof and defenses in criminal investigations and administrative or disciplinary matters.
 2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications, and participation by victim advocates and other supporting individuals.

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- (b) Assist, as appropriate, with trauma-informed training for campus personnel involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.
- (c) Assist, as appropriate, in the development of the institution's comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking.
- (d) Ensure that any reported Part 1 violent crime, sexual assault, or hate crime described in Penal Code § 422.55 (whether it occurred on- or off-campus), is reported as soon as practicable to any local law enforcement agency with investigation responsibilities pursuant to a written agreement with the San Bernardino Police Department or the institution (Education Code § 67380).
 - 1. The identification of the victim shall be withheld, unless the victim consents to being identified after being informed of the right to have their personally identifying information withheld. If the victim does not consent to being identified, then the alleged assailant shall not be identified unless the institution determines that the alleged assailant represents a serious or ongoing threat to the safety of the students, employees, or the institution, and the immediate assistance of the San Bernardino Police Department is necessary to contact or detain the assailant (Education Code § 67380).
 - 2. If the institution discloses the identity of the alleged assailant to the San Bernardino Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).
- (e) Ensure the victim receives the following information:
 - 1. Options on rights to obtain a sexual assault forensic medical examination including the right to be accompanied to the examination by a certified sexual assault counselor and/or support person of the victim's choosing
 - 2. How to access transportation to an examination site, including transportation options provided or arranged by the campus

822.4 RECORDS COLLECTION AND RETENTION

The Records Manager is responsible for maintaining San Bernardino Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
 - 1. Murder
 - 2. Sex offenses, forcible or non-forcible
 - 3. Robbery

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4. Aggravated assault
 5. Burglary
 6. Motor vehicle theft
 7. Manslaughter
 8. Arson
 9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
 10. Dating violence, domestic violence and stalking
- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
1. The statistics shall be compiled using the definitions in the FBI's UCR system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
 - (a) On campus.
 - (b) In or on a non-campus building or property.
 - (c) On public property.
 - (d) In dormitories or other on-campus, residential or student facilities.
- (c) Statistics will be included by the calendar year in which the crime was reported to the San Bernardino Police Department (34 CFR 668.46(c)(3)).
- (d) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (e) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (f) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

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822.4.1 CRIME LOG

The Records Manager is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

- (a) The daily crime log will record all crimes reported to the San Bernardino Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.
- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.
- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
 1. Disclosure of the information is prohibited by law.
 2. Disclosure would jeopardize the confidentiality of the victim.
 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

822.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS

The Records Manager is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

- (a) All occurrences reported to the San Bernardino Police Department and all arrests for crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication.
- (b) All occurrences of noncriminal acts of hate violence reported to the San Bernardino Police Department for which a written report is prepared.

822.5 INFORMATION DISSEMINATION

It is the responsibility of the Administrative Services Captain to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46 (g)).

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- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:
 - 1. Crime statistics and the policies for preparing the crime statistics.
 - 2. Crime and emergency reporting procedures, including the responses to such reports.
 - 3. Policies concerning security of and access to campus facilities.
 - 4. Crime, dating violence, domestic violence, sexual assault and stalking awareness and prevention programs, including
 - (a) Procedures victims should follow.
 - (b) Procedures for protecting the confidentiality of victims and other necessary parties.
 - 5. Enforcement policies related to alcohol and illegal drugs.
 - 6. Locations where the campus community can obtain information about registered sex offenders.
 - 7. Emergency response and evacuation procedures.
 - 8. Missing student notification procedures.
 - 9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

Prioritization of Calls For Service

823.1 PURPOSE AND SCOPE

To standardize and establish priorities for dispatching of calls for service (CFS).

823.2 PROCEDURE

CFS will be prioritized for dispatch according to a protocol that emphasizes protection of life. This protocol recognizes that the demand for police services may at times exceed the police department's ability to provide immediate response to all incidents and require some call stacking.

Call stacking creates an obligation, after a reasonable time, to call back reporting parties to update the call history and to adjust the priority level as need or circumstances may indicate. The responsibility for calling back is shared by dispatch and the front desk, under the direction of the Watch Commander.

823.3 DEFINITION OF TERMS

District Unit - A "district unit" is a unit within a district command as the beat unit.

Alternative Unit - An "alternative unit" such as a community affairs officer, motor officer, bicycle patrol officer, or other special detail officer is often more appropriate to dispatch than a patrol officer. When alternative units are on duty, it may be more appropriate to dispatch them than a beat or district officer.

District Crossover - "District crossover" occurs when a unit is dispatched to a call outside of an assigned district. In any crossover, the distance to the call should be considered. Units should be kept as close to their assigned district as possible.

823.4 CALL PRIORITY

CFS will be assigned one of the following priorities. Protocol for each of the priorities follows.

- (a) Priority E - Immediate, life-threatening emergency.
- (b) Priority 1 - Very serious threat of bodily injury. Felonies and serious crimes in progress.
- (c) Priority 2 - Potentially serious calls such as in-progress misdemeanors, suspicious persons, etc. Priority 2's are further broken down into 2P's and 2's, with 2P's being the higher priority.
- (d) Priority 3 - Possibly hazardous conditions or disturbances of no known immediate danger. Crimes against persons that are not in progress.
- (e) Priority 4 - Property crimes not in progress, administrative activities and municipal code violations.

823.5 CALL PROTOCOL

- (a) PRIORITY E
 1. Immediate dispatch to district unit or closest available unit regardless of district.

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2. This category includes:
 - (a) Critical officer / citizen safety incidents
 - (b) 999 or 11-11 calls
 - (c) Calls mandating police precede medical aid into a crime scene
 - (d) Armed 211's, 212.5's, and 215's in progress or just occurred where suspect is possibly still on scene or in the immediate area
 - (e) Shots fired with suspect description
 - (f) Riots
 - (g) 211S alarms
- (b) PRIORITY 1
 - (a) Immediate dispatch to district unit or appropriate alternative unit.
 - (b) District crossover may be made at the dispatcher's discretion.
 - (c) This category includes:
 - (a) 11-10's
 - (b) Assist fire department
 - (c) Injury traffic accidents
 - (d) Felony crimes against persons that are in progress or have just occurred and the suspect is possibly still on scene or in the immediate area.
 - (e) Panic alarms
 - (f) 5150S (suicidal) or 5150V (violent)
 - (g) Any 415 involving a weapon
 - (h) Domestic violence
 - (i) Violent prisoners
 - (j) Bomb threats
 - (k) Disasters, major incidents or looting
- (c) PRIORITY 2P
 1. Urgent dispatch. Assigned to district unit or appropriate alternative unit within 10 minutes.
 2. Dispatch shall recontact the reporting party (RP) within 30 minutes to obtain an update if no district unit and/or alternative unit is available.

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3. Dispatcher who recontacts the RP will re-evaluate the situation and make changes to the type code and/or priority as appropriate.
 4. District crossover for non-emergency Priority 2 calls requires Watch Commander approval.
 5. This category includes:
 - (a) Assisting other law enforcement agencies
 - (b) Numerous shots heard, no one seen
 - (c) 415 verbal domestic situations
 - (d) In progress forgery or bad check crimes
 - (e) 594 graffiti in progress
 - (f) Missing children
 - (g) PC 261 reports
 - (h) Suspicious circumstances, unknown problems or hazards
 - (i) 10-16 calls pending for more than one hour
 - (j) Priority 3 calls that have held 10 hours will be handled in the same manner as a Priority 2P call with crossover. To prevent statistical distortion, these calls will not be upgraded to a Priority 2P in CAD, but Priority 2P policy will apply.
- (d) PRIORITY 2
- (a) Important dispatch. Assign to district unit or appropriate alternative unit within 30 minutes.
 - (b) Dispatch will recontact the RP within 1 hour if no district unit and/or alternative unit is available.
 - (c) Dispatcher who recontacts RP will re-evaluate the situation and make changes to the type code and/or priority as appropriate.
 - (d) District crossover for non-emergency Priority 2 calls requires Watch Commander approval.
 - (e) This category includes:
 - (a) 459S (silent) and 459A (audible)
 - (b) Theft or defrauding and innkeeper (537) in progress
 - (c) Suspicious subject
 - (d) 602 or 602.5 in progress

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- (e) 11-83
 - (f) 594 in progress
 - (g) Cold 211, 212.5 or 215 reports
- (e) PRIORITY 3
1. Dispatched whenever appropriate to an alternative unit.
 2. When an alternative unit is not available or is not appropriate, will be dispatched to a district unit.
 3. Dispatch or the front desk will recontact the RP within 2 hours to re-evaluate the situation and make changes to the type code and/or priority as appropriate.
 4. District crossover at the dispatcher or dispatch supervisor's discretion for those calls that involve 415 or public disturbance situations and for calls that necessitate a back-up unit.
 5. District crossover for non-emergency Priority 3 calls only with Watch Commander's approval.
 6. Calls that have held more than 5 hours will be handled in the same manner as a Priority 2.
 7. Code 7 requests are the highest Priority 3 category calls and are not subject to the above criteria.
 8. This category includes:
 - (a) The highest Priority 3 call is a Code 7
 - (b) The next highest Priority 3 call is a 10-16
 - (c) 5150, not violent or suicidal
 - (d) 415's with no immediate danger, including 415 V (verbal), 415S (subject), 415LT (landlord-tenant), 415J (juvenile), 415N (noise), 415M (music), 415CIV (civil), and 415P (party).
 - (e) Check the welfare
 - (f) 11-82
 - (g) Cold burglary reports
- (f) PRIORITY 4
- (a) Dispatched to an alternative unit whenever one is available and it is appropriate to do so.
 - (b) Dispatch or the front desk will recontact the RP within 2 hours and will re-evaluate and adjust the type code and priority as appropriate.

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- (c) 10-48 requests are the highest Priority 4 category calls and are not subject to the above criteria.
- (d) District crossover for non-emergency Priority 4 calls require Watch Commander approval unless otherwise noted above.
- (e) This category includes:
 - (a) The highest Priority 4 is a 10-48
 - (b) Most found property calls
 - (c) Cold or misdemeanor crime reports
 - (d) Administrative activities
 - (e) Various municipal code complaints

Emergency Alternate Routing of 911 Calls

825.1 PURPOSE AND SCOPE

To establish an EMERGENCY procedure for implementing alternate routing of 9-1-1 telephone calls. To ensure the citizens of San Bernardino have continuous communications access to emergency services by providing an alternate 9-1-1 answering point.

Alternate routing of 9-1-1 calls shall only be implemented in the event of an emergency situation that prevents the San Bernardino Police Department's Communication Center from receiving incoming 9-1-1 calls. The ultimate decision to implement alternate 9-1-1 routing shall rest with the Dispatch supervisor on duty at the time of the incident. In the absence of a Dispatch supervisor, the highest ranking dispatcher on duty shall implement. The decision maker will personally contact the Sheriff's Department to request implementation of alternate routing, and advise the Watch Commander of the situation.

825.2 PROCEDURE

- (a) The Dispatch supervisor or most senior dispatcher on duty shall determine when incoming 9-1-1 calls have been interrupted or catastrophic failure of the dispatch facility precludes receiving or answering incoming 9-1-1 calls from the Dispatch Center.
- (b) The supervisor shall attempt to determine the cause, possible duration, and any other information that may be useful in deciding whether or not to implement alternate routing. Primary consideration will be given to the 9-1-1 program's objective, providing rapid and effective access to emergency services from any telephone. Any delay in providing access, once an interruption has been identified is unacceptable.
- (c) The criteria for the decision will be based on the best information immediately available. If reliable information is not available, the decision maker must assume the worst and immediately order implementation of alternate routing.
- (d) The supervisor shall institute alternate routing by contacting the Sheriff's Department Valley Control Center by telephone or radio and placing a request with their supervisor for immediate implementation of alternate routing. The switch is physically located inside VCC and is controlled by their personnel.
- (e) The Fire Dispatch Center will be contacted immediately thereafter and advised that primary PSAP alternate routing has occurred. Coordination of primary and secondary PSAP alternate routing procedures is the responsibility of the Dispatch supervisor or decision maker.
- (f) The Watch Commander will be notified immediately after Fire Dispatch. All known information will be provided to the Watch Commander. The Watch Commander will make an entry into the inspection log showing the time of implementation, duration, and any other pertinent information.

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- (g) Two (2) or more police dispatchers will be transported to the Sheriff's Department VCC, 1771 Miro Way, Rialto, via a police unit if the duration of the alternate routing is unknown or believed to be necessary for more than 30 minutes. These personnel will assist with alternate routed 9-1-1 calls and perform under the operational control of the Sheriff's Department's communications supervisor until alternate routing is terminated.
- (h) Under NO condition will the Dispatch Center be left unattended unless there is a hazard that dictates evacuation for the safety of on-duty personnel.
- (i) When alternate routing is terminated, the dispatch personnel at VCC shall be returned by police unit to the Dispatch Center as soon as possible.
- (j) The Communications Manager shall be notified of any alternate routing incident as soon as practical after implementation of the incident.

825.3 TESTING REQUIREMENTS

- (a) The graveyard Dispatch supervisor is responsible for conducting an alternate routing TEST quarterly. The test will be conducted at a time convenient for both agencies.
- (b) The Watch Commander and Fire Dispatch will be advised of the intent to test alternate routing.
- (c) Once alternate routing is implemented, the test shall include no less than one call from a GTE telephone, a Verizon telephone and one call from a Pacific Bell telephone. A field unit will be assigned a special detail to assist in placing a call from a PacBell telephone, any pay/coin phone east of Sterling Avenue.
- (d) Any problems with GTE, Verizon or PacBell alternate routing will be reported immediately to the 9-1-1 repair number or 611.
- (e) The Watch Commander and Fire Dispatch will be advised when the test is completed and the results. An inspection log entry will be completed.

Computer Repair

827.1 PURPOSE AND SCOPE

To establish uniform call out procedures for computer repairs and provide rapid response to critical system or equipment failures.

827.2 PROCEDURE

Police station computer failures will be reported to Information Technology (IT) during normal business hours. After hours, weekends and holidays, system failures and essential terminal failures as defined below will be reported to the Dispatch Center for call out action.

(a) System failures:

1. Total system such as CAD/MDT/RMS.
2. CLETS.

(b) Essential terminal failures:

1. Any terminal necessary to conduct immediate operations, when an alternative terminal is not available.
2. Default terminals that receive automatic messaging if re-routing is not possible.

827.3 DISPATCH RESPONSIBILITIES

Dispatch will immediately contact a systems specialist to report system failures or essential terminal failures. If a systems specialist is unavailable, IS will be contacted. All available information, such as time, date, and equipment identification will be annotated in the "ZLOG".

827.4 SYSTEMS SPECIALIST RESPONSIBILITIES

The systems specialist will correct system and essential terminal problems in a timely manner. IS personnel will be called out if necessary. Email will be routed to the Director of IS and the Communications Manager detailing the nature of the problem, corrective action, total downtime, and total call out time.

Use of HT Emergency Button

829.1 PURPOSE AND SCOPE

To establish a policy and procedural guidelines for use of the emergency alarm button on 800 MHz portable (HT) radios. To define field unit and dispatcher responsibilities when using and handling emergency alarms.

The emergency button on 800 MHz HT radios immediately activates a visual and audible signal in the Dispatch Center, displays the radio identification number to the dispatcher, and locks open the radio frequency.

In an emergency, a field unit may push the emergency button to signal the dispatcher and lock open his/her talk group. Once the emergency button has been pressed, the field unit should make every attempt to verbally communicate the nature of his/her emergency and current location. The emergency alarm shall not be activated for non-emergency situations.

829.2 FIELD UNIT PROCEDURES AND RESPONSIBILITIES

- (a) All field units equipped with an MDC shall enter their vehicle number and all portable radio ID numbers when logging on. Without this information, the emergency alarm cannot be identified.
- (b) All field units not equipped with an MDC shall log on to the CAD system by contacting the secondary radio channel dispatcher or telephoning the Dispatch Center and advising their call sign and all HT radio ID numbers.
- (c) The emergency alarm is activated by pressing the orange button on the HT radio.
- (d) The HT radio will flash "EMERGENCY" on the channel display. When the emergency alarm is received by the Dispatch Center, the HT will sound a five high-pitched beep acknowledgment. The HT will remain in emergency mode until it is manually reset. The radio cannot be reset by the Dispatch Center.
- (e) After pressing the emergency button, the field unit shall verbally advise the dispatcher what the nature of the emergency is. If the field unit is unable to talk on the radio, the dispatcher will handle the emergency alarm as an "officer needs help" (11-11) situation.
- (f) To reset the radio and cancel the emergency mode, the field unit shall press and hold the emergency button until the radio sounds a long beep. This will not cancel the emergency display at the dispatcher's console.
- (g) In the event of an accidental activation of the emergency alarm, the field unit will immediately notify the dispatcher and reset their HT.

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829.3 DISPATCHER PROCEDURES AND RESPONSIBILITIES

- (a) The Dispatch supervisor or most senior dispatcher on duty shall ensure that the CAD unit roster always displays HT numbers for each unit logged on. This information must be obtained verbally from units without an MDC. A current printout of the unit roster shall be maintained in case the CAD system goes down.
- (b) Handling Emergency Alarms
 - 1. All radio consoles will sound a unique beep tone in the dispatchers' headsets when an emergency button is activated. The talk group window on the radio CRT screen will flash red and display the ID number of the radio with the emergency.
 - 2. The dispatcher in control of the talk group with the emergency will select "tone off" to silence the audible alert. The "knockdown" or "clear status" features shall not be used at this time.
 - 3. The dispatcher shall sound the "Alert 1" (steady) attention tone and broadcast the following:
 - (a) "ALL UNITS 10-3 ON CHANNEL #, UNIT WITH EMERGENCY TRAFFIC GO AHEAD."
 - 4. The dispatcher shall review the unit roster immediately to determine which unit has that radio.
 - 5. Once the field unit call sign has been determined, the dispatcher will attempt to raise the unit on the air. If the unit does not respond immediately, the dispatcher shall declare an "11-11" and dispatch assisting units as appropriate.
 - 6. If the field unit call sign cannot be determined, the dispatcher shall start a roll call to check the status of all units on the radio. If the roll call is unsuccessful, the on-duty Dispatch supervisor or most senior dispatcher shall immediately coordinate further action with the Watch Commander.
 - 7. When the emergency situation no longer exists, the dispatcher shall select "knockdown" on the radio console to reset the system. The field unit must reset their radio as described above.

Emergency Radio Traffic Procedure

831.1 PURPOSE AND SCOPE

To standardize and establish guidelines for emergency radio traffic ("10-3") and the use of the "10-3" marker tone.

In the event of an emergency that requires the exclusive use of a particular radio channel (talk group) without the distraction or interruption of routine radio traffic, that channel will be declared "10-3", restricting its use to emergency traffic only

831.2 DECLARING A "10-3"

- (a) Because the officer/s at the scene is the most knowledgeable about the current status of the incident, that officer has the primary responsibility to declare a "10-3" on any radio channel.
- (b) Secondary responsibility for declaring a "10-3" falls to a field supervisor, or the dispatcher working that channel.
 - 1. The field supervisor may recognize that an officer or a situation may require exclusive access to a radio channel until immediate officer or public safety is assured.
 - 2. The radio operator may initiated a "10-3" when:
 - (a) Department policy directs it;
 - (b) The operator recognizes a situation that warrants a "10-3";
 - (c) The dispatcher believes that the radio traffic for a certain call demands his/her exclusive attention;
 - (d) The radio traffic for a certain call is interfering with routine radio traffic, or routine traffic is unreasonably interfering with the call's radio traffic;
 - (e) The dispatcher should avoid asking the officer is he/she wants a "10-3".

831.3 DURATION OF A "10-3"

- (a) Short-term "10-3"
 - 1. Short term is defined as that time required for officers to render a situation tactically secure, or restore immediate officer or public safety.
 - 2. Short-term situations requiring a "10-3" can remain on 10 SBPD 1 or 10 SBPD 2 (the channel that the "10-3" originated on) until the situation is resolved or a field supervisor makes a determination to move the radio operations to another talk group.

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3. When the "10-3" is on 10 SBPD 1 or 10 SBPD 2, the radio operator shall use the marker tone to protect the "10-3" status, announcing that the talk group is exclusively available for the officers involved in the emergency.
 4. In those situations where the "10-3" marker tone would:
 - Interfere with tactical operations;
 - The emergency is expected to last for longer than a normal period;
 - The marker tone would become a nuisance; and
 - It is tactically feasible; the radio operator and the field supervisor shall coordinate the call to another available talk group where the marker tone would be optional at the field supervisor's discretion.
- (b) Long term "10-3"
1. Long term is defined as those situations where immediate officer and public safety have been restored, but the tactical situation remains unresolved and still requires a "10-3" or at least the exclusive use of a radio channel and radio operator. This includes hostage or barricaded suspect situations, extended area or building searches, or other situations where the police department is able to stage resources to resolve an emergency situation.
 2. As soon as tactically feasible, the field supervisor and the radio operator should coordinate moving the radio operations for the incident to another available radio talk group.
 3. Once the incident or operation has been moved to another unoccupied radio talk group, Dispatch should:
 - (a) Restore normal radio operations for routine traffic on 10 SBPD 1 and 10 SBPD 2.
 - (b) Declare a "10-3" for the operation's new talk group, announcing it on all PD channels. 3) Whenever possible, provide a dispatcher to work the incident exclusively. d. Once on the new talk group, the marker tone is optional at the field supervisor's discretion.

831.4 CANCELING THE MARKER TONE

- (a) The marker tone is automatically canceled by the dispatcher.
 1. When the "10-3" is lifted, or
 2. When the on-scene supervisor requests cancellation.
- (b) On occasion it may become necessary for a supervisor to cancel the marker tone before the situation is code four. While the marker tone generally serves as a protective

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mechanism to keep the talk group clear of non-emergency or unrelated traffic, it is recognized that under extraordinary circumstances there may be a need for total radio quiet. In those rare situations, the supervisor may cancel the marker tone.

MDC Repair

833.1 PURPOSE AND SCOPE

To provide a uniform procedure for obtaining maintenance/repair services for MDT failures.

833.2 WEEKDAY PROCEDURE

Monday through Friday, 0800 to 1630 hours:

- (a) Transport the vehicle with the inoperative MDT to the San Bernardino County General Services Center, 777 E. Rialto Avenue. The Telecommunications Unit operates a drive-in garage on the east side of the complex.
- (b) Report the failure to the on-duty staff. They will replace the terminal with a city-owned replacement terminal. Any terminal placed in a police vehicle should have the custom SBPD function key labels already installed.
- (c) Transport the 'Service Request' ticket to the Watch Commander.
- (d) The Watch Commander will contact Dispatch and advise the unit number, old MDT number and new MDT number to the supervisor.
- (e) Dispatch will modify the CAD INFO file.

