

City of Sunnyvale Department of Public Safety

Department Policies

CHIEF'S PREFACE

The following documents are the policies, procedures and guidelines for the members of the Sunnyvale Department of Public Safety. These documents are designed to help guide all members of the department, sworn and professional, in our daily activities when providing public safety services to the citizens and visitors of our community and when called upon to assist other public safety agencies. These policies and procedures are guidelines and are not meant to be all encompassing of every situation that a member of the organization will encounter during their daily activities or throughout their careers. We recognize that our profession and the delivery of public safety services are very complex, constantly changing and dynamic. However, we believe that the combination of training, experience, policy guidance and the high quality of our personnel will help guide each member in situations where there is no exact policy or procedure.

The transition to the Lexipol Policy System has taken an extensive amount of time to ensure that a complete review was accomplished before implementation. Each of these policies has been carefully reviewed by department subject matter experts, the management team and representatives from department labor groups. With that said, the review process never really ends, as our policies will continue to be revised based upon legislative action at the State and National levels, Court decisions, City Council direction, Professional Best Practices and the changing needs of the organization and community.

This document is not meant to lay dormant or only be used as a resource guide, but rather it should be considered a living document which constantly needs to be reviewed and updated. The job of keeping these policies, procedures and guidelines current rests with every employee of the Sunnyvale Department of Public Safety. It is the duty and function of every member to make themselves aware of the contents of the manual. That duty extends to making suggestions for modifications of any policy for the betterment of the community and the organization.

Finally, each of these policies should align with our Department Mission: "Save lives, protect property and the environment through fully integrated public safety services"; Vision: "Be the leader of the fully integrated public safety model" and Values: "Excellence, Integrity, Professionalism, Accountability and Community Engagement."

Chief Phan S. Ngo

Sunnyvale Department of Public Safety

City of Sunnyvale Department of Public Safety

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DEPARTMENT CODE OF ETHICS

As a Public Safety Officer/Employee, my fundamental duty is to serve all persons; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the Constitutional rights of all 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 behave in a manner that does not bring discredit to me or to my agency. I will 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 both in 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, political beliefs, aspirations, 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/my employment 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 Public Safety service. I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession ... Public Safety Service.

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MISSION, VISION, VALUES STATEMENT

Mission Statement - Save lives, protect property and the environment through fully integrated public safety services. Police - Fire - EMS

Vision Statement - Be the leader of the fully integrated public safety model

Values Statement - Embracing our commitment and responsibility, we are committed to the following values:

Excellence - Integrity - Professionalism - Accountability - Community Engagement

Excellence - We seek to achieve the highest standards by providing effective and progressive services.

Integrity - We are honest, trustworthy and adhere to the public safety code of ethics. Honor guides our actions.

Professionalism - We treat everyone with dignity and respect.

Accountability - We hold ourselves and one another accountable for our actions and decisions.

Community Engagement - We engage our diverse community through proactive collaboration and partnerships.

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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 City of Sunnyvale Department of Public Safety to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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 CONSTITUTIONAL REQUIREMENTS

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

100.4 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.).

100.4.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CITY OF SUNNYVALE DEPARTMENT OF PUBLIC SAFETY

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).

100.4.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CITY OF SUNNYVALE DEPARTMENT OF PUBLIC SAFETY

The arrest authority outside the jurisdiction of the City of Sunnyvale Department of Public Safety 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.

100.4.3 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE CITY OF SUNNYVALE DEPARTMENT OF PUBLIC SAFETY

The arrest authority within the jurisdiction of the City of Sunnyvale Department of Public Safety includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.
- (c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

100.4.4 TIME OF MISDEMEANOR ARRESTS

Officers shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Penal Code § 840):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
 - 1. A misdemeanor committed in the presence of the officer.
 - 2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
- (b) The arrest is made in a public place.
- (c) The arrest is made with the person in custody pursuant to another lawful arrest.

Law Enforcement Authority

- (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

100.5 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).

Policy Manual

101.1 PURPOSE AND SCOPE

The manuals of the Department of Public Safety are hereby established and shall be referred to as the Law Enforcement Policy and Fire Policy Manuals. The policy manuals are a statement of the current policies, procedures, rules, and guidelines of this department. All employees are to conform to the provisions of the manuals. All prior and existing manuals, orders, and regulations which are in conflict with the manuals are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of the manuals.

101.2 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.

101.3 AUTHORITY

The Chief 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 or the authorized designee is authorized to issue Interim Directives, which shall modify those provisions of the manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

The Bureau of Police Services Administrative Staff Lieutenant