833.3 WEEKEND / HOLIDAY PROCEDURE

Saturday, Sunday, and holidays: 0800 to 1630 hours:

- (a) After obtaining permission from the Watch Commander, transport the vehicle with the inoperative MDT to the San Bernardino County 800 MHz Group Headquarters at Rialto Airport (directly across the street from SBSD Aviation Center).
- (b) Report the failure to the on-duty staff. They will replace the terminal with a city-owned replacement terminal. Any terminal placed in a police vehicle should have the custom SBPD function key labels already installed.
- (c) Transport the 'Service Request' ticket to the Watch Commander.
- (d) The Watch Commander will contact Dispatch and advise the unit number, old MDT number and new MDT number to the supervisor.
- (e) Dispatch will modify the CAD INFO file.

833.4 OTHER TIME PROCEDURE

All Other Times:

- (a) Transport the vehicle with the inoperative MDT to the police station and "dead line" the unit.
- (b) Complete a trouble slip providing as much detail as possible about the failure.

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MDC Repair

833.5 LEAVING VEHICLES AT A SERVICE CENTER

- (a) Occasionally, based on the problem associated with the failure, it may be necessary to leave a police vehicle at a county service center for an extended period of time. The following procedures shall be used.
 - 1. Never leave a police vehicle at a service center with a shotgun or AR-15 in it. Return all firearms and ammunition to the police station.
 - 2. Report the fact that the vehicle was left for service to the Watch Commander or Police Fleet Expediter immediately.
 - 3. Complete a trouble slip indicating that the vehicle was left for service.

833.6 RESPONSIBILITIES

- (a) The Police Fleet Expediter will be responsible for coordinating repairs with the County 800 MHz Group.
- (b) The systems specialist will serve as a liaison between the County 800 MHz Group, the City IS Department, and the police department regarding technical issues and police department needs.

Records Bureau Security

835.1 PURPOSE AND SCOPE

To establish regulations which insure that this agency is in compliance with the requirements of California Penal Code Sections §§ 11075 through 11081, and the Attorney General's regulations which govern the access and release of criminal offender record information.

835.2 POLICY

The Records Manager is the designated records security officer.

Except with the express permission of the Records Manager or the on-duty shift supervisor or his/her designee, access to the Records Bureau is limited to Records Bureau personnel.

No original reports are to leave the confines of the Records Bureau.

835.3 PROCEDURE

835.3.1 PERSONNEL ALLOWED ACCESS TO RECORDS BUREAU AREAS

The personnel listed below will avail themselves only to those areas of the Records Bureau to which they are authorized and have a need to access in relation to their official duties.

- (a) Chief of Police, Assistant Chief of Police, and secretary to the Chief of Police and/or Assistant Chief of Police.
- (b) Division captains and their secretaries.
- (c) Watch commanders.
- (d) Identification Bureau personnel.
 - 1. Access to actual files is limited to mug shots. Access to other Records Bureau areas is limited to retrieval of documents from the laser printer.
- (e) Professional Standards Bureau personnel.
- (f) Custodians - only while performing cleaning duties.

835.3.2 ALL OTHER PERSONNEL AND/OR INDIVIDUALS

Will appear at the public service or officer service counters and by request assistance from Records Bureau personnel.

Admission to the Records Bureau by other than those listed under Section A is permitted only with the express permission of the Records Manager, the on-duty shift supervisor, or his/her designee.

Collecting, Accounting and Depositing of Revenue

837.1 PURPOSE AND SCOPE

To establish procedures for the receiving, storing, accounting of, auditing, and depositing of monies received by this department or areas under the control of this department.

837.1.1 AREAS AFFECTED

- (a) Records Bureau / Permits
- (b) Rangemaster
- (c) Alarm Compliance Unit
- (d) Traffic Bureau
- (e) Watch Commander
- (f) Property Bureau
- (g) Narcotics Asset Forfeiture

837.2 PROCEDURE FOR RECORDS BUREAU / PERMIT DESK

Monies: United States currency or coin, checks or money orders, cashiers checks, or other negotiable instruments having a stated dollar value.

All monies, fines, and fees received by the Records Bureau or permit desk will be recorded in the central cash register located in the Records Bureau. The Records Bureau and permit desk will receive monies related to the following fees and any that may be added from time to time:

- Subpoenas
 - Record letters
 - Photographs
 - CAD printouts
 - Attorney request for records
 - DUI recovery fees
 - Repossessed vehicle fees
 - Report copies
 - Pawn broker licenses
 - Fingerprinting
- (a) Every employee assigned to operate the register will log in to the computer using their assigned log in. Once a Records clerk receives money or checks, they will log the

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transaction into the cash register using the appropriate key entry. Two cash register receipts will be printed with one given to the person paying and the other one will be used to place the cash or check into drop box. Only one employee will operate the register at a time. When an employee is replaced on the register their transactions will be reconciled by a supervisor before the new employee takes over responsibility.

- (b) At the end of each shift, a Records or permit clerk will reconcile the cash drawer, place the monies received into an envelope and seal the envelope. An attached receipt will show the value of cash and checks received and a total amount of monies being deposited. A Records supervisor shall open the safe and the Records clerk shall deposit the envelope into the safe before the end of shift. Any discrepancies shall immediately be brought to the supervisor's attention.
- (c) The Records Bureau and permit desk shall not cash personal checks.
- (d) Prior to 0900 hours, Monday through Friday, except for city holidays, a designated employee from the Records Bureau will deposit the prior business day receipts into the safe at the Police Department's Financial Unit.
- (e) On a daily basis as needed, a Records supervisor shall open the safe located in the Records Bureau and allow a permits clerk to remove all monies in the safe and reconcile those monies with the cash register receipt tapes. Any discrepancies shall immediately be brought to the supervisor's attention.

837.3 PROCEDURES FOR RANGEMASTER

Range fees: Monies received resulting from the use of the city firearms training range.

The firearms training range will receive monies related to the following fees and those that may be added from time to time:

- Facility use fees

The Rangemaster shall post all monies received in an appropriate receipt book.

A deposit sheet listing the total amount of monies being deposited into the appropriate account shall be prepared and the Rangemaster shall deposit all monies with the City's central cashier located at City Hall.

837.4 PROCEDURES FOR ALARM COMPLIANCE UNIT

Annual Alarm Permit Fee: Monies received for a new alarm permit or renewal of existing alarm permits. The cost of each is established by resolution of the Mayor and Common Council.

False Alarm Fines: Monies received resulting from false alarms. Fines are established by resolution of the Mayor and Common Council.

All monies received by the Alarm Compliance Unit shall be recorded in the alarm system files in RMS. The unit will receive monies related to the following fees and those that may be added from time to time.

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- New alarm permits
- Renewal of annual alarm permits
- False alarm fines

Alarm clerks shall post all monies received to the appropriate alarm file on a daily basis.

The alarm user's cancelled check, copy of money order, or cashier's check shall be their receipt of payment. If cash is received, a numbered receipt shall be issued as proof of payment and the receipt number noted in the alarm file.

Each payment shall be recorded on a deposit worksheet listing the permit number and amount received. Separate worksheets shall be kept for alarm permits and false alarm fines.

Alarm clerks shall reconcile the monies received with those entered into the alarm system files on a daily basis, excluding weekends and holidays. Any discrepancies shall be immediately brought to the supervisor's attention. A deposit sheet listing the total amount of monies being deposited for each appropriate account shall be prepared on a daily basis, excluding weekends and holidays.

Alarm clerks shall deposit all monies received with the City's central cashier at City Hall on a daily basis, excluding weekends and holidays.

The Alarm Compliance Unit supervisor shall run reports to verify the amounts recorded as received equal the amounts deposited with the City's central cashier.

837.5 PROCEDURES FOR TRAFFIC BUREAU

Administrative Fee: Fees associated with the release of vehicles stored or impounded by our department. The amount of this fee is established by resolution of the Mayor and Common Council and is not attached to vehicles belonging to victims of a crime.

Franchise Fee: Monies received from tow carriers operating under a non-exclusive contract with the city. Fees are established by the Agreement of Tow Services and may be amended from time to time.

The police department shall release stored/impounded vehicles seven days a week from 0800 to 1700 hours. The Traffic Bureau shall be responsible for the release of all vehicles and the collection of the administrative fee when applicable, Monday through Friday, excluding weekends and holidays. The Watch Commander shall be responsible for the release of all vehicles and the collection of the administrative fee when applicable on Saturday, Sunday, and holidays. All monies received by the Traffic Bureau shall be recorded in the vehicle files in RMS. The Traffic Bureau shall receive monies related to the following fees and those that may be added from time to time.

- Administrative fees
- Franchise fees

All administrative fees shall be paid in cash, cashier's check, or money order payable to the City of San Bernardino. All monies received shall be for the exact amount of the administrative fee due. No change shall be provided.

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Traffic clerks shall post all monies received to the appropriate vehicle file on a daily basis, excluding weekends and holidays.

A numbered receipt shall be issued as proof of payment. The original receipt shall be placed in an envelope containing the money. A copy of the receipt shall be given to the person paying the fee and a copy shall remain in the receipt book. The envelope containing the fees shall be deposited into the traffic safe immediately after each transaction.

A Traffic clerk, authorized by the Traffic supervisor, shall remove all monies deposited in the traffic safe and reconcile the monies received with those entered into the vehicle files and traffic receipt book. Any discrepancies shall immediately be brought to the supervisor's attention. A deposit sheet shall be prepared listing the total amount of monies being deposited for each appropriate account.

Each payment shall be recorded on a deposit worksheet listing the case number and amount of money received.

A Traffic clerk shall deposit all administrative fees received with the City's central cashier at City Hall.

A supervisor shall run reports to verify the amounts recorded as received equal the amounts deposited with the City's central cashier.

By the 15th of the month, a Traffic clerk shall invoice tow carriers participating in the tow rotation, an equal share of the monthly franchise fee.

A Traffic clerk shall receive all franchise fees from the tow carriers, which may be paid by company check. The clerk shall record the payment in the tow carriers file and list each transaction on a deposit worksheet when received.

A Traffic clerk shall prepare a deposit sheet listing all franchise fees received. These fees shall be deposited with the City's central cashier.

837.6 PROCEDURES FOR WATCH COMMANDERS

Assigned Watch Commander: The supervisor assigned as his/her primary duty station, to the Watch Commander position having responsibility of station command, field personnel, and collection of vehicle release administrative fees.

Administrative Fee: Fees associated with the release of vehicles stored or impounded by our department. The amount of this fee is established by resolution of the Mayor and Common Council and is not attached to vehicles belonging to victims of a crime.

The assigned Watch Commander shall be responsible for the collection of administrative fees associated with the release of impounded vehicles on Saturday, Sunday, and holidays from 0800 to 1700 hours. A Traffic clerk shall record all monies received by the Watch Commander in the vehicle files in RMS the next business day.

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- (a) A proof of payment, the Watch Commander shall issue a numbered receipt. The Watch Commander shall sign each receipt and include his/her employee number. The original receipt shall be placed in an envelope containing the money. A copy of the receipt shall be given to the person payment the fee and a copy shall remain in the receipt book.
- (b) The assigned Watch Commander shall deposit the envelope into the deposit safe located in the Traffic Office, immediately after each transaction.
- (c) The responsibilities for collecting vehicle release administrative fees shall not be delegated to an officer assigned as a temporary watch commander in the assigned Watch Commander's absence during a shift.
- (d) A Traffic clerk shall reconcile the monies deposited into the traffic safe by the Watch Commander with those entered in the Watch Commander receipt book the first business day following a weekend or holiday. Any discrepancies shall immediately be brought to the attention of a supervisor.

837.7 PROCEDURES FOR PROPERTY BUREAU

Monies: United States currency or coin, checks or money orders, cashiers checks, or other negotiable instruments having a stated dollar value.

Monies Held in Evidence: Monies taken by our department and held as part of an investigation.

Donated Monies: Monies received as a gift, charitable donation, or endowment.

All monies received by the Property Bureau shall be in a manner consistent with Policy Manual § 804. The Property Bureau shall deposit all monies with the City's central cashier, **except** asset forfeiture monies. Monies deposited by the Property Bureau are as follows and those that may be added from time to time.

- Unclaimed found or safekeeping monies.
- Evidence monies determined by the court not to belong to the victim or suspect of an adjudicated crime.
- Evidence monies to be placed in an impound account pending adjudication of a crime.

837.8 PROCEDURES FOR NARCOTICS ASSET FORFEITURE

Asset Forfeiture: Monies seized by our department pursuant to federal and/or state forfeiture statutes.

The Narcotics asset forfeiture coordinator, or assigned officer, shall receive all monies seized consistent with the federal and/or state forfeiture statutes. The seized monies shall be deposited with the City's central cashier.

The responsibilities as outlined above shall not be delegated without the express written authority of the division captain or Chief of Police.

Chapter 9 - Custody

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the San Bernardino Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Holding cell/cell - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

Safety checks - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

Temporary custody - The time period an adult is in custody at the San Bernardino Police Department prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The San Bernardino Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the San Bernardino Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while in temporary custody.
- (c) Any individual who is seriously injured.

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- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
 - 1. If the officer taking custody of an individual believes that the individual may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to themselves or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to the individual's health or safety.
- (j) Any individual with an obvious developmental disability (15 CCR 1057).
- (k) Any individual who appears to be a danger to themselves or others due to a behavioral crisis, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with the member's supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody has a hearing or speech impairment, accommodations shall be made to provide this ability.

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

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Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control, or exert any authority over other individuals in custody.

900.3.3 STAFFING PLAN

The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Board of State and Community Corrections (BSCC) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by BSCC staff. The review and recommendations of the BSCC biennial review shall be forwarded to the City, as required by 15 CCR 1027.

900.3.4 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease, or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate the individual for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication, or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, the individual shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released, or transported to jail or other facility.

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900.4.1 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
 - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
 - 2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
 - (a) Continuous, direct sight and sound supervision.
 - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
 - 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
 - 4. Ensure males and females are separated by sight and sound when in cells.
 - 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Operations Captain will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that the individual may have the individual's consular officers notified of the arrest or detention and may communicate with them.
 - 1. This notification should be documented.

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- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
 - 1. If the country is on the mandatory notification list, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Tell the individual that this notification has been made and inform the individual without delay that the individual may communicate with consular officers.
 - (c) Forward any communication from the individual to the individual's consular officers without delay.
 - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
 - 2. If the country is not on the mandatory notification list and the individual requests that the individual's consular officers be notified, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Forward any communication from the individual to the individual's consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the San Bernardino Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including the individual's name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the San Bernardino Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

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900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

900.5.1 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, the person will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the San Bernardino Police Department. They should be released or transferred to another facility as appropriate.

900.5.5 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk

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to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to the individual's health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

900.5.5 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

900.5.7 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations, and logistics should be balanced against the individual's desire for further telephone access.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at the individual's own expense.
 - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
 - 2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.
- (b) The individual should be given sufficient time to contact whomever the individual desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.

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1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use the member's judgment in determining the duration of the calls.
2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that the individual may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
 - (c) Calls between an individual in temporary custody and the individual's attorney shall be deemed confidential and shall not be monitored, eavesdropped upon, or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).
 - (d) Individuals who are known to have, or are perceived by others as having, hearing or speech impairments shall be provided access to a telecommunication device which will facilitate communication (15 CCR 1067).

900.5.2 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

900.5.9 ATTORNEYS AND BAIL BONDSMEN

- (a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
- (b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
- (c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

900.5.10 DISCIPLINE

Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

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900.5.10 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM

In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody, or any other person shall be documented as stated in the Use of Force or Occupational Disease and Work-Related Injury Reporting policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

900.6 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the San Bernardino Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

900.6.1 PREGNANT ADULTS

Adults who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

900.7 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried, and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, the individual's items of personal property shall be compared with the inventory, and the individual shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding the individual's property. The Watch Commander shall attempt to prove or disprove the claim.

900.8 HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection

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also should be conducted when the individual is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by department members shall occur no less than every 15 minutes (15 CCR 1027.5).
 - 1. Safety checks should be at varying times.
 - 2. All safety checks shall be logged.
 - 3. The safety check should involve questioning the individual as to the individual's well-being.
 - 4. Individuals who are sleeping or apparently sleeping should be awakened.
 - 5. Requests or concerns of the individual should be logged.

900.8.1 USE OF SOBERING CELL

Individuals who are to be held in the temporary holding facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any individual in a sobering cell (15 CCR 1056):

- (a) Placement of an individual into the cell requires approval of the Watch Commander.
- (b) A cell log shall be initiated every time an individual is placed in the cell. The log shall be maintained for the entire time the individual is housed in the cell.
- (c) A safety check consisting of direct visual observation sufficient to assess the individual's well-being and behavior shall occur at least once every 30 minutes with no more than a 15-minute lapse between safety checks. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.
- (d) Under no circumstances shall an individual be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the individual does not have an urgent medical issue.
- (e) Individuals will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

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900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Operations Captain will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the San Bernardino Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Watch Commander, Chief of Police and Investigations Captain
- (c) Notification of the spouse, next of kin or other appropriate person
- (d) Notification of the appropriate prosecutor
- (e) Notification of the City Attorney
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death reviews (15 CCR 1046)
- (i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

900.10 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms, and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband, or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of the individual's property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the San Bernardino Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if the individual is being sent to another facility.
 - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier.

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If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.

- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with the person's personal needs as reasonable.

900.10.1 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

900.1 ASSIGNED ADMINISTRATOR

The Operations Captain will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment (15 CCR 1200)
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032
- (h) Disaster plans (e.g., natural disasters)
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (l) Emergency suspension of Title 15 regulations and notice to the BSCC as required in 15 CCR 1012
- (m) Inspections and operations reviews
- (n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety, and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

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900.12 TRAINING

Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Separation of incarcerated persons
- (d) Emergency procedures and planning, fire safety, and life safety
- (e) Suicide prevention
- (f) De-escalation
- (g) Juvenile procedures
- (h) Racial bias
- (i) Mental illness

Eight hours of refresher training shall be completed every two years (15 CCR 1024).

The Personnel and Training Supervisor shall maintain records of all such training in the member's training file.

Custodial Searches

900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the San Bernardino Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of the individual's property, shoes, and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach, rectal cavity, or vagina of an individual.

Strip search - A search that requires an individual to remove or rearrange some or all of the individual's clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus, or outer genitalia. This includes monitoring an individual who is changing clothes, where the individual's underclothing, buttocks, genitalia, or female breasts are visible.

900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

900.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after the individual's arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

900.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the San Bernardino Police Department facilities. Except in exigent circumstances, the search should be

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conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

900.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's San Bernardino Police Department identification number and information regarding how and when the property may be released.

900.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

900.5 STRIP SEARCHES

No individual in temporary custody at any San Bernardino Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
 - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

900.5.1 STRIP SEARCH PROCEDURES

Strip searches at San Bernardino Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
 - 1. The facts that led to the decision to perform a strip search.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. The written authorization for the search, obtained from the Watch Commander.
 - 4. The name of the individual who was searched.
 - 5. The name and sex of the members who conducted the search.
 - 6. The name, sex, and role of any person present during the search.
 - 7. The time and date of the search.

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8. The place at which the search was conducted.
 9. A list of the items, if any, that were recovered.
 10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.
- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

900.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

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- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
 - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. The Watch Commander's approval.
 - 4. A copy of the search warrant.
 - 5. The time, date and location of the search.
 - 6. The medical personnel present.
 - 7. The names, sex and roles of any department members present.
 - 8. Any contraband or weapons discovered by the search.
- (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.7 TRAINING

The Personnel and Training Supervisor shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Patton State Hospital Escapees

901.1 PURPOSE AND SCOPE

To establish procedures for accepting reports of Patton State Hospital escapees, and assuring their entry into California and NCIC as a Temporary Want for all escapees admitted under Penal Code § 1026 (plea of not guilty by reason of insanity), Penal Code §1370 (suspension of trial pending mental evaluation), Penal Code § 2684 (transfer of mental treatment by Department of Corrections), or as an MDSO (mentally disordered sex offender).

901.2 NOTIFICATION AND REPORTING

Patton State Hospital reports the escape in writing or by telephone.

- (a) Minimum information necessary to complete the Temporary Want entry:
 1. Name
 2. Sex
 3. Race
 4. Date of birth
 5. Weight
 6. Height
 7. Hair color
 8. Police report number

While this is the minimum information necessary to make a Temporary Want entry, the reporting officer is expected to complete the Patton Escapee Report in its entirety with particular emphasis placed on personal descriptors, dress, offense, admission code, reason for admission, caution indicators, etc.

901.3 REPORT ROUTING AND TEMPORARY WANT ENTRY

The police report is to be promptly submitted to the Records Bureau.

- (a) The report is date/time stamped on the lower right hand corner.
- (b) Data entry is made.
- (c) If the escapee was admitted under Penal Code § 1026, §1370, §2684, or as an MDSO, a Temporary Want is to be entered at Level 2 (California and NCIC).
 1. Temporary Wants have a maximum retention in the Wanted Person System from 48-72 hours. We have no control over the retention time and, therefore, must assume the minimum retention for purposes of inquiry and re-entry when the escapee is still outstanding.

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Patton State Hospital Escapees

2. The Temporary Want is made to allow time for Patton State Hospital to obtain a warrant. Once the warrant is obtained, the actual Wanted Person entry will be made by the Sheriff's Department based on the warrant information.
- (d) Administrative teletype messages are to be directed to each of the jurisdictions from which the escapee was committed, jurisdiction of the escapee's last known address, probable destination of the escapee, and last known address of an escapee's relative. The content of the message is to basically advise of the escape and the potential for the escapee to be en route to that destination.
- (e) Copies of all teletypes are to be attached to the original file copy of the report. A copy of the report and teletypes are to be maintained at the teletype workstation to serve as a tickler file. After 48 hours has lapsed since the entry of the Temporary Want, the on-duty shift supervisor is to make contact with Patton Security (909-425-7000) to ascertain if the subject has returned. If the subject is still outstanding and there is no evidence in the Wanted Person System of a warrant entry made by the Sheriff's Department or Department of Corrections, that shift supervisor will cause another Temporary Want entry to be made, which will extend the time in the system by another 48-72 hours.
- (f) Documentation of any additional Temporary Want entries made must be filed with the original file copy of the report.
- (g) The tickler file copy of the report and teletypes are to be maintained at the teletype workstation until such time that a warrant has been entered into the Wanted Person System or the subject has been returned to custody. The tickler file copy is to be shredded when no longer needed.

901.4 CANCELLATIONS

Reports received by this department of a returned or captured escapee will be directed to the Records Bureau.

- (a) Data entry will be updated to show cancelled status.
- (b) Temporary Want will be cancelled from the Wanted Person System.
- (c) Cancellation administrative messages directed to each recipient of the original administrative messages.
- (d) Teletype cancellations attached to the original file copy of the report.

Juvenile Escapees

903.1 PURPOSE AND SCOPE

To standardize the response, investigation, and documentation of juvenile escapees from commitment centers or probation officers in a manner that safeguards both the public and responding police personnel.

Department personnel will accept all incoming juvenile escapee reports and will prioritize our initial response based on the time elapsed since the escape and the threat potential to the community.

903.2 JUVENILE ESCAPEES DEFINED

- (a) Per Welfare and Institution Code § 871, any minor who escapes or attempts to escape from the custody of a probation officer, a place of commitment, or during transportation to or from a place of commitment is guilty of escape.
- (b) Includes walk-aways and failures to return from:
 - 1. Juvenile Hall
 - 2. Kuiper Youth Center
 - 3. Youth Justice Center
 - 4. Home supervision and detention furloughs
 - 5. Violations of electronic monitoring program
 - 6. Field trips
 - 7. "A" Team program
 - 8. Any transportation while in custody or under commitment

903.3 RESPONSE

- (a) All calls from probation department personnel regarding juvenile escapees will go directly to the Dispatch Center.
 - 1. Welfare and Institution Code § 871 violations of home supervision and detention furloughs, violations of electronic monitoring program, field trips, or "A" Team program will be handled as a priority 4 call and transferred to the front desk unless the initial screening reveals that the escapee is a serious danger to the community.
- (b) Juvenile escapees reported within ten (10) minutes of escape will be entered by the dispatcher as an "Escape" incident and broadcast as an "in-progress" Priority 1 call. Police personnel will respond, check the area, and then make contact with the reporting party to complete an escape report. The reporting officer will prepare an all points bulletin (APB) for broadcast as soon as possible. The APB is to include the

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Juvenile Escapees

name of the escapee, DOB, physical description, clothing, direction of travel, home address, and charges for which the juvenile was lodged.

- (c) Escapees from 10-30 minutes will be entered by the dispatcher as an "871" incident and dispatched as a Priority 2P call. Responding personnel will search the immediate area and then make contact with the reporting party. The reporting officer will prepare an escape report and an APB as above.
- (d) Escape reports older than 30 minutes will be handled as a Priority 4 call, unless the escapee is considered a serious danger to the community (dispatch as a Priority 2 call). Dispatch will transfer the call to the front desk for completion of the escape report and the APB. Front desk personnel will forward the APB information to Dispatch as soon as feasible to do so. Dispatch will broadcast this information as officer safety or officer information at the first opportunity. The area where the juvenile was last seen will be searched by available personnel when appropriate to do so.
- (e) In all above instances, the reporting employee will prepare a juvenile escapee crime report charging Welfare and Institution Code § 871 and any additional applicable crimes. A missing person or juvenile runaway report is not necessary and will not be completed.

903.4 CANCELLATION

- (a) Escapees who are recaptured will be returned to Juvenile Hall. The arresting officer will prepare an additional Juvenile Application for Petition arrest report charging Welfare and Institution Code § 871 and any other applicable charges. The case number assigned to the original juvenile escapee report will be used.
- (b) When probation department personnel call to cancel an escapee report, police personnel will document on a CR 2 follow-up report the name of the person making the cancellation and the date, time, and location of the recapture. Again, the original case number issued to the escapee report will be used.
- (c) In both instances, the department's APB will be canceled.

Extradition of Out-of-State Suspects/Defendants

905.1 PURPOSE AND SCOPE

The City of San Bernardino Police Department is required to handle all out-of-state extraditions for suspects wanted in felony cases originating with our agency. The purpose of this procedure is to provide department employees with guidelines for completing out-of-state extraditions of suspects wanted by our agency. Adherence to this procedure will provide the San Bernardino County District Attorney's Office an opportunity to prosecute offenders arrested out of jurisdiction on warrants issued on San Bernardino Police Department cases. Further, this procedure will minimize unnecessary expense and time spent retrieving suspects from out-of-state jurisdictions that may not be prosecuted.

905.2 PROCEDURE

905.2.1 OBTAINING WARRANTS

- (a) For felony cases investigated by the San Bernardino Police Department, investigators must obtain written authorization from the San Bernardino County District Attorney's Office to extradite suspects to California.
- (b) Investigators receiving written authorization to extradite will take the warrant of arrest to the San Bernardino County Sheriff's Department, Records Division, and ensure that the warrant is entered into the nationwide Wanted Persons System (WPS) database. The information to be entered into the WPS includes:
 1. Suspect autobiographical information
 2. San Bernardino Police Department case number
 3. Case agent and 24-hour contact number
 4. Extradition is authorized by the District Attorney's Office

905.2.2 SUSPECT ARREST NOTIFICATION / EXPENSE REIMBURSEMENT

- (a) The State of California has designated the Sheriff's Department as the single point of contact for reimbursement of extradition expenses. Investigators will adhere to the following guidelines when coordinating the extradition process through the Sheriff's Department:
 1. Upon notification that a person has been arrested in another state with a pending San Bernardino County warrant, the Sheriff's Records Division will contact the District Attorney's Office to validate the warrant and authorization for extradition.
 2. A Sheriff's detention review officer will determine whether the wanted subject meets the criteria to be held in custody within a San Bernardino County Jail upon return.

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- (b) If both these criteria are met, Sheriff's Records will notify the San Bernardino Police Department that an extradition has been ordered. If either criterion is not satisfied, the San Bernardino County Sheriff's Department will notify this Department before canceling the extradition. This is to provide the San Bernardino Police Department the opportunity to overcome these deficiencies and move forward, if desired, with the extradition of this suspect.
- (c) All questions and information associated with the extradition of suspects pertaining to the San Bernardino County Sheriff's Department role should be addressed through the San Bernardino County Sheriff's Records Department, (909) 387-3632. All questions pertaining to expense reimbursement forms should be addressed through the Bureau of Administration Extradition at (909) 387-0641.

905.2.3 INVESTIGATOR'S RESPONSIBILITIES

- (a) Upon notification of an extradition, investigators will contact the Sheriff's Bureau of Administration at (909) 387-3641 to obtain and sign the following state-required documents:
 - 1. State of Allegiance
 - 2. State Agent Travel Expense Form
 - 3. Governor's NUNC Pro TUNC (Latin: now for then) Order
 - 4. District Attorney's Affidavit
- (b) Investigators will make travel and lodging arrangements.
- (c) Investigations staff will complete a letter on departmental letterhead that includes the following information and stating that the detectives/officers are conducting an extradition for the City of San Bernardino Police Department:
 - 1. Detective/Officers' name and ID numbers
 - 2. Name of suspect/autobiographical information being returned to California
 - 3. List of full itinerary to include arrival and departure times, flight numbers and airline
- (d) Investigators will contact the Detective Bureau Lieutenant to arrange funding needed for the trip (the exception is airline costs handled by the Personnel and Training Unit). Within seven days of returning from an extradition investigators will submit all original meal receipts to the Detective Bureau Lieutenant. The Lieutenant will calculate any additional monies due to or owed by investigators and arrange for payment to be made.
 - 1. San Bernardino Police Department Investigations Division has an existing "Extradition Fund Protocol" on file in the Investigations Division and Finance Unit. This protocol will be followed to ensure proper use and tracking of extradition monies from extradition account number #001-223-5181.

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- (e) Upon retrieving the suspect and returning to the State of California, the detective/officer will book the suspect into the nearest San Bernardino County Sheriff's Department jail under the original warrant number and case number.
- (f) Upon completion of the extradition, investigators shall return the above referenced extradition documents, appropriately signed, within seven days of returning to the Sheriff's Department Bureau of Administration who will file an affidavit with the District Attorney and a NUNC Pro TUNC Order with the Governor's Office. This procedure often takes three to five months to complete. There is a six month mandatory deadline to file the reimbursement paperwork with the State of California. It is imperative the paperwork be returned promptly to the Bureau of Administration, San Bernardino County Sheriff's Department, upon completion of each extradition. Copies of all paperwork submitted for reimbursement shall be maintained by the SBPD in the SBPD Records Bureau.
- (g) Once reimbursement is received from the State, which takes approximately one year, the Bureau of Administration, San Bernardino County Sheriff's Department, will remit payment to the San Bernardino Police Department.
- (h) Payments will be forwarded to the San Bernardino Police Department's Financial Unit to be deposited as General Fund revenues.

905.2.4 INTRASTATE EXTRADITIONS

Nothing in this procedure will change the San Bernardino County Sheriff's Department's policy of intrastate (out of County) prisoner pick up. The Detention and Corrections Bureau will continue to coordinate and transport subjects wanted on San Bernardino County warrants being held at other jails throughout California.

905.2.5 EXTRADITION BY THE UNITED STATES MARSHAL'S OFFICE

The U.S. Marshal's Office is available to conduct extraditions. For a federal case, the extradition is easily arranged, and the City of San Bernardino will not be billed. However, for a local warrant, extradition can still be arranged through the U.S. Marshal's Office at police department's expense. The following procedure should be followed:

- (a) Contact a regional U.S. Marshal or our IRAT detective. The Riverside Office can be contacted at 909-276-6120.
- (b) Upon contact with the Marshal's Office, request blank copies of the Cooperative Prisoner Transportation Agreement and the CO-OP Request Form. These forms must be filled out to start the extradition process. Leave the reimbursement cost blank on the Prisoner Transportation Agreement (Item #IV). This will be filled out by the Marshal's Office once they determine their cost.
- (c) Request the extradition state send a copy of the warrant to the SBSD, attention the Records Supervisor. He / she will provide you with a certified copy of the warrant.

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- (d) Fax the completed paperwork to the Marshal's Office. Include a copy of the certified warrant. The Riverside Office's fax number is 909-276-6101.
- (e) Verify with the extraditing state that the defendant has been TB tested (Marshal's Office requirement for extradition).
- (f) The Marshal's Office will return the forms to you, complete with the reimbursement cost for the extradition. This paperwork must be signed by a department head (captain or higher). Fax the signed paperwork back to the Marshal's Office.
- (g) The Marshal's Office will notify the SBSO of the date of extradition. The defendant will be flown into March AFB on a Marshal's Office aircraft. From there, deputies will transport him to the West Valley Detention Center.
- (h) For extraditions on local warrants the Marshal's Office will send a bill to the San Bernardino Police Department indicating the reimbursement amount due to the Marshal's Office. This bill will be paid out of the police department's evidence fund. The police department will seek reimbursement from the State of California for these funds, according to the above listed reimbursement guidelines.

905.3 EXTRADITION TRIP PROCESS

905.3.1 PRE-TRIP

- (a) Notify SBSO Extradition coordinator of pending extradition.
 - 1. Provide location of arrestee.
 - 2. Dates of travel.
 - 3. Names of Investigators participating.
- (b) Obtain the extradition paperwork from SBSO Extradition coordinator.
- (c) Obtain "Flying Armed" authorization.
 - 1. You will need flight info, dates/times and the names of Investigators and suspect.
 - 2. Contact dispatch or the Investigations Bureau to have a NLETS message sent to TSA. Must be completed a minimum 24 hrs prior to departure. You will receive a Teletype message back with a "UNIQUE ID CODE" which must accompany your department letterhead.
- (d) Obtain suspect information
 - 1. Official photo (CDL, Booking, etc.) in color is preferable.
 - 2. Criminal History report.
 - 3. CDL information if available.
- (e) Obtain a certified copy of the Arrest Warrant

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1. Available through SBSO Extradition Warrant Detail.
- (f) Obtain copy of the crime report.
 1. For interview purposes, suspect or witnesses contacted.
 2. Face sheet/synopsis is needed for inclusion in folder.
- (g) Airport Law Enforcement notification.
 1. L.A./Ontario Airport Police - Provides secured parking and transportation for outside agencies for both in/out bound flights.
 2. Contact Airport Police for any assistance.

905.3.2 DURING THE TRIP

- (a) Official I.D.
 1. Carry the following with you. Badge/Dept. I.D./ Driver's License or other official I.D.
- (b) Weapons.
 1. Must remain covered at all times while on airport property or in-flight.
- (c) "Armed Authorization".
 1. Each investigator's original letter must be available for check-in on both the in/out bound flights.
 2. The NLETS/TSA teletype authorization must also be available.
- (d) Collect all Documentation for all Expenses.
 1. Photocopies of receipts will be returned in the extradition folder. These include all expenses (meals, rental car, lodging, etc.).
 2. Meals consistent with existing MOUs.
 3. Commonly non-essential costs incurred during off-duty hours.
 - (a) Alcoholic beverages.
 - (b) In-room incidentals.
 - (c) Any non-essential costs incurred during off-duty hours.
- (e) Rental Car.
 - (a) Will be arranged ahead of time and will be a 4-door vehicle.
 - (b) Commonly non-reimbursable expenses, without prior department approval.
 - (a) Rental car insurance (City is self-insured).

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- (b) Electronic equipment at additional cost (GPA, cell phone service, etc.).
- (c) 2nd driver, as an additional cost.
- (d) Valet parking fees (unless required as part of hotel lodging).

905.3.3 POST-TRIP

- (a) Extradition Folder.
 - 1. Return to Coordinator.
 - (a) Should include pre-trip paperwork.
 - (b) Photocopy receipts.
 - (c) All extradition paperwork signed and dated.
- (b) Return of Extradition Paperwork.
 - (a) Return completed paperwork and original receipts to SBSO Bureau of Administration.
 - (b) Should be completed within the workweek after your return.

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the San Bernardino Police Department and that are promulgated and maintained by the Human Resources.

1000.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.

1000.2.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States armed forces shall receive a veteran's preference after receiving a passing score on an entrance exam (Government Code § 18973.1). This provision includes widows and widowers of veterans, and spouses of veterans who are 100 percent disabled.

1000.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The San Bernardino Police Department Human Resources maintains standards for all positions.

The dilemma facing the Department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the San Bernardino Police Department or State of California hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which are used as a professional standard in background investigations.

The following standards have been adopted for public safety applicants:

1000.3.1 OPERATION OF A MOTOR VEHICLE

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to control a motor vehicle at high speeds
- (d) The ability to operate a motor vehicle in all types of weather conditions
- (e) The following shall be disqualifying:
 - 1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a

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pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.

2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

1000.3.2 INTEGRITY

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
- (c) Showing strong moral character and integrity in dealing with the public
- (d) Being honest in dealing with the public
- (e) The following shall be disqualifying:
 1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
 2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

1000.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following shall be disqualifying:
 1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
 2. Conviction for two or more misdemeanor offenses under California law as an adult
 3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers) may be disqualifying
 4. Admission(s) of having committed any act amounting to a felony (including felony-misdemeanor offenses) under California law, as an adult, within five years

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prior to application or while employed as a peace officer (including military police officers)

5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

1000.3.4 DEPENDABILITY

- (a) Having a record of submitting reports on time and not malingering on calls, etc.
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignments
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following shall be disqualifying:
 1. Missing any scheduled appointment during the process without prior permission
 2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
 3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
 4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement
 5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability

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6. Resigning from any paid position without notice may be disqualifying, except where the presence of a hostile work environment is alleged.
7. Having any outstanding warrant of arrest at time of application.

1000.3.5 LEARNING ABILITY

- (a) The ability to comprehend and retain information
- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following shall be disqualifying:
 1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
 2. Having been academically dismissed from any POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another POST basic law enforcement academy shall rescind this requirement

1000.3.6 PERSONAL SENSITIVITY

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following shall be disqualifying:
 1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
 2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
 3. Having been disciplined by any employer as an adult for fighting in the workplace

1000.3.7 JUDGMENT

- (a) The ability to apply common sense

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- (b) The ability to make sound decisions
- (c) The ability to use good judgment
- (d) The ability to make effective, logical decisions under pressure
- (e) The following may be disqualifying:
 - 1. Any combination of admissions that tend to reflect a pattern of immaturity, poor judgment, or generally bring disrepute on the applicant.
- (f) The following shall be disqualifying:
 - 1. Admission(s) of administrative conviction or criminal conviction for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
 - 2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

1000.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:
 - 1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
 - 2. Any illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
 - 3. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
 - 4. Any adult manufacture or cultivation of a drug or illegal substance
 - 5. Failure to divulge to the Department any information about personal illegal use or possession of drugs
 - 6. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
 - 1. Any illegal use or possession of a drug as a juvenile
 - 2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above.
 - 3. Any illegal or unauthorized use of prescription medications

Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

1002.2 POLICY

The San Bernardino Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and civilian supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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Evaluation of Employees

1002.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

1002.4 FULL TIME PROBATIONARY PERSONNEL

Civilian personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed at 3 months, 5 months, 9 months and 1 year for all full-time civilian personnel during the probationary period.

Sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during their training period. Probationary evaluations for sworn personnel are completed at 3 months, 5 months, 9 months and 1 year.

1002.5 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

1002.5.1 DISCRIMINATORY HARASSMENT FORM

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read and review specific policies and verify that the employee has read and understands those policies. The policies to be reviewed are:

- (a) All Personnel:
 - Discrimination and Harassment Policy
- (b) Sworn Personnel:
 - Use of Force Policy
 - Pursuit Policy

1002.6 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Captain). The Captain shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Captain shall evaluate the supervisor on the quality of ratings given.

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1002.7 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City Human Resources.

Grievance Procedure

1006.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

1006.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1006.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

- (a) Attempt to resolve the issue through informal discussion with the employee's immediate supervisor.
- (b) The supervisor shall respond back (orally) to the employee within 10 days.
- (c) If a successful resolution is not found with the informal process, the employee may, within 10 working days submit their grievance in writing to their immediate supervisor (beginning of the formal process). The supervisor must respond in writing to the formal grievance within 10 working days. The supervisor has the discretion to meet with the involved employee personally to discuss the issue (the employee may elect to have a representative present for this discussion).
- (d) If a successful resolution is not found with the supervisor, the employee may submit their grievance to the Division Captain within 10 working days of the supervisor's

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decision. The Division Captain will respond to the employee within 10 working days in writing.

- (e) If a successful resolution is not found with the Division Captain, the employee may then present their grievance in writing to the Chief of Police within 10 working days. The Chief of Police will respond in writing to the employee within 10 working days of his / her decision.
- (f) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee may proceed as follows:
 - 1. Submit in writing a "written appeal" of the grievance to the City Manager or his / her designee. The employee must state the reasons for the grievance and what remedy they are seeking. The City Manager or their designee will respond within 10 working days.
 - 2. The decision of the City Manager is final and binding on all parties, unless reversed by a court decision.

All grievances shall be treated as confidential and no publicity will be given to the final resolution of the grievance.

1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1006.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administrative Services for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

1006.5 GRIEVANCE AUDITS

The Assistant Chief of Police shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Assistant Chief of Police shall record these findings in a confidential and generic memorandum to the Chief of Police without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this Policy Manual, the Assistant Chief of Police should promptly notify the Chief of Police.

Reporting of Arrests, Convictions, and Court Orders

1010.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the San Bernardino Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1010.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on a member's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

1010.4 REPORTING

All members and all retired officers with an identification card issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge, or conviction in any state or foreign country, regardless of whether or not the matter

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was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable POST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing their duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on the member's own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

1010.4.1 NOTIFICATION REQUIREMENTS

The Administrative Services Captain shall submit within 10 days of final disposition a notice to POST of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

1010.5 POLICY

The San Bernardino Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

Drug- and Alcohol-Free Workplace

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

1012.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1012.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

1012.3.2 USE OF MARIJUANA

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1012.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1012.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1012.7 REQUESTING SCREENING TESTS

When reasonable suspicion exists and with the approval of the Chief of Police, the Duty Chief or their designee an employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off-duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any City owned vehicle whether on or off-duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

1012.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.

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- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1012.7.2 SCREENING TEST REFUSAL

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

1012.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1012.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

Time / Shift Exchanges

1013.1 PURPOSE AND SCOPE

Subject to authorization of the appropriate supervisor, employees may exchange work time with other employees of the same classification.

1013.2 PROCEDURE

Time exchanges may occur only under the following conditions:

- (a) Time exchanged shall be with equal rank or classification, and be agreeable with both parties. Such requests shall be made in a memo signed by both parties.
- (b) Time exchange requests shall be initiated with the immediate supervisor of the employee requesting the exchange.
- (c) Time exchanged may be by one standard work day or by ½ standard work day.
- (d) Time exchanges shall not be approved in instances where the substituting employee would have to work two consecutive shifts.
- (e) Time exchanges are allowed for the convenience of the employees, and in no case shall a time exchange, or repayment of a time exchange be considered in the computation of overtime.
- (f) When authorized time exchanges occur, the originally scheduled employee will be credited as working. However, if the substituting employees fails to appear as scheduled, the originally scheduled employee shall not receive credit as working. The originally scheduled employees shall not be afforded any other paid status, i.e., vacation, holiday, sick, or compensatory time.
- (g) Time exchanges shall be repaid by one standard work day, or ½ standard work day within a 28-day period.
- (h) Time or shift exchanges shall not be allowed for any probationary employees.

Sick Leave

1014.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

1014.1.1 PROTECTED LEAVE

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional protected paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), Kin Care (Labor Code §§ 233-234), "reasonable accommodation" leave, Workers' Compensation leave for industrially related injuries (Labor Code 4850), child care activities defined in Labor Code section 230.8, Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee; an employee's family member (includes parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild or grandparent); For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code section 230(c) and Labor Code Section 230.1(a) (see Labor Code §§ 245-249), or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 1510).

1014.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, diagnosis, care or treatment of existing health conditions, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours. Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness. Participation in any of the aforementioned activities while an employee is on sick leave may constitute an abuse of leave. Patterned use of sick leave may also be considered an abuse of leave. Upon return to work, employees shall complete and submit a leave request describing the type of leave used and the specific amount of time taken.

1014.2.1 NOTIFICATION

Employees are encouraged to notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled shift. If an employee

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is unable to contact the supervisor in the case of an emergency, every effort should be made to have a representative contact the supervisor.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave.

1014.3 EXTENDED ILLNESS - VERIFICATION

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three days in any calendar year may be required to furnish a written statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

Employees suspected of abuse or excessive use of sick leave, as defined in this policy, may also be required to furnish a written statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

1014.4 SUPERVISOR RESPONSIBILITY

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Personnel Department as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

1014.4.1 FMLA - CFRA DESIGNATION

It is the policy of the City and the Department for FMLA and CFRA protected leave to run concurrently, as provided by law. To qualify for FMLA and/or CFRA protection, an employee must have worked at least 1,250 hours for an employer during the previous twelve (12) months. Time frames are evaluated on the date FMLA leave begins. Overtime hours count only as a single hour toward the 1,250 hour requirement.

There are four circumstances under which an eligible employee may be entitled to protected leave:

- (a) employee's own serious health condition;
- (b) employee's care of a family member with a serious health condition;

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- (c) birth, bonding, or placement of a child for adoption or foster care; and
- (d) to address a "qualifying exigency" involving an employee's family member on covered active military duty or call to covered active duty status.

Once an employee provides notice that the employee needs leave for any of the aforementioned qualifying reasons, and the anticipated timing and duration of the leave, supervisors must:

- (a) document the notification and specific reason on the time off slip and in ISE; and
- (b) ensure the employee signs the time off slip; and
- (c) notify the executive officer in administration regarding the employee's FMLA leave request.

1014.5 ABUSE OF SICK LEAVE

Abuse of sick leave is the use of available leave for an illegitimate or improper purpose. Abuse of leave constitutes dishonesty and possibly theft. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness. Participation in any of the aforementioned activities while an employee is on sick leave may constitute an abuse of leave. Patterned use of sick leave may also be considered an abuse of leave. An employee shall be subject to disciplinary action for abuse of sick leave, which is defined as a claim of entitlement to sick leave when the employee does not meet the requirements for sick leave use as defined in Section 1014.2. The Department reserves the right to conduct investigations in to any employees' suspected abuse of sick leave.

1014.6 REQUIRED NOTICES

The Director of Human Resources shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

If a negotiated Memorandum of Understanding (MOU) provision is in conflict with a provision of this policy, the MOU provision shall control.

Vacation and Holiday Procedures

1015.1 PURPOSE AND SCOPE

To establish a procedure for scheduling and taking vacation and holiday time off. The following procedures shall be followed by all Police Department employees when scheduling or taking vacation or holiday time.

1015.2 VACATION LEAVE

- (a) Vacation leave may be taken anytime during the year in which it is accrued as long as the employee can forecast a calendar year ending balance of at least zero or more at his/her accrual rate.
 - 1. However, if an employee terminates employment with the City prior to the completion of the calendar year in which he/she used such leave, a deduction for used but unearned vacation shall be made from the employee's final paycheck.
- (b) Vacation leave may be accrued and accumulated for a maximum of two years. All subsequent vacation leave above two years accrual will be lost hours. Refer to individual MOU for accrual rates.
- (c) Employees shall not be allowed to work in their city position in lieu of taking vacations in order to receive overtime or additional compensation from the City.
- (d) No vacation leave shall be granted to an employee who has less than one year of continuous service with the city.
- (e) Vacation sign-ups
 - 1. Supervisors and managers will allocate vacations over the calendar year to minimize impact on operations.
 - 2. Vacations will be selected by seniority within classifications. Seniority in city employment will prevail in all instances where identical seniority exists within classifications.
 - 3. All vacation time that will be accrued in the calendar year will be scheduled. Any changes in scheduled vacations must be approved by the respective Division Captain.
 - 4. Splits of vacations will be allowed; however, any employee choosing to split their vacation shall choose subsequent vacation after all others have made their selections.

1015.3 HOLIDAY LEAVE

- (a) In general, holiday leave may be taken only after it has been accrued.

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1. Employees who, due to scheduling, must routinely work on recognized holidays will be allowed to schedule that holiday leave in conjunction with vacation leave.
 2. However, if such employees terminate employment with the City prior to the completion of the calendar year in which he/she used such leave, a deduction for used but unearned holiday leave shall be made from the employee's final paycheck.
- (b) Holiday leave may be accrued and accumulated for a maximum of one year. All subsequent holiday leave above one year's accrual will be lost hours. Refer to individual MOU for accrual rates.
1. The exception are General Unit MOU employees who are not required to work on recognized holidays. These employees may accrue and accumulate more than 40 hours of holiday time during the year, but may carryover only a total of 40 hours of holiday time to the next fiscal year. All holiday time over 40 hours on June 30th of each year, will be lost hours.
- (c) Employees shall not be allowed to work in their City position in lieu of taking holiday time off in order to receive overtime or additional compensation from the City.

1015.4 EMPLOYEE RESPONSIBILITIES

- (a) Employees shall not schedule or take any vacation leave that exceeds what they can forecast they will accrue by the end of the calendar year at their respective accrual rates.
- (b) Employees shall not schedule or take any holiday leave that is not allowable per Department policy.
- (c) Employees should refer to their paycheck stubs for an accurate balance of vacation and holiday leave. When in doubt, employees should confer with their division timekeeper or the department payroll clerk.

1015.5 SUPERVISOR/MANAGER RESPONSIBILITIES

- (a) Supervisors and managers should approve vacation and holiday leave usage only after verifying that the employee:
1. Has a positive balance in the vacation or holiday leave account they intend to use, or
 2. Can forecast a calendar year ending vacation balance of at least zero at his/her accrual rate, or
 3. Holiday leave usage is allowable per Department policy.
- (b) Supervisors and managers should refer to one or more of the following sources to determine balances or accrual rates:

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1. The employees paycheck stub
2. The Accrual Balance Report distributed after each payday

1015.6 PAYROLL CLERK RESPONSIBILITIES

- (a) It is the employees' responsibility to monitor usage of vacation and holiday time to identify discrepancies or overages.
- (b) A bi-monthly Accrual Balance Report is maintained in the PD-Payroll share drive and is available to all division timekeepers on payday.

Communicable Diseases

1016.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1016.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the San Bernardino Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1016.2 POLICY

The San Bernardino Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1016.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
 2. Bloodborne pathogen mandates including (8 CCR 5193):

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- (a) Sharps injury log.
 - (b) Needleless systems and sharps injury protection.
 3. Airborne transmissible disease mandates including (8 CCR 5199):
 - (a) Engineering and work practice controls related to airborne transmissible diseases.
 - (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
- (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other department members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the Department website (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/ OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

1016.4 EXPOSURE PREVENTION AND MITIGATION

1016.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.

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- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
 - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1016.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1016.5 POST EXPOSURE

1016.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

1016.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure

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- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1016.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

1016.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1016.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status

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of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1016.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1016.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

Use of Tobacco and Electronic Cigarette Products

1018.1 PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products and electronic cigarettes by employees and others while on-duty or while in San Bernardino Police Department facilities or vehicles.

1018.2 POLICY

The San Bernardino Police Department recognizes that the use of tobacco or nicotine products is a health risk and can be offensive to other employees and to the public. It is the policy of the San Bernardino Police Department to prohibit the use of tobacco or electronic cigarettes by employees while on-duty or at any time the employee is acting in an official capacity for the Department.

1018.3 EMPLOYEE USE

Tobacco and electronic cigarette use by employees is prohibited anytime employees are in public view representing the Department.

The use of tobacco products or electronic cigarettes is not permitted inside any City facility, office or vehicle (California Labor Code § 6404.5).

1018.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products or electronic cigarettes within 20 feet of a main entrance, exit, or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

1018.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

Personnel Complaints

1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the San Bernardino Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1020.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law. If the allegation of misconduct is initiated by an employee of the department, the complaint shall be deemed an Internal Complaint.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled as a **Service** complaint.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy. Only allegations of minor policy infractions may be handled informally.

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Professional Standards Bureau depending on the seriousness and complexity of the investigation.

Inquiry - A formal complaint filed against an employee but later determined to be without merit or an misunderstanding after the RP has met with investigators from Professional Standards Bureau may be classified as an "Inquiry" and not a personnel complaint. The involved employee shall be notified of complaints that have been classified as an "Inquiry".

1020.1.2 EMPLOYEES DEFINED

Public Safety Officer - the term "Public Safety Officer" means all peace officers specified in Sections 830.1 et. Seq. of the Penal Code. (Cal. Govt. Code 3301)

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Police Employee - the term "Police Employee" means the civilian employees of the police department. (Cal. Govt. Code 3508.1)

Employee - the term "employee" means all employees of the police department to include Public Safety Officers and Police Employees.

1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby.

1020.2.2 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action
- (b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint

1020.2.4 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a supervisor in electronic form (Blue Team / IA Pro). The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. When handwritten, the complainant's signature should be obtained (not mandatory) at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

1020.3 SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. In instances involving allegations against Public Safety Officers, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

In general, the primary responsibility to determine who shall investigate a complaint shall fall to the Assistant Chief of Police, or their designee.

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practical.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form shall be entered electronically into Blue Team / IA Pro and forwarded to the Assistant Chief of Police (or their designee), who will take appropriate action or forward the complaint to the Professional Standards Bureau for further action. The original complaint documents shall be forwarded to Professional Standards Bureau.
 - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Captain or the Chief of Police who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq. or Government Code § 3508.1 et. seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the

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complaint shall promptly contact the Assistant Chief of Police or the Duty Chief for direction regarding their role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor, at the direction of the Division Captain may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits.
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Captain and the Chief of Police
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall have all badges, identification card and other equipment returned

1020.4.2 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18 years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

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The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively compelled from an employee may be provided to a criminal detective.

If a public safety officer is arrested for alleged criminal misconduct, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

1020.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1020.6.1 ADMINISTRATIVE SEARCHES

When reasonable suspicion exists and with the approval of the Chief of Police, the Duty Chief or their designee an employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off-duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any City owned vehicle whether on or off-duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-

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investigative purposes. (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Findings - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Recommendations - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

Incomplete - When the investigation could not be thoroughly or properly investigated, this may result from a lack of cooperation from involved parties (complainant / witness) or the absence of critical information necessary to complete the investigation.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

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1020.8 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Investigations assigned to the employee's division shall be completed by a sergeant or lieutenant in that division. The assigned sergeant or lieutenant shall complete both the investigation and make recommendations in draft form to the Division Captain.

Investigations assigned to the Professional Standards Bureau shall be investigated by one of the assigned investigators / sergeants. The investigation shall be forwarded to the Professional Standards Bureau lieutenant (or designee) to be summarized and shall contain draft recommendations to be forwarded to the Division Captain.

1020.8.1 INVESTIGATION REVIEW PROCESS - PUBLIC SAFETY OFFICERS

- (a) The affected Public Safety Officer shall be given a copy of the investigation and the draft findings / recommendations. Within ten (10) days of receiving the investigation and the draft recommendations the Public Safety Officer may meet with the Administrative Services Division Captain (or designee) along with the Professional Standards Bureau Lieutenant or investigating sergeant/lieutenant. The involved Public Safety Officer may bring a representative with them to this meeting. The Public Safety Officer will be afforded the opportunity to discuss the case before the investigation is finalized. The following may take place during this process:
 - The investigation / findings may be finalized in its current form at the discretion of the Administrative Services Division Captain and the Professional Standards Bureau Lieutenant or investigating sergeant/lieutenant. The investigations and findings are then forwarded to the Assistant Chief of Police.
 - The investigation / findings may be modified at the discretion of the Administrative Services Division Captain and the Professional Standards Bureau Lieutenant or investigating sergeant/lieutenant based upon the information provided by the Public Safety Officer. The investigation and findings are then forwarded to the Assistant Chief of Police.
 - The Public Safety Officer and the Administrative Services Division Captain may agree on a final disposition of the case at this point in the process. The Administrative Services Division Captain shall submit the proposed resolution / disposition to the Assistant Chief of Police for approval.
- (b) Sustained allegations of misconduct not resolved during the Investigation Review Process shall be submitted to the Assistant Chief of Police with verbal

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recommendations of proposed discipline. Unresolved matters with recommended discipline above that of a written reprimand shall be referred to a Disciplinary Review Board by the Assistant Chief of Police.

- (c) **Disciplinary Review Board (DRB)**- Unless waived by the Public Safety Officer, a Disciplinary Review Board will be convened to hear the matters with recommended discipline above that of a written reprimand. The Disciplinary Review Board will consider all of the information included in the investigation and will concur with or modify the suggestion for discipline. A Disciplinary Review Board shall consist of a captain and two lieutenants, the captain shall chair the DRB.
- (d) **Pre-Skelly Advisal** - The Disciplinary Review Board findings shall be presented to the Public Safety Officer along with the proposed discipline. The Public Safety Officer shall be served with a disciplinary package that shall include, as appropriate:
 - "Be Advised" form
 - Notice of Charges
 - Statement of Causes
 - Unauthorized Absence / Resignation Form
 - Notice of Discharge or Demotion during probationary period form
 - Request for Hearing Form
 - Materials, reports, and / or documents upon which the proposed action is based
- (e) The Pre-Skelly meeting shall be attended by the Public Safety Officer, their representative if desired and the Division Captain.

1020.8.2 INVESTIGATION REVIEW PROCESS - POLICE EMPLOYEES

- (a) The affected Police Employee shall be given a copy of the investigation and the draft findings / recommendations. Within ten (10) days of receiving the investigation and the draft recommendations the Police Employee may meet with the Administrative Services Division Captain (or designee) along with the Professional Standards Bureau lieutenant or investigating sergeant / lieutenant. The involved Police Employee may bring a representative with them to this meeting. The Police Employee will be afforded the opportunity to discuss the case before the investigation is finalized. The following may take place during this process:
 - The investigation / findings may be finalized in its current form at the discretion of the Administrative Services Division Captain and the Professional Standards Bureau lieutenant or investigating sergeant / lieutenant. The investigations and findings are then forwarded to the Assistant Chief of Police.
 - The investigation / findings may be modified at the discretion of the Administrative Services Division Captain and the Professional Standards Bureau lieutenant or investigating sergeant/lieutenant based upon the information provided by the Police Employee. The investigation and findings are then forwarded to the Assistant Chief of Police.

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- The Police Employee and the Administrative Services Division Captain may agree on a final disposition of the case at this point in the process. The Administrative Services Division Captain shall submit the proposed resolution / disposition to the Assistant Chief of Police for approval.
- (b) Sustained allegations of misconduct not resolved during the Investigation Review Process shall be submitted to the Assistant Chief of Police with verbal recommendations of proposed discipline.
- (c) **Pre-Skelly Advisal** - The investigation findings shall be presented to the Police Employee along with the proposed discipline. The Police Employee shall be served with a disciplinary package (aka Skelly Package) that shall include, as appropriate:
 - "Be Advised" form
 - Notice of Charges
 - Statement of Causes
 - Unauthorized Absence / Resignation Form
 - Notice of Discharge or Demotion during probationary period form
 - Request for Hearing Form
 - Materials, reports, and / or documents upon which the proposed action is based
- (d) The Police Employee shall have the right to respond either orally or in writing within five (5) working days of receipt of the Skelly Package to the Administrative Services Division Captain. A Pre-Skelly meeting shall be attended by the Police Employee, their representative if desired and the Administrative Services Division Captain.

1020.8.3 SKELLY HEARING / APPEALS / RESIGNATION / NOTICE OF COMPLAINING PARTY

- (a) **Skelly Hearing**
 - The Administrative Services Division Captain will schedule the Skelly hearing to take place at least five working days after the Pre-Skelly meeting.
 - The Skelly hearing will be attended by the Chief of Police, the employee and the employee's representative, if desired.
 - The purpose of the Skelly hearing is to discuss the proposed disciplinary action. The employee may make any statements or submit any items he or she feels are relevant to the Chief's decision.
 - The Chief of Police will review all information pertinent to the case and make a final decision. The decision will be delivered to the employee in writing within ten working days of the hearing.
- (b) **Appeals**
 - The employee, may within five working days of receiving the Chief's decision, file a written response either accepting the proposed disciplinary action or requesting a hearing by the Civil Service Board.

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- If the employee files a response accepting the proposed disciplinary action, the discipline shall be effective forthwith.
 - If the employee fails to file a response within five working days, the proposed discipline shall be effective forthwith unless an extension of the five day time limit was granted by the Civil Service Board.
 - If the employee files a response requesting a hearing by the Civil Service Board, it shall be conducted in accordance with their rules.
- (c) **Resignation**
- Any employee may resign from the City's service by submitting a statement of their intention with the Chief of Police. If the resignation is submitted to avoid disciplinary action the Chief shall accept it with prejudice. This shall bar the employee from reinstatement or from participation in further hiring examinations unless expressly permitted to by the Civil Service Board after consideration of all factors including the basis for any pending disciplinary action.
- (d) **Notice to Complaining Party**
- Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).
 - Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

1020.8.4 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints, whether originating from a citizen or internally, shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All sustained citizen's complaints shall be maintained for a period of at least five years (Penal Code § 832.5). All internally initiated complaints shall be maintained at least two years (Government Code § 34090 et seq.).

Sustained complaints shall be maintained in the employee's Department file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Professional Standards Bureau apart from the employee's Department file.

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1020.9 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 - 1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an officer's POST certification, such as:
 - 1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
 - 2. Findings of civilian review boards.
 - 3. Final dispositions of any investigations.
 - 4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the San Bernardino Police Department based on allegations of conduct by an officer.

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

1020.9.1 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

Additional notification shall be made to POST (11 CCR 1207):

- (a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:
 - 1. The Department shall provide the name of the body conducting the proceeding.
 - 2. The status of the proceeding, if known.
- (b) If criminal charges are pending:
 - 1. The name of the court having jurisdiction over the criminal charges against the officer.
 - 2. The status of the criminal case, if known.

1020.9.2 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

- (a) Name of the Department
- (b) Administrative case number

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- (c) Name, current address, and phone number of the complainant, if available
- (d) Name, POST ID, current address, and phone number of the involved officer
- (e) A summary of the alleged misconduct including:
 - 1. A narrative of the allegations
 - 2. Date and time of incidents
 - 3. Location of occurrence
 - 4. Any witness information, if available
 - 5. Summary of arrest or indictment of involved officer
- (f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)
- (g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

Seat Belts

1022.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

1022.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1022.2.1 TRANSPORTING CHILDREN

Children under the age of 8 should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

1022.3 TRANSPORTING PERSONS IN CUSTODY

Persons who are in custody should be in a seated position and secured in the rear seat of any department vehicle with a restraint system or, when a restraint system is not available, by seat belts provided by the vehicle manufacturer. The restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

An incarcerated person in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1022.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

Body Armor

1024.1 PURPOSE AND SCOPE

To establish guidelines for the issuance, proper use, and care of protective vests for the San Bernardino Police Department.

To maximize officer safety through the use of protective vests in combination with prescribed safety procedures. While protective vests provide a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1024.2 POLICY

All sworn personnel shall conform to the standards of this policy, which are based on the Bulletproof Vest Partnership Program and statistics from the Bureau of Justice Assistance.

1024.3 ISSUANCE OF BODY ARMOR

- (a) All vests must comply with the protective and rated requirements prescribed under current standards of the National Institute of Justice.
- (b) All officers shall be issued an agency-approved protective vest. When a new officer is sworn in, he/she shall be issued a vest that is in stock, in the event a vest does not properly fit an appointment shall be made with the approved vest vendor for a new vest fitting.
- (c) Body armor that is worn or damaged shall be replaced by the department. Body armor that must be replaced due to misuse or abuse by the officer shall be paid for the officer.
- (d) Any officer possessing a vest five years old according to the date of the vest shall contact their immediate supervisor at least 90 days prior to the expiration to be fitted for a new vest. Supervisors shall make arrangements with Administration to have this done. Officers notified of a vest fitting appointment shall comply with that appointment time.
- (e) Personnel experiencing a need for alterations within the five year period shall notify their immediate supervisor. Requests shall be considered on a case by case basis and upon vendor recommendation.
- (f) An officer requesting an upgrade to their vest shall pay the difference in costs to the vendor. If the vendor will not accommodate the upgrade the officer can choose to accept the vest provided or pay the total cost of another vest.
- (g) When an officer receives a vest it is the responsibility of the officer to notify their supervisor within 30 days if the vest does not fit properly. If notification is not made the alteration cost will be the responsibility of the officer. The supervisor will notify Administration of the request for alterations.

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- (h) When an officer leaves our employment the vest (upgraded or not) shall be returned to the department.

1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1024.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

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1024.4 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

Personnel Records

1026.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1026.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1026.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently retained.
- (e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).
 - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
 - 2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
 - 3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
 - 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).
- (g) Commendations and awards.
 - (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1026.5 TRAINING FILE

An individual training file shall be maintained by the Personnel and Training Supervisor for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Personnel and Training Supervisor or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Personnel and Training Supervisor or supervisor shall ensure that copies of such training records are placed in the member's training file.

1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION

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

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes

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a statement which is published in the media and which the officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

1026.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Bureau in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Professional Standards Bureau supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1026.7 MEDICAL FILE

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

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

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1026.7.1 DEPARTMENT FILE

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

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Disciplinary action:
 - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least two years (Government Code § 34090).
 - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
 - 3. Investigations of complaints which 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 Professional Standards Bureau file.
 - 4. Written Reprimands
- (c) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (d) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (e) A photograph of the employee shall be permanently retained.

1026.7.2 DIVISION FILE

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
 - (a) All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.
 - (b) Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.
 - (c) Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.
- (b) Adverse comments such as training consultation entries may be retained in the division file after the employee has had the opportunity to read and initial the comment and for a period up to one year (Government Code § 3305).

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1. 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 adverse comment within 30 days (Government Code § 3306).
 2. Any such employee response shall be attached to and retained with the original adverse comment.
 3. 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 comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (c) All rules of confidentiality and disclosure shall apply equally to the division file.

1026.7.3 PROFESSIONAL STANDARDS BUREAU FILE

Professional Standards Bureau files shall be maintained under the exclusive control of the Professional Standards Bureau in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the supervisor of the Professional Standards Bureau. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
 1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yyPSB-001, yyPSB-002).
 2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- (b) 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 adversely affect an employee's career (Penal Code § 832.5 (c)).

1026.7.4 TRAINING FILES

An individual training file shall be maintained by the Personnel and Training Unit for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Personnel and Training Supervisor or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Personnel and Training Supervisor shall ensure that copies of such training records are placed in the employee's training file.

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1026.7.5 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:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) 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.

1026.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1026.8.1 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection through a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

1026.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Professional Standards Bureau supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

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For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

- (a) Records relating to the report, investigation, or findings of:
 1. The discharge of a firearm at another person by an officer.
 2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
 3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
 4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.
- (b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:
 1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
 3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color,

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national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the Department or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

1026.9.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

1026.9.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations

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1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
 2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.
- (b) Filed criminal charges
1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
1. Disclosure may be delayed until:
 - (a) There is a determination from the investigation whether the misconduct or use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the misconduct or use of force or allegation of misconduct or use of force

1026.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

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In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

Lateral Transfer Policy

1028.1 PURPOSE

A uniform and equitable lateral transfer policy in specialty assignments is essential for overall department effectiveness and the furtherance of individual career goals. The Chief of Police retains ultimate discretion as to all transfers, as well as application of specific provisions herein. Furthermore, the Chief of Police has the discretion to extend or shorten the duration of any assignment as deemed necessary for the good of the Department. The provisions outlined in this policy shall be applicable to the ranks of Officer (P-1), Detective/Corporal (P-2) and Sergeant (P-3).

1028.2 POLICY

Any assignment, other than patrol, shall be deemed a specialty for the P-1 and P-3 ranks. Any assignment, other than patrol or the Detective Bureau, shall be deemed a specialty for the P-2 rank. Employees at the rank of Detective/Corporal (P-2) may be assigned to either the Detective Bureau or Patrol at any time at the discretion of the Chief of Police or his designee.

Anticipated openings for specialty assignments will be announced and posted for a minimum of one week. All interested and qualified personnel shall submit by memorandum to the respective Division Captain a "Statement of Interest and Qualifications" for the specialty assignment and forward a copy of it to their immediate supervisor. The immediate supervisor shall forward, under separate cover, a memorandum addressing the applicant's suitability and recommendation or non-recommendation for the desired assignment.

1028.3 PROCEDURE FOR SWORN PERSONNEL

1028.3.1 ELIGIBILITY

- (a) P-1 employees shall have a minimum of two years' patrol experience before being eligible for specialty assignments.
- (b) P-2 employees shall have a minimum of one year of patrol or Detective Bureau experience before being eligible for specialty assignments.
- (c) P-3 employees shall have a minimum of one year of patrol experience before being eligible for specialty assignments.

1028.3.2 MINIMUM QUALIFICATIONS FOR SPECIALTY ASSIGNMENTS

To be considered for a specialty assignment, the candidate must have a demonstrated interest by one or more of the following methods: self-initiated training, volunteer time with the specialty unit, college courses in the specialty area, work productivity, etc. Successful candidates must also meet the needs of specialty units which may include physical attributes that are consistent with assignment needs, willingness to work flexible work hours, etc. Additionally, a candidate's suitability will be evaluated on a demonstrated ability to work in a team environment. The ability to work without requiring close supervision is also required. Lastly, the candidate's work attendance will be considered.

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1028.3.3 SELECTION PROCESS

- (a) P-1/P-2: The specialty assignment supervisor shall assess each applicant's supervisory recommendation or non-recommendation and "Statement of Interest and Qualifications" and select the five most qualified candidates. The unit manager and supervisor will interview and assess the top five candidates. The assessment will include the candidate's "Statement of Interest and Qualifications," a review of training files, 201 file, and recommendations of Department supervisors. Candidates of equal merit will be selected by seniority.
- (b) P-3: The Division Captain, or designee, and a unit manager will interview and assess all candidates. The assessment will include the candidate's "Statement of Interest and Qualifications," a review of training files, 201 file, and a recommendation or non-recommendation by the candidate's current manager. Candidates of equal merit will be selected by seniority.

Designees acting on direction from the Chief of Police will conduct the above review and assessment process for Professional Standards Bureau applicants.

Recommendations will be made to the Chief of Police or his designee, who must approve all selections. Selection(s) should be announced within one week of the conclusion of interviews. The immediate vacancies will be filled from the list of those deemed fully qualified, any one of whom may be recommended by the Division Captain to the Chief of Police.

Candidates not selected from the list shall, upon request, be briefed by the respective Division Captain and/or unit manager relative to their non-selection. Such candidates will remain on an active list for one year, which will run from the date of the list.

1028.3.4 DURATION OF ASSIGNMENTS

- (a) The following assignments are considered Specialty Assignments shall have the following durations:

Special Assignment	Duration
Traffic Sergeant	8 Years
Detective Bureau Sergeant	6 Years
Special Investigation Unit Sergeant	6 Years
Narcotics Sergeant	6 Years
MET Sergeant	6 Years
Task Force Sergeant	6 Years
Commercial Enforcement Sergeant	6 Years
Community Affairs Sergeant	6 Years
Motor Officer P-1/P-2	6 Years
Special Investigations Unit P-1/P-2	5 Years
Narcotics Unit P-1/P-2	5 Years
MET P-1/P-2	5 Years
Vice Officer P-1	5 Years

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Task Force Officers P-1/P2	5 Years
Commercial Enforcement Officer P-1	5 Year

1. All employees selected for special assignments shall maintain annual employee performance evaluations with a rating of "Meets Standards" or higher in all rated areas. Failure to maintain an annual evaluation of "Meets Standards" or higher in all rated areas may result in removal from a special assignment.
2. Specialty assignment incumbents who have either exhausted their allotted time in the assignment or who have been promoted to a higher rank shall transfer to a patrol or Detective Bureau assignment for a minimum of one year before returning to a specialty assignment.

b. The following assignments are considered Details and are not subject to the Lateral Transfer Policy:

Details	Duration
District Operations Sergeant	4 Years
Community Affairs Sergeant	4 Years
Professional Standards Bureau Sergeant	4 Years
Special Events Sergeant	4 Years
Professional Standards Bureau Detective	4 Years
Personnel and Training Corporal/Officers	3 Years
K9 Handler P-1	4 Years incrementally up to the Life of the Dog
District Resource Officers P-1	3 Years
BMET P-1	3 Years
San Manuel Officer P-1	3 Years
COAST Officer P-1	3 Years
Dignity Health Officer P-1	3 Years
Community Affairs Officer	3 Years
Academy Guest Tactical Officer P-1	1 Year

1028.4 PROCEDURE FOR CIVILIAN PERSONNEL - COMMUNITY SERVICE OFFICER

Community Service Officer Civilian employees will be selected for specialty assignments in a manner consistent with this policy.

1028.4.1 ELIGIBILITY

- (a) CSO's shall have a minimum of two years continual employment as a CSO I with the department prior to being eligible for specialty assignments.
- (b) CSO's dependent upon eligibility/availability may compete for a specialty assignment when a vacancy exists or when an announcement indicates anticipated openings.
- (c) Eligible CSO's shall have no sustained discipline (higher than a written reprimand) within the last three years. No written reprimands within one year (waiver at the discretion of the Chief of Police).

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Lateral Transfer Policy

1028.4.2 SPECIALTY ASSIGNMENTS

For the purposes of this policy, specialty assignments are:

- (a) Detective Bureau
- (b) Special Investigations Bureau
- (c) Other specialized assignments that are subsequently created.

1028.4.3 SELECTION PROCESS

Civilian employees will be assigned in a manner consistent with the prevailing MOU. Employees interested in specialty assignments will be required to submit a "Statement of Interest and Qualifications" to the appropriate Division Captain for the assignment, and forward a copy of same to their immediate supervisor. The immediate supervisor shall forward under separate cover a memo addressing the applicant's suitability for the desired assignment.

The Division Captain or designee and the unit manager will conduct an assessment of the statement of interest, 201 file, and supervisor recommendation. Based on this assessment, the top five candidates will be interviewed. Candidates of equal merit will be selected by seniority.

Recommendations will be made to the Chief of Police, who must approve all selections. Selections should be announced within one week of the conclusion of the interviews.

Any candidate not selected for a specialty assignment, upon request, will be briefed by the respective Division Captain or designee regarding their non-selection. The list of top five candidates will remain active for one year.

1028.4.4 DURATION OF ASSIGNMENTS

- (a) Specialty assignments shall have no minimum or maximum duration.
- (b) All employees selected for special assignments shall maintain annual employment performance evaluations with a rating of "Meets Standards" or higher in all rated areas. Failure to maintain an annual evaluation of "Meets Standards" or higher in all rated areas may result in removal from a special assignment.

Employee Commendations

1030.1 PURPOSE AND SCOPE

To properly honor department employees who perform meritorious service or acts of bravery, and private persons who have expended their time and talents or endangered their lives to assist members of this department in the performance of police duties and functions.

1030.2 TIME CONSIDERATIONS

Awards will be considered at the Chief's discretion.

All actions to be considered for awards will be submitted completed and on the correct forms by the dates determined by the awards committee. The awards committee will meet on the dates set by the head of the committee to review the submissions. Recommendations from the committee will be presented to the Chief of Police for final review.

1030.3 EMPLOYEE COMMENDATIONS

The department will award appropriate commendations to employees and on-duty reserve officers who perform services or acts deserving official recognition.

- (a) Minor Commendations: A minor commendatory act may be recognized through the completion of the employee consultation report.
- (b) Major Commendations: Outstanding performance of duty or an act involving commendatory action or bravery shall be recognized through a major commendation, which includes the conferring of a departmental medal.

1030.4 INDIVIDUAL AWARDS FOR BRAVERY

The conferring of an award for bravery shall be in recognition of a single action performed by a department employee. Several commendatory incidents of bravery, each being worthy of an award, will not qualify the employee for a higher award.

- (a) Medal of Valor: The Medal of Valor is the department's highest award and may be awarded to employees who distinguish themselves by conspicuous bravery or heroism in the performance of an act of gallantry and valor at imminent personal hazard to life, with knowledge of the risk, and beyond the call of duty.
- (b) Police Distinguished Service Medal: The Police Distinguished Service Medal is the department's award for service and may be awarded to employees who distinguish themselves by performing exceptional service in a duty of great responsibility or of critical importance to law enforcement.
- (c) Police Cross: The Police Cross may be awarded to employees who distinguish themselves by bravery or heroism while engaged in personal combat with an armed adversary at imminent personal hazard to life, above and beyond the normal demands of duty.

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- (d) **Police Purple Heart:** The Purple Heart may be awarded to employees who are attacked by a suspect with a weapon that causes serious injury to the employee, while in the performance of their duties.
- (e) **Police Star for Merit:** The Police Star for Merit may be awarded to employees for an act of personal bravery intelligently performed in the line of duty, but to a lesser degree than required for the Police Cross.
- (f) **The Meritorious Service Award:** The Meritorious Service Award is an award for persons who retire from active service with at least 20 years of service with the San Bernardino Police Department. If an employee retires WITH prejudice, the Awards Committee may choose not to present the award. The Meritorious Service Award may also be conferred on individuals who provide a valuable service to the department, in a duty of great responsibility or of a critical importance to law enforcement, but to a lesser degree than required for the Distinguished Service Medal.
- (g) **Lifesaving Medal:** The San Bernardino Police Department's Lifesaving Medal may be awarded to those employees or citizens who distinguish themselves by saving a life through CPR, first aid, or rescue, and may have placed themselves into danger, but to a lesser degree than required for the Medal of Valor.

1030.5 INDIVIDUAL AWARDS FOR SERVICE

Individual awards for service are based on exceptional performance of duty which has contributed to the success of a major project, field operation, or furthers greatly the aims of the department and the community. Tenure is not considered for purposes of such an award.

- (a) **Blue 10851 Award Pin:** All police officers and community service representatives who meet any of the following criteria will receive recognition for their accomplishments in the form of an outstanding performance award. A 10851 pin will be given with the award to all recipients who:
 - 1. Make six separate incident "rolling" stolen vehicle in-custody arrests.
 - 2. Recover a total of 12 stolen vehicles, in which a minimum of three must be "rolling" stolen.
 - 3. Develop information that results in the identification of a theft ring, subsequent arrest of two or more suspects, and the recovery of at least ten vehicles.
- (b) **Gold Master 10851 Award Pin:** All police officers who meet the above criteria and receive the Blue 10851 Award Pin five times are eligible for the Master 10851 Award Pin and will receive this pin in lieu of the fifth blue pin.
- (c) **Police Officer Standard of Excellence Award:** The Police Officer Standard of Excellence Award is for a P1 who regularly demonstrates commitment and dedication to our community and agency. This can be illustrated by extracurricular community engagement; development and execution of a plan/operation that has a major and lasting impact on the community, crime, and/or quality of life within the community; or other extraordinary service or outcome within the community and/or department. This

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officer must have high-quality evaluations, no recent discipline, regularly demonstrate professionalism, and must not have excessive absences from work.

- (d) Investigator Standard of Excellence Award: The Investigator Standard of Excellence Award is for a Detective/Corporal, who consistently manage/initiate high-quality investigations imposing a major impact on crime in our community. This can be illustrated through several high-quality investigations or one large-scale inclusive investigation. The Investigator must have high-quality evaluations, no recent discipline, regularly demonstrate professionalism, and not have excessive absences from work.
- (e) Professional Staff Standard of Excellence Award: The Professional Staff Standard of Excellence Award is for a non-sworn employee who regularly demonstrates commitment and dedication to our community and agency. This can be illustrated through consistent positive attitude, suggesting/implementing an innovative strategy to increase the organization's service to the community, consistent positive service contacts, and/or interdivisional assistance to increase the efficacy of the department. The employee must have high-quality evaluations, no recent discipline, and must not have excessive absences from work.
- (f) Dispatcher Standard of Excellence Award: The Dispatcher Standard of Excellence Award, also known as the Arnold Blechinger Memorial Award, is for a Dispatcher or Dispatch Supervisor who regularly demonstrates outstanding performance and commitment through dedicated service, leadership, innovation, and professionalism. This can be demonstrated through having a positive attitude, exceptional skill, loyalty, and respect for the department and coworkers, making contributions to the improvement of the Dispatcher Center and not having excessive absences. The employee must not have any recent discipline.

The Awards/Commendations Committee and the Chief of Police award major commendations in the name of the department. Awards are to be presented by person/s recommended by the Awards/Commendations Committee at an appropriate awards ceremony.

1030.6 UNIT AWARD

The Unit Citation for outstanding performance may be conferred upon a unit/team of the department. The commendatory accomplishment must be the result of a combined effort by all the members of the unit.

- (a) The Unit Citation is the department's only unit award and may be awarded to an organizational unit of the department for bravery or extraordinary service furthering the Department's mission by its members functioning as a team.

1030.7 COMMENDATIONS FOR PRIVATE PERSONS

The department will award appropriate commendations to private citizens who perform services or acts deserving official recognition.

- (a) Police Citizen's Medal: A Police Citizen's Medal may be awarded for an act of heroism which involves great risk of personal injury or death.

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- (b) Department Certificate of Appreciation: A Certificate of Appreciation may be awarded for an exemplary contribution or an outstanding act of service which assists the department or law enforcement profession in fulfilling its objectives. The certificate is signed by the Chief of Police.
- (c) Certificates of Recognition: A Certificate of Recognition may be awarded for a higher degree of service or assistance that assists either the department, division, or area in accomplishing its objectives. The certificate is signed by the Chief of Police.

The Awards/Commendations Committee and the Chief of Police award all private person commendations in the name of the department. The awards to be presented by person/s recommended by the Awards/Commendations committee at an appropriate awards ceremony.

1030.8 REPORTING COMMENDATIONS

- (a) Recommending Commendations: Recommendations for commendations of an employee or private person may be initiated by any member of the department who becomes aware of an act that is believed to be exceptional.
- (b) Duty to Report: An employee shall report to his immediate supervisor acts worthy of commendation which he may observe or which are reported to him/her.
- (c) How to Report: A written commendation may be made by any supervisor regarding another employee of the department if the reporting supervisor is superior in rank or pay grade, or if he/she is the officer in charge of the employee reported upon.
 - 1. Minor Commendation: An employee consultation form is used to record a minor commendation.
 - 2. Major Commendation: A commendation report form shall be used to recommend a major commendation. A detailed report shall be made for each involved employee. Charts, diagrams, reports, and photographs may be used.
 - 3. 10851 Pins: Employees who wish to apply for the 10851 award will submit the data involving the vehicle theft recoveries on a form to be provided by the Investigations Division. The form must be completed and submitted to a supervisor for validation. The supervisor will validate the information by attaching those reports that show the criteria has been met. The supervisor will sign the form to certify it. The form will be submitted to the assigned Investigations sergeant for processing with the Highway Patrol and the Automobile Club.
- (d) Commanding Officer Review: All commendatory reports shall be forwarded to the Commanding Officer of the commended employee for review. After approval of the Commanding Officer, a minor commendation shall be read and initialed by the commended employee and filed in the employee's 201 file. A major commendation report form approved by the Commanding Officer shall be forwarded to the Division Captain for review.

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- (e) Division Captain's Review: Those reports the Division Captain believes to be worthy of further consideration shall be forwarded to the Chairman of the Awards/Commendations Committee. Others shall be returned to the area of origin for further documentation, or if appropriate, may be classified as minor commendations.

1030.9 AWARDS / COMMENDATIONS COMMITTEE

- (a) The committee shall be responsible for:
 - 1. Evaluating all reports received from the Division Captains meeting the criteria for appropriate action.
 - 2. Forwarding all reports to the Chief of Police along with the committee's recommendation, whether for approval or disapproval.
- (b) Membership:
 - 1. The committee shall be composed for five members; three to be selected by the president and board of directors of the Police Officers' Association, to include representatives from each of the major divisions (Operations and Investigations); and two chosen by the Chief of Police. The chairman of the committee will be chosen by mutual agreement among the members of the committee.
 - 2. In order to constitute a committee quorum, at least four members must be present; two must represent each of the major divisions.

1030.10 APPROVING COMMENDATIONS

The Chief of Police will have the final review of all major commendations.

- (a) Approved commendations will be returned to the Awards/Commendations Committee for further preparation.
- (b) Commendations not approved by the Chief of Police will be returned to the committee for further review and action.
- (c) Disapproved commendations may be resubmitted to the Chief of Police with further documentation or a recommendation for a lesser award.
- (d) Recommendations for major awards may be initiated by the Chief of Police. Recommendations from the Chief's Office will not require approval by the Awards/Commendations Committee.

1030.11 RECOGNITION OF EMPLOYEE

- (a) Individual Awards: A copy of the individual award citation, if any, and a copy of the approved commendation report shall be placed in the commended employee's 201 file and a copy forwarded to the City's Personnel Department.

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- (b) Publication of Awards: All major commendations awards shall be acknowledged in an official publication of the department or as otherwise directed by the Chief of Police

1030.12 COMMENDATIONS OF OUTSIDE SOURCES

A written commendation originating from outside the department shall be reviewed by the commended officer's Commanding Officer. The report shall be handled as follows:

- (a) Minor Commendations: A commendation received from an outside source which appears to fall in the minor commendation category shall be filed in the employee's 201 file after being read and initialed by the commended employee.
- (b) Major Commendations: A commendation received from an outside source which appears to fall within the major commendation category shall be the basis for a commendation report form prepared at the direction of the employee's Commanding Officer.

Fitness for Duty

1032.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

1032.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1032.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Captain, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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1032.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1032.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Captain, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

1032.7 LIMITATION ON HOURS WORKED

Supervisors shall evaluate members' performance for fatigue as a result of extended work shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who's performance is affected as a result of extended work shifts..

1032.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

Meal Periods and Breaks

1034.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager and agreed upon in employee MOU's.

1034.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Uniformed patrol and traffic officers shall request clearance from Dispatch prior to taking a meal period. All employees shall take their breaks within the City limits unless on assignment outside of the City.

There shall be no more than two marked police units, including motorcycles at any one place at the same break. (Exception: Between 2200 and 0200 hours, three marked units may be at the same break location).

Meal period lengths vary based on employee classification and assignment. Generally, these are established via the Memorandum of Understanding signed by a representative organization for the job classification.

Generally, sworn Department personnel are limited to a 30-minute meal period. Deviations are permissible with supervisory permission.

1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the midpoint, for each three-hour work period. Only one 15 minute break shall be taken during each three hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of Dispatch.

Lactation Break Policy

1035.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child (Labor Code § 1034).

1035.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing infant child (29 USC § 218d; Labor Code § 1030).

1035.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 218d; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1035.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 218d; Labor Code § 1031).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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1035.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member ends her shift.

1035.5.1 STATE REQUIREMENTS

Members have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Members who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

Payroll Records

1036.1 PURPOSE AND SCOPE

Payroll records are submitted to City Hall - Finance Department on a bi-weekly basis for the payment of wages.

1036.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages. It is the employee's responsibility to submit Leave Authorization slips and have those slips approved by their immediate supervisor when taking time off from their regular shift (i.e. sick time, vacation time, holiday time, court time etc...). Leave Authorization slips must be forwarded to the staff designee completing payroll records for the employee's unit to ensure that the employee's time is accurately reflected in payroll records.

1036.1.2 TIME REQUIREMENTS

All employees are paid every other Thursday, in accordance with the City bi-weekly payroll calendar. Payroll records shall be completed and submitted to the Police Department Financial Unit no later than the day following the end of the pay period, unless specified otherwise. The PD Financial Unit will verify payroll records and forward to City Hall - Finance for payment to the employee.

1036.2 RECORDS

The Administrative Services Captain shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

Overtime Compensation Requests

1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 480 hours of accrued compensatory time. Overtime may not be accrued as Compensatory Time is the activity worked is reimbursed to the City by an outside entity (i.e. special events, grant programs etc...), in those cases, payment must be made to the employee.

1038.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practical for verification and forwarding them to the unit payroll designee. Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1038.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the Watch Commander. Employees submitting overtime slips for on-call pay when off duty shall submit slips to the Watch Commander or unit manager the first day after returning for work.

1038.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

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1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., 3 1/2 hours for Court appearances).

1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
1 to 15 minutes	¼ hour
16 to 30 minutes	½ hour
31 to 45 minutes	¾ hour
46 to 60 minutes	1 hour

1038.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy as well as DDL 50 and Policy and Procedures § 5.06- § 5.11.

1040.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Off-Duty Work Permit Application which shall be submitted to the employee's Division Captain. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Off-Duty Work Permit Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

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If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

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- (e) Involves employment with establishments that primarily sell alcohol, private investigative firms where a clear conflict exists, any business that sells pornography or where gambling occurs.

1040.3.1 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.2 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Captain, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of

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any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their Division Captain in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The Bureau Commander shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the San Bernardino Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

Occupational Disease and Work-Related Injury Reporting

1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

1042.2 POLICY

The San Bernardino Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

1042.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent

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and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under Policy Manual § 1042.2. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Watch Commander's office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury form shall be completed. All copies of the completed form shall be forwarded to the supervisor's Division Captain, through the chain of command.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Division Captain as soon as they are completed.

1042.2.5 CAPTAIN RESPONSIBILITY

The Captain receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police.

1042.2.6 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police shall review and forward copies of the report to Human Resources. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual § 1026).

1042.3 INJURY NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

1042.4 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To

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ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

1042.4.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

1042.4.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than ten (10) days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief of Police. The purpose of such notice to permit the City to determine whether or not the offered settlement will affect any claim the City may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

Personal Appearance Standards

1044.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1044.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1044.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, if the hair is worn down, it will not extend below the bottom of the shirt collar. If the hair is longer than the bottom of the shirt collar it shall be worn up and, if not secured to the head, shall not extend below the bottom of the shirt collar. Hair on the forehead shall not be lower than $\frac{3}{4}$ " from the highest part of the eyebrow.

1044.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn by sworn personnel, unless authorized by the Chief of Police or his or her designee.

Neatly groomed facial hair other than sideburns, mustaches and eyebrows may be worn by non-uniformed, non-sworn personnel.

Neatly groomed facial hair other than sideburns, mustaches and eyebrows may be worn by Dispatch personnel. Facial hair shall be either a groomed and maintained full goatee or beard, notching is not permitted. Facial hair must not be longer than two inches in length. All facial hair will be worn in a manner that reflects a professional image on the department while in civilian attire and uniform.

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1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

For non-uniformed female employees, fingernails can extend no more than 1/4" beyond the tip of the finger.

1044.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1044.2.7 MAKE-UP

- Make-up shall be conservative
- If eye shadow is worn, it shall be conservative and of neutral shades.

1044.3 TATTOOS

It is the policy of this agency that tattoos or brands that are detrimental to good order are prohibited. Additionally, while on or off-duty in uniform or on-duty civilian attire, employees are prohibited from exhibiting tattoos, body art, or brands that are offensive or demeaning to persons of ordinary sensibilities. This policy may be rescinded or modified at any time by the Chief of Police.

1044.3.1 PURPOSE

This policy establishes specific guidelines for the display of tattoos, brandings, and/or scarifications by members of this Department. It places accountability for compliance not only upon each employee, but also upon their supervisors and commanding officers.

1044.3.2 DEFINITIONS

Body modification: a deliberate altering of the human anatomy or human physical appearance.

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Brand: a picture, design, or other marking that is burned into the skin or other areas of the body. Body markings are pictures, designs, or other markings as a result of using means other than burning to permanently scar or mark the skin.

Extremist: extremist tattoos or brands are those affiliated with, depicting, or symbolizing extremist philosophies, organizations, or activities. Extremist philosophies, organizations, and activities are those which advocate hatred or intolerance based on race, ethnicity, national origin, gender, gender identity, sexual orientation, religion, economic status, age, or disability; advocate, create, or engage in illegal discrimination based on race, ethnicity, national origin, gender, sexual orientation, gender identity, religion, economic status, age or disability; or advocate violence or other unlawful means of depriving individuals rights infer the U.S. Constitution, and Federal or State law.

Indecent: indecent tattoos or brands are those that depict nudity or are offensive to modesty, decency, propriety, or professionalism.

Political: relating to the symbols, causes, ideas or strategies of a particular party or group in politics, including special interest groups.

Racist: racist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on race, ethnicity, or national origin.

Sexist: sexist tattoos or brands are those that advocate a philosophy that degrades or demeans a person or group of people based on gender.

Tattoo/body art: a picture, design, or marking made on the skin or other areas of the body by staining it with an indelible dye, or by any other methods including pictures, designs, or markings only detectable or visible under certain conditions (as in an ultraviolet light or invisible ink tattoo). The term tattoo and body art are interchangeable.

1044.3.3 PROHIBITED MARKINGS/LOCATIONS

At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo, body art, brand, or scarification be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

All employees are prohibited from having tattoos on any part of the hands, neck, face, head, eyelids, mouth, and ears with the following exceptions:

- Tattoo of a wedding band on the ring finger
- Permanent facial make-up on the eyebrows, eyeliner, and lips that is conservative

Any tattoo/body art or brand that implies a negative bias toward any group will cause the employee to be subject to disciplinary action, up to and including termination.

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1044.3.4 CONCEALMENT

The Department reserves the right to require employees to conceal their tattoos/body art or brands if deemed necessary to comport with evolving standards. This policy and its exceptions do not grant permanent approval to display any tattoos/body art or brand subsequently deemed unacceptable for display, and employees may be required to cover them at any time.

Any symbols or markings inconsistent with the Department's values or community relations objectives are prohibited from display while on-duty.

1044.3.5 AUTHORIZATION FOR VISIBLE TATTOOS/BRANDS

Current employees are required to receive approval from the Chief of Police or his/her designee for display of tattoos or brands. Any tattoo or brand deemed inappropriate or inconsistent with department values or policy, will be required to be concealed while on-duty.

Employees are encouraged to submit designs for new tattoos to their Division Commander when there is doubt about compliance with this policy.

1044.3.6 SPECIALIZED ASSIGNMENTS AND COURT APPEARANCES

Specialized assignments are subject to tattoo display approval at the discretion of the Chief of Police or his/her designee.

Department personnel appearing in court (criminal or civil), in or out of uniform, shall not display any tattoos, brands, or body art during their presence in the courtroom or during testimony.

1044.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features, and which is not medically required is prohibited, unless approved by the Chief of Police or his/her designee. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose, or teeth

1044.5 COVERINGS

Any non-exempt tattoos, scarifications or brands worn by uniformed and non-uniformed Police Department personnel shall not be visible while on duty or representing the Department in any official capacity. Non-exempt tattoos, scarifications, or brands must be covered with:

- Department approved uniform, including but not limited to a long-sleeve shirt, jacket, sweater, turtleneck sweater, Dickie, or pants.
- Skin-colored patch not exceeding 3-inches by 3-inches may be used if the object can be covered by one patch. A member shall not use multiple patches on their body.
- Skin-colored athletic type arm sleeve to completely cover larger tattoos.
- Skin-colored cosmetic makeup if the object is completely covered and not merely

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"faded" or "blurred."

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1044.6 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the San Bernardino Police Department is established to ensure that both sworn and professional staff will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

Policy Manual § 700 - Department Owned and Personal Property

Policy Manual § 1024 - Body Armor

Policy Manual § 1044 - Grooming Standards

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications. The manual can be located on the department's intranet.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition. At minimum a "Class B" shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment (Penal Code § 13655).
- (d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.
- (e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.
- (h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off duty.
- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (j) Mirrored sunglasses will not be worn with any Department uniform.

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- (k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.
 - 1. Wrist watch
 - 2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
 - 3. Medical alert bracelet

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Captain.
- (c) While at the main station, all personnel not in uniform shall display the department issued identification card. The identification card shall be displayed either on a lanyard or clip to visibly identify them as department personnel.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve shirt with tie
- (b) Polished shoes
- (c) Leather Gear (Duty Belt, Holster etc...)
- (d) Dress Cover / Hat

Boots with pointed toes are not permitted.

1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required
- (b) A blackcrew neck t-shirt must be worn with the uniform

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- (c) All shirt buttons must remain buttoned except for the last button at the neck
- (d) Shoes for the Class B uniform may be as described in the Class A uniform
- (e) Boots with pointed toes are not permitted

1046.3.3 CLASS C UNIFORM

The Class C uniform is specified as the warm weather / summer / optional uniform set forth in the Uniform Specifications Manual. The Chief of Police will establish the regulations and conditions for wearing the Class C Uniform and the specifications for the Class C Uniform.

1046.3.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

1046.3.5 FOUL WEATHER GEAR

The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

1046.3.6 UTILITY UNIFORM

The utility uniform will be issued to sworn officers upon appointment. The uniform may be worn when authorized by the Division Captain or the Watch Commander and shall be available at the station at all times.

1046.4 INSIGNIA AND PATCHES

Refer to the Uniform Specifications Manual for specifics regarding insignia's and patches. Authorized department patches shall be machine stitched onto the sleeves of all uniform shirts and jackets, three quarters of an inch below the shoulder seam of the shirt and bisected by the crease in the sleeve.

1046.4.1 MOURNING BADGE

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty, with the authorization of the Chief of Police. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

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1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel who wear civilian clothing to work shall wear button style shirts with a collar, appropriate tie, and slacks or suits that are moderate in style.
- (c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
- (d) The following items shall not be worn on duty:
 - 1. T-shirt alone
 - 2. Open toed sandals or thongs
 - 3. Swimsuit, tube tops, or halter-tops
 - 4. Spandex type pants or see-through clothing
 - 5. Distasteful printed slogans, buttons or pins
- (e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the San Bernardino Police Department or the morale of the employees.

1046.5.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies or as directed. The Class A uniform is required for all civilian personnel. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve light blue shirt with tie and tie bar.
- (b) Polished shoes.
- (c) Black basket weave belt required with apparel that has belt loops.

All civilians will possess and maintain a serviceable Class A uniform at all times.

Boots with pointed toes are not permitted.

1046.5.2 POLO SHIRT

Administrative, Investigative and Dispatch personnel are authorized to wear the optional polo shirt uniform as specified in the Uniform and Equipment Specifications.

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1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, San Bernardino Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the San Bernardino Police Department to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this order as optional shall be done as follows:
 - 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
 - 2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (Policy Manual § 700).

1046.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a flat badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the San Bernardino Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A flat badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words "Retired" clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the San Bernardino Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

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1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

San Bernardino Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

San Bernardino Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Police Cadets

1048.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.2 EDUCATION REQUIREMENTS

Cadets are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester.

1048.3 PROGRAM COORDINATOR

The Investigations Division Captain shall designate someone as the Program Coordinator. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

1048.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Cadet Program. These officers will serve as mentors for each cadet. Cadets will bring special requests, concerns, and suggestions to their program advisor for advice or direction before contacting the Program Coordinator. One advisor may be designated as the Coordinator's assistant to lead scheduled meetings and training sessions involving the cadets. Multiple cadets may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the Program Coordinator.

1048.4 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1048.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for civilian employees.

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1048.6 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the Personnel and Training Unit Supervisor.

In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.

1048.7 RIDE-ALONG PROCEDURES

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets shall wear their uniform while participating on a ride-along.

1048.8 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed at the three, six and nine month period during their first year on probation. Upon successful completion of probation, cadets and senior cadets will be evaluated on a yearly basis to assess their current job performance and their potential as police officers.

Nepotism and Conflicting Relationships

1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1050.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940(a)):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
 - (c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
 - (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
 - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws. Only under unique circumstances can the Chief of Police exempt an employee from the requirements of this subsection based on the facts known at the time of the decision.

1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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1050.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

Department Badges

1052.1 PURPOSE AND SCOPE

The San Bernardino Police Department badge and uniform patch as well as the likeness of these items and the name of the San Bernardino Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1052.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

Employees shall be issued a regular uniform badge, a "Flat Badge" contained within a wallet and a hat badge (cap piece).

1052.2.1 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1052.2.2 RETIREE UNIFORM BADGE

Upon a promotion to a higher rank or an honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

The employee's badge shall be purchased at the current replacement cost of a new badge from the vendor the Department is currently using.

1052.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

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The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1052.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the San Bernardino Police Department. The following modifications shall be included:
 - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
 - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.

Temporary Modified-Duty Assignments

1054.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1054.2 POLICY

Subject to operational considerations, the San Bernardino Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1054.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the San Bernardino Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1054.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Captains or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Captain will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Captain, with notice to the Chief of Police.

1054.4.1 MODIFIED-DUTY SCHEDULES

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs at the discretion of the Captain.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

1054.4.2 ACCOUNTABILITY

The employee's supervisor shall coordinate efforts to ensure proper time accountability and ensure work schedules are updated.

- (a) Employees on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the employee's sick leave.
- (b) Employees shall promptly submit a status report for each visit to their treating health care provider and shall immediately notify their supervisor of any change in restrictions or limitations as determined by their health care provider. An employee assigned to a modified-duty assignment shall provide a duty status report to their supervisor no less than once every 30 days while the employee is on modified duty.
- (c) Supervisors shall keep the Captain apprised of the employee's status and ability to perform the modified-duty assignment. Modified-duty assignments that extend beyond

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60 days will require a written status report and a request for an extension to the Captain with an update of the employee's current status and anticipated date of return to regular duty. Extensions require approval of the Chief of Police.

- (d) When it is determined that an employee on modified duty will return to regular duty, the supervisor shall notify the Captain and complete and process a change of shift/assignment form. All training and certification necessary for return to duty shall be reviewed and updated as necessary.
- (e) Employees on modified duty shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness. Participation in any of the aforementioned activities while an employee is assigned to modified duty shall be considered evidence that the employee no longer requires modified duty, and may be sent for a fit-for-duty evaluation to determine whether the employee may be returned to full-duty status.

1054.4.3 MEDICAL EXAMINATIONS

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

1054.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Captain.

1054.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Captain that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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1054.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Captain, through the chain of command, of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1054.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1054.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

Employee Speech, Expression and Social Networking

1058.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1058.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

1058.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the San Bernardino Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1058.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the San Bernardino Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

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- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

1058.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the department's safety, performance, and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the San Bernardino Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the San Bernardino Police Department and tends to compromise or damage the mission, function, reputation, or professionalism of the San Bernardino Police Department or its employees. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitution.
 2. Expression that demonstrates support for criminal activity.
 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the San Bernardino Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video, or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.
- (g) Posting, transmitting, or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the San Bernardino Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

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Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the San Bernardino Police Department or identify themselves in any way that could be reasonably perceived as representing the San Bernardino Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the San Bernardino Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1058.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

The Department shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Department

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may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1058.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

1058.7 TRAINING

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

Peer Support

1059.1 PURPOSE AND SCOPE

To outline the structure and function of a Peer Support Program for the police department.

1059.2 POLICY

During time of professional or personal crisis, an employee may be reluctant to seek professional help and may be more comfortable talking to a friend or co-worker. Therefore, the department will organize and maintain a team of trained peer support personnel who will be available to help fellow employees through times of need. Participation in the program is strictly voluntary.

Team members will be referred to as "peer supports." They will not be considered professional counselors and will not take the place of professional counseling services already available. The role of the peer supporter will be to listen, assess the situation, and refer the peer to further professional services as called for. The intention of the peer support program will be:

- (a) To provide a readily accessible support network of employees willing to be of aid to employees who express a need for assistance.
- (b) To promote trust and appropriate confidentiality for employees seeking help through the peer support program.
- (c) To develop employee awareness of available alternatives for self-help.
- (d) To maintain an effective, ongoing peer support training program.

1059.3 PEER SUPPORT PARTICIPATION

- (a) Selection Criteria
 1. Expressed desire to be a peer supporter.
 2. No medical work restrictions.
 3. Not the object of an ongoing major investigation or suffering from serious personal problems.
 4. Program administrator recommendation.
 5. Selections to be made by the program coordinator, with concurrence of the Chief of Police.
- (b) Removal from the Program.
 1. Peer supports may be removed from the program for breaching confidentiality or by personal choice. The decision to remove a peer supporter from the program will be made by the program coordinator based on the recommendation of a review board of peer supporters to be chosen by the program administrator.

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1059.4 PEER SUPPORT PROGRAM STRUCTURE

- (a) The peer support program will operate in direct association with The Counseling Team, which will:
 - 1. Conduct the initial three-day training seminar.
 - 2. Conduct semiannual training updates.
 - 3. Oversee the functioning of the program.
 - 4. Be available for assistance or advice to the peer supporters.
- (b) Within the department, the peer support program will have a coordinator who will:
 - 1. Be the rank of a sergeant.
 - 2. Act as a direct liaison between the peer support group and The Counseling Team.
 - 3. Ensure that everyone, including department administrators and staff, adheres to the peer support SOP, particularly concerning confidentiality of peer support matters.
 - 4. The program coordinator will preferably be a member from staff personnel as selected by the Chief of Police.
 - 5. Maintain an updated roster of their team members' information.
 - 6. Coordinate call-outs with the Watch Commander, determine number of supporters needed.
 - 7. Call out personnel.
- (c) The program will have an administrator and may have assistant administrators who will:
 - 1. Be the rank of a lieutenant or higher.
 - 2. Be chosen from among active peer supports by the program coordinator.
 - 3. Coordinate training schedules.
 - 4. Relay information to peer supporters.
 - 5. Maintain an accounting of resources used by the program.
 - 6. Regularly evaluate the need for increasing or decreasing the number of peer supporters. Those supporters in positions that create a conflict of interest or other obstacle may be placed on inactive status.
- (d) Peer supporters will:
 - 1. Respond to requests or needs for peer support whenever possible.

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2. Attend voluntary training updates whenever possible.

1059.5 TRAINING

- (a) Initial Peer Support Training
 1. Peer supporters will attend an initial three-day training seminar conducted by The Counseling Team, which is intended to provide a basic understanding of and techniques used in the following areas:
 - (a) Crisis identification and intervention.
 - (b) Listening skills.
 - (c) Assessment skills.
- (b) Semi-Annual Training
 - (a) Peer supporters should attend at least one semi-annual training class. New classes are offered quarterly by The Counseling Team.

1059.6 CONFIDENTIALITY

- (a) One of the most important responsibilities of the peer supporter is the promotion of trust, anonymity, and confidentiality for employees who seek the assistance of the peer support program. Therefore, communication between a peer supporter and an employee is privileged except for matters involving the following:
 1. Danger to self.
 2. Danger to others.
 3. Suspected child abuse.
 4. Suspected elder abuse.
 5. Domestic violence.
 6. Any felony crime.
- (b) With the exception of the above items, the department's policy will be that peer supporters will not be called to testify about peer support matters that are non-criminal in nature in internal investigations that fall within the department's jurisdiction.
- (c) Strict confidentiality is vital to the success of the program and will be maintained by all. The peer supporter's role is to provide emotional support and assistance for the peer. Therefore, privacy and confidence in the program are essential to its success and will not be jeopardized. If at any time peer supporters find it necessary to invoke the confidentiality provisions of the program, they should immediately consult The Counseling Team for guidelines and assistance.

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1059.7 OVERTIME

- (a) Participation in the program is on a volunteer basis, and overtime compensation will be expended only during department call-out situations.
- (b) When a peer supporter is called during off-duty time and must respond, he/she shall notify the department as soon as practical.

1059.8 USE OF DEPARTMENT FACILITY AND EQUIPMENT

- (a) Peer supporters may seek the use of available department resources including facilities and vehicles while they are assisting fellow employees.
- (b) Department facilities and vehicles will be used with the knowledge and approval of the Watch Commander.

Promotional Examination Process for Detective / P-2

1061.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion to Detective / P-2 within the ranks of the San Bernardino Police Department.

1061.2 ELIGIBILITY

- (a) All sworn police officers with a minimum of two years continuous, current service with the San Bernardino Police Department, including any such officers who resign and return to the department within 90 days and subsequently have seniority restored by the Civil Service Board resulting in two years current service.
- (b) A current Intermediate Certificate issued by the Commission on Peace Officer Standards and Training (POST) is required.

1061.3 EXAMINATION PROCESS

1061.3.1 OVERVIEW

- (a) The examination will consist of five parts:
 - 1. A written examination administered by Civil Service - pass/fail with no point value
 - 2. Personnel file review - 30 point value
 - 3. Performance oral interview - 30 point value
 - 4. Written exercise - 20 point value
 - 5. Promotability assessment consisting of a practical performance exercise and a supervisor/manager assessment - 10 point value each
- (b) Candidates must receive an aggregate total score of 70.0 points (70%) out of the 100 possible points to be placed on the promotional list.

1061.3.2 PERSONNEL FILE REVIEW - MAXIMUM 30 POINTS

- (a) A Division Captain, or designee, will conduct an assessment of the candidate's personnel and training files according to the following format. The review will be limited to information from the three (3) previous years, unless otherwise indicated. All time periods will be determined using the date on which Civil Service certifies the list of eligible candidates. The categories, maximum point values, and time periods are as follows:
 - 1. Education: 10 points (entire file)
 - 2. Longevity: 8 points (entire file)

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3. Awards and Commendations: 6 points (entire file, except for letters of recognition which shall go back 3 years)
4. Other Achievements: 6 points (last 5 years)
- (b) Education: Maximum 10 points
 1. The point values indicated below will be awarded for educational accomplishments. Transcripts must be on file at the time of the 201 review to verify any claim.
 - (a) Associate degree: 10 points
 - (b) 90.0 quarter units or more: 8 points
 - (c) 70.0 to 89.99 quarter units: 7 points
 - (d) 55.0 to 69.99 quarter units: 6 points
 - (e) 40.0 to 54.99 quarter units: 4 points
 - (f) 25.0 to 39.99 quarter units: 2 points
 - (g) 10.0 to 24.99 quarter units: 1 point
 2. Only educational credits and /or degrees that are recognized by POST will be considered. The Personnel and Training Unit will maintain information on the POST-accepted institutions for review.
 3. Semester units can be converted to quarter units by multiplying semester units by 1.5.
- (c) Longevity: Maximum 8 points
 - (a) Longevity points will be awarded on the basis of .067 points per month for a maximum of 120 months, equaling ten years of service.
 - (b) Longevity for the purpose of this examination process is synonymous with the definition of seniority contained in the Police Safety Employees MOU and Civil Service rules.
- (d) Awards and Commendations: Maximum 6 points
 - (a) Awards and commendations will receive a point value as indicated. The employee's entire personnel file will be considered for this portion of the selection process, unless otherwise noted.
 - (a) Individual Awards
 - (a) 3 points
 - (a) Medal of Valor
 - (b) 2 points each
 - (a) Police Cross
 - (b) Star for Merit
 - (c) Meritorious Service

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- (d) Distinguished Service
- (e) Purple Heart
- (f) Lifesaving Medal
- (c) 1 point each
 - (a) Formal commendations
 - (b) Chief's Special Recognition award
 - (c) Officer of the Year commendations (Nominations for Officer of the Year will be awarded one point. Any letters or certificates attendant to that nomination will not be considered as additional points.)
 - (d) 10851 Awards
- (d) ½ point each
 - (a) Letters of Recognition (last 3 years). This includes letters from businesses, civilians or other agencies, memorandums from supervisors for outstanding effort, etc.
- (e) Other Achievements: Maximum 6 points (last 3 years)
 1. Self-initiated Training: 1 point for each 8 hours
 - (a) Self-initiated training refers to academic schools or seminars undertaken by the candidate, not directed by the department, in a job-related field, and attended while not on duty. Such activity shall be verifiable by documentation in the candidate's training file.
 - (b) This section does not include courses taken in the normal pursuit of a college degree.
 - (c) POST telecourses do not qualify as self-initiated training.

1061.3.3 PERFORMANCE ORAL INTERVIEW - MAXIMUM 30 POINTS

The Chief of Police, or designee, will compose questions to be asked of each candidate which are related to the position for which the candidate is being evaluated. These questions will be provided to candidates immediately prior to their scheduled interview to allow the candidate time to formulate responses. Questions requiring a written response for scoring will be clearly identified. Candidates may make written notes for the oral interview but will be required to surrender the questions and all notes upon conclusion of the interview.

Factors that panel members will consider in awarding a numerical score for each question include:

- (a) Knowledge of departmental policies, procedures, and programs
- (b) Ability to analyze
- (c) Ability to articulate
- (d) Knowledge, experience, and preparation for the position of detective

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- (e) Demeanor

1061.3.4 WRITTEN EXERCISE - MAXIMUM 20 POINTS

The written exercise will be used to measure a candidate's potential for successful performance in a higher classification as well as knowledge of internal department policies, procedures and contemporary issues. The candidate's response shall be limited to two (2) pages per question (typewritten, single space).

1061.3.5 PROMOTABILITY ASSESSMENT - MAXIMUM 20 POINTS

The Promotability Assessment will consist of two parts:

- (a) Practical Exercise / Role Playing: Maximum 10 points
 - 1. This will assess the candidate's performance in a scenario-based environment
- (b) Supervisor / Manager Assessment: Maximum 10 points
 - 1. The candidate shall select five (5) supervisors/managers who will assess the candidate's suitability for the position of detective. The supervisors/managers chosen shall have knowledge of the candidate's work performance and shall include the candidate's current immediate supervisor and manager. Recent, sustained discipline should be considered during this assessment. The candidate will be assessed in areas such as the following:
 - (a) Leadership / Maturity
 - (b) Work ethic / Initiative
 - (c) Compliance with laws, rules and regulations
 - (d) Interpersonal relationships
 - (e) Job skill / Expertise
 - (f) Quality of work
 - (g) Problem solving
 - (h) Acceptance of responsibility
 - (i) Mentoring
 - (j) Followership

1061.4 DEPARTMENT PROMOTIONAL LIST

- (a) Upon completion of the examination process, each candidate's final score will be the sum of the points awarded in the four scored components.
- (b) Candidates must achieve an aggregate score of at least 70.0 points (70%) in order to be placed on the promotional list.
- (c) When a promotion is forthcoming, the Chief of Police shall choose from the top three candidates, taking into consideration all available information relative to those three candidates.

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Promotional Examination Process for Detective / P-2

- (d) In the event that the Chief of Police chooses to not promote an eligible candidate on three opportunities, he/she will document the reasons, in writing, to the Civil Service Board.
- (e) Should the occasion arise where multiple promotions are made, the Chief of Police will make those promotions effective on successive days in the order of the candidates' placement on the promotional list.
- (f) In the event that the final score of two or more candidates results in a tie score, time in current grade will be used as the determining factor in breaking such a tie with the senior candidate receiving the advantage on the promotional list.

Promotional Examination Process for Sergeant / P-3

1063.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the San Bernardino Police Department.

1063.2 ELIGIBILITY

Applicants must possess five (5) years of combined full-time sworn service at the rank of P-1 police officer or P-2 corporal/detective or other agency equivalent, with at least three (3) years of service with the San Bernardino Police Department. Applicants must additionally possess or be eligible for an Advanced Certificate issued by the Commission on Peace Officer Standards and Training (POST).

1063.3 EXAMINATION PROCESS OVERVIEW

The examination will consist of three parts:

- A. Personnel file review.
- B. Promotability Packet submission.
- C. Chief's Panel evaluation.

1063.3.1 PERSONNEL FILE REVIEW - PASS/FAIL

The Division Captain, or designee, will conduct an assessment of the candidate's Personnel and Training files according to the following format. The review will be limited to information from the three previous years unless otherwise indicated. Candidates must receive an aggregate total of 14 out of 28 points in the personnel file review in order to proceed to the remaining portions of the process.

- A. The categories, maximum point values, and time periods are as follows:
 1. Education 10 points: Entire file
 2. Longevity 6 points: Entire file
 3. P-2 position 9 points: Entire file
 4. Self-Initiated Training 3 points: Last 3 years
- B. Education: Maximum 10 points
 1. The point values indicated below will be awarded for educational accomplishments. Transcripts must be on file at the time of the Personnel File review to verify any claim. Semester units can be converted to quarter units by multiplying semester units by 1.5.
 - (a) Baccalaureate degree: 10 points

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- (b) 136 units or above: 8 points
 - (c) 91.0 to 135.9 quarter units: 6 points
 - (d) Associate degree: 5 points
 - (e) 60.0 to 90.9 quarter units: 4 points
 - (f) 30.0 to 59.9 quarter units: 3 points
 - (g) 15.0 to 29.9 quarter units: 1 point
2. POST recognized educational credits and/or degrees will be considered until December 2023. After that date, only educational credits and /or degrees from regionally accredited institutions will be considered.
- C. Longevity: Maximum 6 points

Longevity points will be awarded on the basis of .05 points per month for a maximum of 120 months, equaling 10 years of service. Longevity for the purposes of this examination process is synonymous with the definition of seniority contained in the Police Safety Employees MOU. All-time periods will be calculated using the date from the Human Resources seniority list.

- A. P-2 Rank: Maximum 9 points

Candidates currently holding or who are certified to the rank of P-2, Corporal/Detective shall receive .25 points per month while in that rank. Certification to the FTO position does not constitute holding the rank of P-2. All-time periods will be calculated using the date from the Human Resources seniority list or the certification list.

- A. Self-Initiated Training: Maximum 3 points (last 3 years)

Self-initiated training refers to academic schools or seminars undertaken by the candidate, not directed by the department, and not on duty. The training shall be in areas related to leadership, management and/or supervision. The department will provide a list of acceptable courses from which the employee can choose. Such activity shall be verifiable by documentation in the candidate's training file. This section does not include courses taken in the normal pursuit of a college degree. POST telecourses do not qualify as self-initiated training. One (1) point will be awarded for each eight (8) hours of training.

1063.3.2 PROMOTABILITY PACKET

Each candidate will be responsible for the development and submittal of their Promotability Packet. This packet will consist of a professional resume and facilitated writing exemplar, proctored by Personnel and Training staff.

1063.3.3 CHIEF'S ASSESSMENT PANEL

The Chief of Police will convene a panel to review each candidate's application and promotability packet. They will assess the candidate's promotional readiness based on their:

- A. Quality of work
- B. Job expertise

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- C. Relationship building (internally and externally)
- D. Compliance with laws, rules, and regulations (to include recent, sustained discipline)
- E. Work ethic and initiative
- F. Leadership and maturity

The Panel will then create a list of candidates eligible for promotion. This list, with recommendations, will be provided to the Chief of Police. The Chief of Police will have the ultimate authority and discretion to select any candidate on the promotional list.

Should the occasion arise where multiple promotions are made, the Chief of Police will make those promotions effective on successive days.

Promotional Examination Process for Lieutenant / P-4

1065.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the San Bernardino Police Department.

1065.2 ELIGIBILITY

- (a) All sworn police sergeants who have met the following minimum qualifications are eligible to participate in the examination process for the position of police lieutenant.
 - 1. Successfully completed a minimum of two years at the rank of police sergeant with SBPD prior to the closing date of the application.
 - 2. Possess or be eligible for a Supervisory Certificate issued by the Commission on Peace Officer Standards and Training (POST).

1065.3 EXAMINATION PROCESS

1065.3.1 OVERVIEW

- (a) The examination will consist of two parts:
 - 1. Personnel file review.
 - 2. Promotability Packet submission.

1065.3.2 PERSONNEL FILE REVIEW- PASS/FAIL

A Division Captain, or designee, will conduct an assessment of the candidate's personnel and training files according to the following format. The review will be limited to information from the three previous years unless otherwise indicated. Candidates must receive an aggregate total of 24 out of 30 points in the personnel file review in order to proceed to the remaining portions of the process.

- (a) The categories, maximum point values, and time periods are as follows:
 - 1. Education 10 points: Entire file
 - 2. Longevity 12 points: Entire file
 - 3. Leadership/Management Training 8 points: Entire files
- (b) Education: Maximum 10 points
 - 1. The point values indicated below will be awarded for educational accomplishments. Transcripts must be on file at the time of the 201 review to verify any claim. Semester units can be converted to quarter units by multiplying semester units by 1.5.
 - (a) Graduate Degree or higher: 10 points
 - (b) Baccalaureate degree: 8 points

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- (c) 136.0 units or above: 7 points
 - (d) 91.0 to 135.9 quarter units: 6 points
 - (e) Associate degree: 5 points
 - (f) 60.0 to 90.0 quarter units: 4 points
 - (g) 30.0 to 59.9 quarter units: 3 points
2. Only educational credits and /or degrees from regionally accredited institutions will be considered.
- (c) Longevity: Maximum 12 points
 - (a) Longevity points will be awarded on the basis of .067 points per month for a maximum of 180 months, equaling 15 years of service. Longevity for the purposes of this examination process is synonymous with the definition of seniority contained in the Police Safety Employees MOU. All time periods will be calculated using the date from the Human Resources seniority list.
 - (d) Management/Supervision/Leadership Training: Maximum 8 points
 - (a) Leadership training * 1 point for each 8 hours: Maximum 4 points (last 5 years)
 - (a) Leadership training refers to academic schools or seminars undertaken by the candidate, that teach the candidate leadership/ management or supervisory skills pertinent to effectiveness in the position of lieutenant. Any course listed in the SBPD training manual for lieutenant qualifies for credit in this category. Courses not listed in the training manual are subject to approval by the Chief of Police or his designee. Such activity shall be verifiable by documentation in the candidate's training file. This section does not include courses taken in the normal pursuit of a college degree. Internal, documented leadership development courses may be utilized to obtain points in this category.
 - (b) Self-Initiated Training * 1 point for each 8 hours: Maximum 4 points (last 3 years)
 - (a) Self-initiated training refers to academic schools or seminars undertaken by the candidate, not directed by the department, and not on duty. The training shall be in areas related to leadership, management and/ or supervision. The department will provide a list of acceptable courses from which the employee can choose. Such activity shall be verifiable by documentation in the candidate's training file. This section does not include courses taken in the normal pursuit of a college degree. POST telecourses will no longer qualify as self-initiated training.

1065.3.3 PROMOTABILITY PACKET

Each candidate will be responsible for the development and submittal of their Promotability Packet. This packet will consist of a professional resume and facilitated writing exemplar, proctored by Personnel and Training staff.

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Promotional Examination Process for Lieutenant / P-4

1065.3.4 SELECTION

The Chief of Police will evaluate each candidate and have the ultimate authority and discretion to select any candidate. Further, the Chief of Police may facilitate an independent interview with some or all of the candidates and may call for a new testing process at any time.

Should the occasion arise where multiple promotions are made, the Chief of Police will make those promotions effective on successive days.

Promotional Examination Process for Captain / P-5

1067.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the San Bernardino Police Department.

1067.2 ELIGIBILITY

Applicants must possess two (2) years of service at the rank of Police Lieutenant with the San Bernardino Police Department; or an equivalent combination of training, education, and experience.

Applicants may submit additional information in the form of a resume related to the following:

- (a) Assignments during the candidate's tenure with the SBPD or any other agency,
- (b) Educational accomplishments at the college or university level,
- (c) Self-initiated classes or seminars attended in job related subjects should be identified separately as such,
- (d) Active membership and/or involvement in community service groups, youth activities or service clubs,
- (e) Any additional information the candidate feels is pertinent to the testing process.

Information will be limited to four (4) typewritten pages. Information must be verifiable through inspection of department training records. Candidates should ensure that copies of certificates and transcripts are included in their training files. A copy of the resume will be submitted to Police Administration for inclusion in the candidate's 201 file.

1067.3 APPLICATION PROCESS

All police lieutenants eligible to apply shall submit an application to the City's Human Resources Department. Human Resources will screen each candidate's application to ensure they meet minimum qualifications as outlined by the City's job description for the position. An eligibility list will be forwarded to the Chief of Police.

1067.4 SELECTION PROCESS

Police captains are an "at will", unclassified position; therefore, the Chief of Police retains ultimate discretion in selecting any of the applicants from the eligibility list. The Chief may consider any information legally appropriate when selecting and appointing police captains.

Promotional Policies for Civilian Positions

1069.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the San Bernardino Police Department.

1069.2 ELIGIBILITY

All persons who have met the minimum requirements listed in the Civil Service job description and who have passed the testing process required by the Civil Service Department.

1069.3 EXAMINATION PROCESS

1069.3.1 OVERVIEW

- (a) Open/Promotional examinations will consist of two to three parts:
 - 1. A pass/fail Civil Service written examination as established by the department with the Civil Service Board.
 - 2. Departmental performance oral examination with an optional written exercise.
 - 3. A personnel file review will be conducted when a certified Civil Service list contains only internal candidates.
- (b) Promotional Only examinations will consist of three parts:
 - 1. A pass/fail Civil Service written examination as established by the department with the Civil Service Board.
 - 2. Departmental performance oral examination with an optional written exercise.
 - 3. Personnel file review.
- (c) The personnel file review and performance oral examination components will each have a weight of 50 points.
 - 1. For the purposes of scoring the personnel file review, the date of the Civil Service certification list will be used as the closure date for materials considered in any file.
- (d) Non-competitive promotions within a classification.
 - 1. Non-competitive promotions occur in the Forensic Specialist I to Forensic Specialist II and Dispatcher I to Dispatcher II classifications.
 - 2. Candidates will be required to submit an application with Civil Service to be placed on the promotional eligibility list.
 - 3. Candidates will not be required to take a written Civil Service examination but will be subject to a proficiency review and recommendation by their unit supervisor and manager.

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1069.3.2 PERSONNEL FILE REVIEW

- (a) A Division Captain, or designee, will conduct an assessment of the candidate's personnel and training files according to the following format. The review will be limited to information from the three previous years, unless otherwise indicated. The categories, maximum point values, and time periods are as follows:
1. Evaluations 25 points: Last three years
 2. Education 10 points: Entire file
 3. Longevity 10 points: Entire file
 4. Other Achievements 5 points: Last three years
 5. Discipline no maximum: Last three years
- (b) Evaluations: Maximum 25 points
1. Each of the 23 evaluated categories will be considered by applying a point value as indicated. The totals for each of the rating values during the three-year period shall be averaged by dividing the total points for each category by the number of evaluations present. Overall points awarded will be the sum of the five averaged rating values. Probationary three, five, and nine-month evaluations will not be included.
 - (a) Exceeds standards: +2.5 points
 - (b) Standard: 0 points
 - (c) Below standard: - 1 point
 - (d) Unsatisfactory: - 2 points
- (c) Education: Maximum 10 points
1. The point values as indicated below will be awarded for educational accomplishments. Copies of transcripts and degrees must be on file at the time of the 201 review to verify any claim.
 - (a) Baccalaureate degree or higher: 10 points
 - (b) 136 quarter units or above: 8 points
 - (c) 91.0 to 135.9 quarter units: 7 points
 - (d) Associate degree: 6 points
 - (e) 60.0 to 90.99 quarter units: 5 points
 - (f) 30.0 to 59.99 quarter units: 4 points
 - (g) 15.0 to 29.99 quarter units: 2 points
 - (h) 10.0 to 14.99 quarter units: 1 point

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2. Semester units can be converted to quarter units by multiplying semester units by 1.5.
- (d) Longevity: Maximum 10 points
1. Longevity points will be awarded on the basis of .0556 points per month of service with the San Bernardino Police Department for a maximum of 180 months (15 years) of service.
 2. Longevity for the purposes of this examination process is synonymous with the definition of seniority contained in the Civil Service Rules.
- (e) Other Achievements: Maximum 5 points
1. Self-initiated training: 1 point for each 8 hours
 - (a) Self-initiated training refers to academic schools or seminars undertaken by the candidate, not directed by the department and in a job-related field. Such activities will be verifiable by documentation in the candidate's training file. This section does not include courses taken in the normal pursuit of a college degree.
 2. Current vocational training credential in the police sciences or related field: 1 point
 3. Letters of commendation: ½ point each (last three years)
- (f) Discipline / Reprimands: No maximum (last three years)
1. A deduction of points will be made for sustained negative discipline as reflected in the candidate's personnel file. There is no maximum amount that may be debited due to negative discipline.
 2. Points will be deducted as follows:
 - (a) -3 points: Sustained discipline resulting in suspension or reduction in rank
 - (b) -1 point: Written reprimands as documented on consultation reports
 3. For purposes of this policy, the time period of sustained discipline will begin when the incident for which the discipline is implemented is discovered by the Department.

1069.3.3 PERFORMANCE ORAL EXAMINATION

The Chief of Police, or his designee, will compose or cause to be composed questions to be asked of each candidate which are related to the position for which the candidate is being evaluated. These questions will be provided to candidates immediately prior to their scheduled interview to allow time to formulate responses. Questions requiring response for scoring will be clearly identified. Candidates may make written notes for the oral but will be required to surrender the questions and all notes upon conclusion of the interview.

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Factors that panel members will consider in awarding a numerical score for each question include:

- (a) Knowledge of departmental policies, procedures, and programs; i.e., community oriented policing, initiative management, leadership development, etc. (for examinations with only internal candidates).
- (b) General knowledge of police operations, procedures, and programs (for examinations with external candidates).
- (c) Ability to analyze.
- (d) Ability to articulate.
- (e) Demeanor.

1069.4 DEPARTMENT PROMOTIONAL LIST

Promotional Process

- (a) Upon completion of the examination process, each candidate's final score will be as follows:
 - 1. For open/promotional examinations with external candidates - The total score achieved on the performance oral.
 - 2. For promotional only and open/promotional examinations with only internal candidates - The sum of the points awarded in the personnel file review and performance oral examination segments.
- (b) Examinations with external candidates:
 - 1. Candidates will be placed alphabetically in one of three groups based on their final scores. No scores will be noted on this list.
 - 2. The Chief of Police will have the flexibility of selecting candidates for hire/promotion from any group. Normally, selections will be made from those candidates listed in Group 1 first; however, selections could be made from Group 2 or 3 before Group 1 has been exhausted.
- (c) Examinations with only internal candidates:
 - 1. Candidates will be ranked numerically on the hiring/promotional list based on their final scores.
 - 2. The Chief of Police shall choose from the top three candidates taking into consideration all available information relative to those three candidates including personal interviews for each position.
 - 3. Should the occasion arise where multiple promotions are made, the Chief of Police will make those promotions effective on successive days in order of the person's appearance on the promotional list.

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Promotional Policies for Civilian Positions

- (d) In the event that the final score of two or more candidates results in a tie score, time in current grade will be used as the determining factor in breaking such a tie with the senior candidate receiving the advantage on the promotional list.

Illness and Injury Prevention

1070.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the San Bernardino Police Department, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

1070.2 POLICY

The San Bernardino Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

1070.3 ILLNESS AND INJURY PREVENTION PLAN

The Administrative Services Captain is responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will:
 1. Meet regularly.
 2. Prepare a written record of safety and health committee meetings.
 3. Review the results of periodic scheduled inspections.
 4. Review investigations of accidents and exposures.
 5. Make suggestions to command staff for the prevention of future incidents.
 6. Review investigations of alleged hazardous conditions.
 7. Submit recommendations to assist in the evaluation of member safety suggestions.
 8. Assess the effectiveness of efforts made by the Department to meet relevant standards.

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- (f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

1070.4 ADMINISTRATIVE SERVICES CAPTAIN RESPONSIBILITIES

The responsibilities of the Administrative Services Captain include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
 - 1. New member orientation that includes a discussion of safety and health policies and procedures.
 - 2. Regular member review of the illness and injury prevention plan.
 - 3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
 - 1. Informing members of the illness and injury prevention guidelines.
 - 2. Recognizing members who perform safe work practices.
 - 3. Ensuring that the member evaluation process includes member safety performance.
 - 4. Ensuring department compliance to meet standards regarding the following:
 - (a) Respiratory protection (8 CCR 5144)
 - (b) Bloodborne pathogens (8 CCR 5193)
 - (c) Aerosol transmissible diseases (8 CCR 5199)
 - (d) Heat illness (8 CCR 3395)
 - (e) Emergency Action Plan (8 CCR 3220)
 - (f) Fire Prevention Plan (8 CCR 3221)
 - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

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- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

1070.5 HAZARD ASSESSMENT

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards utilizing the applicable sections of the Hazard Assessment Checklist to ensure a thorough inspection. These checklists can be found at on the California Department of Industrial Relations website.

1070.5.1 SUPERVISOR INSPECTION DUTIES

The Personnel and Training Supervisor shall ensure an Identified Hazard and Correction Record (located on the California Department of Industrial Relations website) is completed for each inspection.

1070.5.2 PATROL OFFICERS INSPECTION DUTIES

Officers are charged with daily vehicle inspection of an assigned vehicle and of personal protective equipment prior to working in the field. Officers shall complete an Identified Hazard and Correction Form if an unsafe condition cannot be immediately corrected. Officers should forward this report to their supervisor.

1070.5.3 SUPERVISOR ASSESSMENT DUTIES

Supervisors should inform the Personnel and Training Supervisor when the following occurs:

- New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
- New, previously unidentified hazards are recognized.
- Occupational injuries and illnesses occur.
- New and/or permanent or intermittent workers are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
- Whenever workplace conditions warrant an inspection.

The Personnel and Training Supervisor will take appropriate action to ensure the IIPP addresses potential hazards upon such notification.

1070.6 ACCIDENT/EXPOSURE INVESTIGATIONS

Employees must report all injuries that are a result of a workplace accident and any hazardous substance exposure to a supervisor. A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- A visit to the accident scene as soon as possible.
- An interview of the injured worker and witnesses.

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- An examination of the workplace for factors associated with the accident/exposure.
- Determination of the cause of the accident/exposure.
- Corrective action to prevent the accident/exposure from reoccurring.
- A record of the findings and corrective actions taken, using the Investigation/Corrective.
- Action Report (<http://www.dir.ca.gov/DOSH/etools/09-031/InvestigationReport.pdf>).

1070.7 HAZARD CORRECTION

All employees should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Employees should make their reports to a supervisor (as a general rule, their own supervisor).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner based on the severity of the hazards. Hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering employees or property, supervisors should protect or remove all exposed workers from the area or item, except those necessary to correct the existing condition.

Employees who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on an Identified Hazard and Correction Form. This should be forwarded to the Personnel and Training Supervisor via the chain of command.

1070.8 TRAINING AND INSTRUCTION

The Community Services Division Captain shall work with the Personnel and Training Supervisor to ensure that all workers, including supervisors, are trained on general and job-specific, workplace safety and health practices. Training shall be provided as follows:

- To all new employees for those tasks that were not sufficiently covered by previous training from an academy or another training provider.
- To all workers given new job assignments for which training has not previously been provided.
- Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- Whenever the department is made aware of a new or previously unrecognized hazard.
- To supervisors to familiarize them with the safety and health hazards to which workers under their immediate direction and control may be exposed.
- To all workers with respect to hazards that are specific to each employee's job assignment.

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- An explanation of the department's IIPP, emergency action plan and fire prevention plan; measures for reporting any unsafe conditions, work practices and injuries; and informing a supervisor when additional instruction is needed.
- The use of appropriate clothing, including gloves, footwear and personal protective equipment.
- Information about chemical hazards to which employees could be exposed.
- The availability of toilet, hand-washing and drinking-water facilities.
- Provisions for medical services and first aid, including emergency procedures.
- Steps to prevent heat illness (8 CCR 3395).

1070.9 TRAINING

The Administrative Services Captain should work with the Personnel and Training Supervisor to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

1070.10 TRAINING SUBJECTS

The Community Services Division Captain should work with the Personnel and Training Supervisor to ensure training is provided on the following topics:

- Driver safety
- Safe procedures for handling, cleaning and/or storing weapons
- Good housekeeping and fire prevention
- Back exercises/stretching and proper lifting techniques
- Lock-out/tag-out procedures
- Hazardous materials
- Building searches
- Slips and falls
- Ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods

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- Personal protective equipment
- Respiratory equipment
- Hazardous chemical exposures
- Hazard communication
- Physical hazards, such as heat/cold stress, noise, and ionizing and non-ionizing radiation
- Blood-borne pathogens and other biological hazards
- Other job-specific hazards

Wellness Program

1072.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Drug- and Alcohol-Free Workplace Policy.

1072.1.1 DEFINITIONS

Definitions related to this policy include:

Critical incident – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

Critical Incident Stress Debriefing (CISD) – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

Peer support – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

1072.2 POLICY

It is the policy of the San Bernardino Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

1072.3 WELLNESS COORDINATOR

The Chief of Police should appoint a trained wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Human Resources, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).
 1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.

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2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Developing management and operational procedures for department peer support members, such as:
1. Peer support member selection and retention.
 2. Training and applicable certification requirements.
 3. Deployment.
 4. Managing potential conflicts between peer support members and those seeking service.
 5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
 6. Using qualified peer support personnel from other public safety agencies or outside organizations for department peer support, as appropriate.
- (c) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (d) Establishing procedures for CISDs, including:
1. Defining the types of incidents that may initiate debriefings.
 2. Steps for organizing debriefings.
- (e) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).
- (f) Verifying a confidential, appropriate, and timely Employee Assistance Program (EAP) is available for members. This also includes:
1. Obtaining a written description of the program services.
 2. Providing for the methods to obtain program services.
 3. Providing referrals to the EAP for appropriate diagnosis, treatment, and follow-up resources.
 4. Obtaining written procedures and guidelines for referrals to, or mandatory participation in, the program.
 5. Obtaining training for supervisors in their role and responsibilities, and identification of member behaviors that would indicate the existence of member concerns, problems, or issues that could impact member job performance.
- (g) Assisting members who have become disabled with application for federal government benefits such as those offered through the Public Safety Officers' Benefits Program (34 USC § 10281 et seq.).
1. The coordinator should work with appropriate department liaisons to assist qualified members and survivors with benefits, wellness support, and counseling

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services, as applicable, when there has been a member death (see the Line-of-Duty Deaths Policy for additional guidance).

1072.4 DEPARTMENT PEER SUPPORT

1072.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a department peer support member will be at the discretion of the coordinator. Selection should be based on the member's:

- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

1072.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of department peer support members include:

- (a) Providing pre- and post-critical incident support.
- (b) Presenting department members with periodic training on wellness topics, including but not limited to:
 1. Stress management.
 2. Suicide prevention.
 3. How to access support resources.
- (c) Providing referrals to licensed psychotherapists and other resources, where appropriate.
 1. Referrals should be made to department-designated resources in situations that are beyond the scope of the peer support member's training.

1072.4.3 PEER SUPPORT MEMBER TRAINING

A department peer support member should complete department-approved training prior to being assigned.

1072.5 CRITICAL INCIDENT STRESS DEBRIEFINGS

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

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Attendance at the debriefing should only include peer support members and those directly involved in the incident.

1072.6 PEER SUPPORT COMMUNICATIONS

Although the Department will honor the sensitivity of communications with peer support members, there is no legal privilege to such communications, unless authorized by law (e.g., peer support communications pursuant to a Law Enforcement Peer Support and Crisis Referral Service Program).

1072.7 PHYSICAL WELLNESS PROGRAM

The coordinator is responsible for establishing guidelines for a physical wellness program, including the following:

- (a) Voluntary participation by members
- (b) Acceptable use of department-provided physical fitness facilities and equipment
- (c) Individual health screening and fitness assessment
- (d) Individual education (e.g., nutrition, sleep habits, proper exercise, injury prevention) and goal-setting

1072.8 TRAINING

The coordinator or the authorized designee should collaborate with the Personnel and Training Supervisor to provide all members with regular training on topics related to member wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.
- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Personnel and Training Supervisor as appropriate for inclusion in training records.

Attachments

Statutes and Legal Requirements.pdf

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

**Commission on Peace Officer Standards and
Training Hate Crimes Model Policy 2019.pdf**



POST HATE CRIMES MODEL POLICY



COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

2019

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Published September 2008

Revised May 2019

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POST Mission Statement

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FOREWORD

Hate Crimes (i.e. crimes motivated by bias) convey a message of terror and exclusion, not just to the immediate victims but to entire communities. They often target victims who are least able to defend themselves. They cause trauma that is more extreme and longer lasting than similar crimes committed for other motivations. They can spark retaliatory crimes, escalating the cycle of crime and violence. If not addressed professionally and thoroughly they may undermine public confidence in law enforcement.

The 2018 California State Auditor's Report, titled "Hate Crimes in California," found that California law enforcement has not taken adequate action to identify, report, and respond to hate crimes. The report found that agencies did not properly identify some hate crimes, and underreported or misreported hate crimes as well. The report also noted that hate crimes are on the rise in California, increasing in both 2015 and 2016.

California Penal Code (CPC) 422.87 added new language and requirements to any newly created or updated agency hate crimes policy. Effective January 1, 2019, any local law enforcement agency that updates an existing hate crimes policy, or adopts a new one, shall include the content of the model policy framework provided in this document as well as any revisions or additions to the model policy in the future.

These guidelines are the primary elements that law enforcement executives are now required to incorporate into their hate crimes policy if an agency creates a new hate crimes policy or updates an existing one. The guidelines are designed for department-wide application and are intended to reflect a values-driven "top-down" process. They are intended to assist with the development and delivery of training and ensure proper identification, investigation, and reporting of hate crimes within each agency's jurisdiction.

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POLICY GUIDELINES

GUIDELINE #1

Develop the foundation for the agency's hate crimes policy.

The law enforcement executive is responsible for providing leadership, communicating organizational values to the department and the community, paying attention to hate crime trends and current events that could trigger hate incidents and/or hate crimes in the community, and providing education and training to establish the foundation for the agency's hate crimes policy. Employees' ability to respond appropriately to hate crimes and hate incidents is maximized when the executive effectively establishes and communicates the foundational values of the organization.

GUIDELINE #2

Develop a hate crimes policy for the agency.

- I. An agency's hate crimes policy shall include the statutory definition of a hate crime, and its policy and programs should minimally include the following:
 - A. Response
 - B. Training
 - C. Planning and Prevention
 - D. Reporting

The law enforcement executive is responsible for the initial development of the policy and should be actively involved in its implementation. See the appendix for the exemplar "Message from the Agency Chief Executive".

GUIDELINE #3

Develop expertise to identify and investigate hate crimes.

The law enforcement executive is responsible for ensuring that the agency possesses expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal

reporting and public information requirements. Agencies should assign identified personnel to appropriate training to develop expertise and knowledge to investigate hate crimes.

Hate crimes are low-frequency events with high-risk consequences for the agency and community. Agencies shall provide a checklist to first responders to provide direction for the investigation of all hate crimes as mandated by CPC 422.87.

GUIDELINE #4

Develop and implement cooperative hate crimes plans with other law enforcement agencies.

- I. Coordinate cooperative efforts among regional, state, federal, and tribal law enforcement agencies to share information and training, and develop strategies to prevent hate crime activity.
- II. Develop and/or participate in law enforcement intelligence networks to enhance the agency's ability to anticipate potential hate crime targets. This interaction should include sharing intelligence information with other jurisdictions and cooperative investigations, arrests, and prosecutions if appropriate.

GUIDELINE #5

Develop and implement cooperative hate crime plans with the community and related governmental and non-governmental organizations, as appropriate.

- I. Collaborate with the community, including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools and colleges, to do the following:
 - Develop a network to build rapport with community groups

-
- Develop a protocol for response to hate crimes
 - Obtain witness and victim cooperation
 - Provide support services to victims
 - Collect demographic information about specific communities
 - Identify hate crime trends based upon current events and activity (hate crimes and/or hate incidents)
 - Identify periods of increased vulnerability based on significant dates and events for affected communities
- II. Law enforcement should identify and seek out cultural diversity training and information from/about specific communities within its jurisdiction (immigrant, Muslim, Arab, LGBTQ, Black or African American, Jewish, Sikh, disability, etc.) to strengthen agency awareness.

GUIDELINE #6

Conduct an annual assessment of the agency's hate crimes policy and its ongoing implementation.

The assessment should include:

- I. A review to ensure compliance with the POST Hate Crimes Model Policy and California law.
- II. A review and analysis of the agency's data collection, policy, and annual mandated reporting of hate crimes.
- III. A review and updating of the agency's hate crimes brochure to ensure compliance with CPC 422.92.
- IV. A review of any existing or available data or reports, including the annual California Attorney General's report on hate crimes, in preparation for, and response to, future hate crime trends.

- V. Annual outreach to the community including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools, and colleges assessing the agency's responsiveness to hate crimes.

MINIMUM LEGAL REQUIREMENTS FOR AN AGENCY'S HATE CRIMES POLICY

CPC 13519.6, effective January 1, 2005, minimally requires:

1. A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.
2. The definition of "hate crime" in Penal Code section 422.55.
3. References to hate crime statutes including Penal Code section 422.6.
4. A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
 - a. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
 - b. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
 - c. Accessing assistance, by, among other things, activating the Department of Justice hate crimes rapid response protocol when necessary.
 - d. Providing victim assistance and follow-up, including community follow-up.
 - e. Reporting

CPC 422.87, effective January 1, 2019, states and minimally requires:

Each local law enforcement agency may adopt a hate crimes policy. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new one shall include, but not limited to, the following:

1. The definitions in Penal Code sections 422.55 and 422.56.
2. The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
3. Information regarding bias motivation
 - a. For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse

fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

- ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.
- b. Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes *and a plan for the agency to remedy this underreporting* (emphasis added).
- c. A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Penal Code section 13023.
- d. A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency’s hate crimes brochure, as required by Section 422.92.
- e. A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.
- f. The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- g. A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.
- h. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

MODEL POLICY FRAMEWORK

Purpose

This model policy framework is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how law enforcement agencies may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy.

Policy

It is the policy of this agency to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This agency will employ necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this agency should attend to the security and related concerns of the immediate victims and their families as feasible.

The agency policy shall include a requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

The agency policy shall provide a specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

Response, Victim Assistance and Follow-up

Initial response

First responding officers should know the role of all department personnel as they relate to the agency's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance, and working with supervision and/or investigations, access needed assistance if applicable. Responding officers should ensure the crime scene is properly protected, preserved and processed.

At the scene of a suspected hate or bias crimes, officers should take preliminary actions deemed necessary, to include, but not limited to, the following:

1. Use agency checklist (per CPC 422.87) to assist in the investigation of any hate crime (see appendix, page 21, for exemplar checklist based on the Los Angeles Police Department Hate Crimes Supplemental Report with the agency's permission).

-
2. Stabilize the victim(s) and request medical attention when necessary.
 3. Ensure the safety of victims, witnesses, and perpetrators.
 - a. Issue a Temporary Restraining Order (if applicable).
 4. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
 5. Ensure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to ensure that it is removed or covered up as soon as possible. Agency personnel should follow-up to ensure that this is accomplished in a timely manner.
 6. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 7. Identify criminal evidence on the victim.
 8. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
 9. Conduct a preliminary investigation and record pertinent information including, but not limited to:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. The offer of victim confidentiality per Government Code (GC) 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. The victim's protected characteristics and determine if bias was a motivation "in whole or in part"¹ in the commission of the crime.
 1. "Bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - (a) In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons

¹See Appendix, page 15, for definition

who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

(b) In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

10. Adhere to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
11. Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
12. Provide the agency’s Hate Crimes Brochure (per CPC 422.92) if asked, if necessary or per policy (if applicable).
13. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
14. Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.

Investigation

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes (or hate incident if agency policy requires it) should take all actions deemed necessary, including, but not limited to, the following:

1. Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
2. Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
3. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
4. Fully investigate any report of hate crime committed under the color of authority per CPC 422.6 and CPC 13519.6.

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5. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 - e. Desecration of religious symbols, objects, or buildings.
 6. Request the assistance of translators or interpreters when needed to establish effective communication.
 7. Conduct a preliminary investigation and record information regarding:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. Offer of victim confidentiality per GC 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. Document the victim's protected characteristics.
 8. Provide victim assistance and follow-up.
 9. Canvass the area for additional witnesses.
 10. Examine suspect's social media activity for potential evidence of bias motivation.
 11. Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
 12. Coordinate the investigation with the crime scene investigation unit (if applicable) or other units of the agency.
 13. Determine if the incident should be classified as a hate crime.
 14. Take steps to ensure appropriate assistance is provided to hate crime victim(s), including the following measures:
 - a. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
 - b. Provide ongoing information to the victim about the status of the criminal investigation.
 - c. Provide the victim and any other interested person the brochure on hate crimes per CPC 422.92 and information on any local advocacy groups (if asked).
 15. Report any suspected multi-mission extremist crimes to the agency TLO, or assigned designee, and direct the TLO or designee to send the data to the Joint Regional Information Exchange System.
 16. Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents (if directed by policy), and determine if organized hate groups are involved.

Supervision

The supervisor shall confer with the initial responding officer(s) and ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim by:
 - a. Expressing the law enforcement agency's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 - b. Expressing the department's interest in protecting victims' anonymity (confidentiality forms GC 6254) to the extent possible. Allow the victim to convey his/her immediate concerns and feelings.
 - c. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy or departmental chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per CPC 422.92).
2. Ensure that all relevant facts are documented on an incident and/ or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
4. In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer at specific locations that could become targets).
5. Ensure hate crimes are properly reported, including reporting to the Department of Justice, pursuant to CPC 13023.
6. Ensure adherence to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.)
7. Respond to and investigate any reports of hate crimes committed under the color of authority.
8. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For information see the California Department of Justice webpage or use following link: <https://oag.ca.gov/sites/all/files/agweb/pdfs/civilrights/AG-Rapid-Response-Team-Protocol-2.pdf>
9. Report or ensure any suspected multi-mission extremists crimes are reported to the agency TLO, or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
10. Make a final determination as to whether the incident should be classified as a hate crime.

Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers shall be properly trained on the department's hate crimes policy. The agency will follow all legislatively mandated training requirements.

POST offers training and video courses to assist law enforcement in the identification, investigation, documentation and reporting of hate crimes. These courses provide officers with information and skills necessary to effectively identify, investigate, document and report hate crimes. Various training programs include the history and definitions of hate crimes, recognition of hate groups, international terrorism, legal considerations, victims' considerations, initial response duties, victim interviewing and care, suspect identification and interrogation, evidence identification, report writing, the role of law enforcement, investigative strategies, intelligence collection, supervisory roles, community relations, media relations and local program training development, and other topics such as proper use of computer systems and methods for reporting. POST also maintains an extensive array of training videos on applicable topics such as working with those with mental illness and intellectual disabilities, hate crimes, and working with minority communities.

For more information on POST training opportunities and available videos, visit the POST website at www.post.ca.gov. In conjunction with POST training opportunities, trainers may utilize other state and federal agencies that offer training courses, such as the U.S. Department of Justice.

Planning and Prevention

The general underreporting of hate crimes is an identified issue in California. Underreporting is caused by victims not reporting hate crimes or hate incidents due to a number of factors, including fear of reprisal and the belief that law enforcement will not properly investigate them. A report by the State Auditor in 2018 determined that California law enforcement has not taken adequate action to identify, report and respond to hate crimes. There is also an extreme underreporting of anti-disability and anti-gender hate crimes. The agency's plan to remedy this underreporting *shall be inserted into the policy* (emphasis added).

In order to facilitate the recommendations contained within this policy, it is strongly recommended that agencies build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Agency personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes. Assigned personnel should perform the following:

1. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
2. Provide direct and referral assistance to the victim and his/her family.
3. Conduct public meetings on hate crime threats and violence in general.
4. Establish relationships with formal community-based organizations and leaders.
5. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

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6. Review the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Islamic communities.²
 7. Provide orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, Black or African-American, Jewish, Sikh, disabled persons, etc.

Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report such crimes. This is particularly important if an upward trend has been identified in these crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Most California law enforcement agencies do not track hate incidents. It is recommended that hate incidents be investigated and documented, if directed by policy, as part of the overall planning to prevent hate crime.

Tracking social media is also another identified area to find indicators of, or precursors to, hate crimes. It is recommended that agencies assign personnel to find, evaluate and monitor public social media sources to identify possible suspects in reported hate crimes, or to determine suspects or suspect groups in future hate crimes or hate incidents affecting the identified individuals, groups or communities that may be victimized, and planned hate-based events.

Release of Information

Agencies should have procedure and/or policy on public disclosure of hate crimes. Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure would assist greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

1. Dissemination of correct information.
2. Assurance to affected communities or groups that the matter is being properly and promptly investigated.
3. The ability to request information regarding the commission of the crime(s) from the victimized community.

Agencies should provide the supervisor, public information officer, or designee with information that can be responsibly reported to the media. When appropriate, the law enforcement media spokesperson should reiterate that the hate crimes will not be tolerated, will be taken seriously, and will be prosecuted to the full extent of the law.

Agencies are encouraged to consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

²As described in CPC 13519.6(b)(8)

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1. Informing community organizations in a timely manner when a community group has been the target of a hate crime.
 2. Informing the community of the impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.
 3. Informing the community regarding hate crime law and the legal rights of, and the remedies available to, victims of hate crimes.
 4. Providing the community with on-going information regarding hate crime and/or hate incidents (if policy requires it).

Reporting

The agency policy shall require development of a procedure for data collection, documentation, and mandated reporting requirements. The agency shall:

1. Ensure that hate crimes are properly investigated, documented and reported.
2. During documentation, ensure hate crimes are flagged properly to allow for required reporting to the California Department of Justice. This is typically indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator/detective, supervisor or other identified party. It is the agency executive's responsibility to determine the form of documentation and type of indicators on crime reports.
3. The agency head or their designee (identified in the agency policy) should make a final determination as to whether the incident should be classified as a hate crime by the agency.
4. Agencies shall develop procedures to comply with legally mandated reporting, including the California Department of Justice, pursuant to CPC 13023.

Checklist for the agency's policy creation

- Message from the law enforcement's agency's chief executive is included
 - The updated existing policy or newly adopted policy includes the content of the model policy framework from POST.
 - Definition of "hate crime" included from:
 - CPC 422.55
 - CPC 422.56
 - CPC 422.6
 - Title by title specific protocol regarding:
 - Prevention
 - Is contact is established with identified persons and/or communities who are likely targets?
 - Have we formed and/or are we cooperating with hate crime prevention and response networks?
 - Has a plan for the agency to remedy underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes been created?
 - Response
 - Requirement that all hate crimes be properly investigated and supervised
 - Requirement that any hate crimes committed under the color of authority are investigated
 - Accessing Assistance
 - Information provided for activating the Department of Justice hate crime rapid response protocol when necessary
 - Victim assistance and follow-up
 - Reporting
 - Protocol for reporting suspected hate crimes to the Department of Justice per CPC 13023
 - Training
 - Has a checklist for first responders been created and provided personnel (see exemplar officer checklist in appendix)
 - Does the checklist include first responder responsibilities include:
 - Determining the need for additional resources if necessary?
 - Referral information for appropriate community and legal services?
 - The requirement to provide the agency's hate crimes brochure per CPC 422.92?
 - Information regarding bias motivation from CPC 422.87
 - Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes
- Definitions of terms used in the policy are listed
- Specific procedure for transmitting and periodically retransmitting the policy and any related orders to officers is included.
 - Procedure shall include a simple and immediate way for officers to access the policy in the field when needed
- Title or titles of the officer or officers responsible for assuring the department has a hate crime brochure (per CPC 422.92) and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the law enforcement chief executive or the chief executive's designee.

APPENDIX

Definitions and Laws

In accordance with CPC sections 422.55, 422.56, 422.6, and 422.87, for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Hate crime

“Hate crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.
- (7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “Hate crime” includes, but is not limited to, a violation of Section 422.6.

“Association with a person or group with these actual or perceived characteristics” Includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of CPC 422.55 subdivision (a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate Speech

The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected: fighting words, true threats, perjury, blackmail, incitement to lawless action, conspiracy and solicitation to commit any crime.

Hate incident

A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Bias Motivation

Bias motivation is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

Disability Bias

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Disability

Disability includes mental disability and physical disability as defined in GC 12926, regardless of whether those disabilities are temporary, permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

Gender

Gender means sex and includes a person gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the persons assigned sex at birth. A person's gender identity and gender related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

In Whole or In Part

"In whole or in part because of" means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that crime would not have been committed but for the actual or perceived characteristic.

Nationality

Nationality includes citizenship, country of origin, and national origin.

Race or Ethnicity

Race or ethnicity includes ancestry, color, and ethnic background.

Religion

Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim

Victim includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<p style="text-align: center;"><u>Victim Type:</u></p> <p><input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> School, business or organization Name: _____ Type: _____ <i>(e.g., non-profit, private, public school)</i> Address: _____</p> <p><input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><u>Target of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><u>Nature of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
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BIAS	<p style="text-align: center;"><u>Type of Bias</u> (Check all characteristics that apply):</p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <i>(e.g., 9/11, holy days)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><u>Actual or Perceived Bias – Victim’s Statement:</u></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <p style="text-align: center;"><u>Reason for Bias:</u></p> <p>Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p> <p>Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p>
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	<p style="text-align: center;"><u>Bias Indicators (Check all that apply):</u></p> <p><input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>
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HISTORY	<p style="text-align: center;"><u>Relationship Between Suspect & Victim:</u></p> <p>Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____ Order/Case# _____</p>
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WEAPONS	<p>Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____</p> <p>Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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HATE CRIME CHECKLIST

Page ____ of ____

EVIDENCE	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____	<input type="checkbox"/> Known to victim

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Resources offered at scene: Yes No Type: _____

MEDICAL	<u>Victim</u>	<u>Suspect</u>	Paramedics at scene? <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Name(s)/ID #: _____
			Hospital: _____
			Jail Dispensary: _____
			Physician/Doctor: _____
			Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<p style="text-align: center;"><u>Victim Type:</u></p> <p><input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> School, business or organization Name: _____ Type: _____ <i>(e.g., non-profit, private, public school)</i> Address: _____</p> <p><input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><u>Target of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p>
		<p style="text-align: center;"><u>Nature of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>

BIAS	<p style="text-align: center;"><u>Type of Bias</u> (Check all characteristics that apply):</p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <i>(e.g., 9/11, holy days)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><u>Actual or Perceived Bias – Victim’s Statement:</u></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p>
		<p style="text-align: center;"><u>Reason for Bias:</u></p> <p>Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p> <p>Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p>

BIAS	<p style="text-align: center;"><u>Bias Indicators (Check all that apply):</u></p> <p><input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>
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HISTORY	<p style="text-align: center;"><u>Relationship Between Suspect & Victim:</u></p> <p>Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____ Order/Case# _____</p>
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WEAPONS	<p>Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____</p> <p>Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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HATE CRIME CHECKLIST

Page ____ of ____

EVIDENCE	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____	<input type="checkbox"/> Known to victim

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Resources offered at scene: Yes No Type: _____

MEDICAL	<u>Victim</u>	<u>Suspect</u>	Paramedics at scene? <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____ Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? Yes No

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Supplemental Hate Crime Report.pdf

Hate incident (No Crime Committed)

Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)

VICTIM

VICTIM TYPE

Individual

Legal name (Last, First): _____

Date and time of incident: _____

Location of incident: _____

Date of Birth	Age	Sex	Race

Date and time of report: _____

School, business or organization

Name: _____

Type: _____
 (e.g., non-profit, private, public school)

Location of report: _____

Agency Case #: _____

Faith-based organization

Name: _____

Faith: _____

Other

Name: _____

Type: _____

Address: _____

NATURE OF CALL FOR SERVICE (check all that apply)

Crime against persons

Crime against property

Gang activity

Other _____

BIAS

TYPE OF BIAS

(Check all characteristics that apply)

Disability

Gender

Gender identity/expression

Sexual orientation

Race

Ethnicity

Nationality

Religion

Significant day of offense

(e.g., 9/11, holy days)

Association with a person or group with one or more of these characteristics (actual or perceived)

Other: _____

ACTUAL OR PERCEIVED BIAS – VICTIM’S STATEMENT

Actual bias [Victim has the indicated characteristic(s)].

Perceived bias [Suspect believed victim had the indicated characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?

Yes No

Do you know what motivated the suspect to commit this crime?

Yes No

Do you feel you were targeted because you associated yourself with an individual or a group?

Yes No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?

Yes No

Are there Indicators the suspect is affiliated with a criminal street gang?

Yes No

BIAS INDICATORS (CHECK ALL THAT APPLY):

Hate speech

Acts/gestures

Property damage

Symbol used

Written/electronic communication

Graffiti/spray paint

Other: _____

HISTORY

SUSPECT INFORMATION				RELATIONSHIP BETWEEN SUSPECT & VICTIM			
Legal name (Last, First): _____				Suspect known to victim: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Other Names used (AKA): _____				Nature of relationship: _____			
Date of Birth	Age	Sex	Race	Length of relationship: _____			
				<input type="checkbox"/> Prior reported incidents with suspect: <i>Total #</i> _____			
Relationship to Victim: _____				Prior unreported incidents with suspect: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown			

WEAPONS/FORCE

Weapon(s) used during incident? Yes No Type: _____

Force used during incident? Yes No Type: _____

EVIDENCE

Witnesses present during incident? Yes No Statements taken? Yes No

Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo/video <input type="checkbox"/> Known

RESOURCES

Resources offered at scene: Yes No

Marsy's Law Handout Hate Crimes Brochure Other: _____

MEDICAL

Victim	Suspect	
<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
<input type="checkbox"/>	<input type="checkbox"/>	Injuries observed

Completed by	Date
Name/Title/ID number	

INDEX / TOPICS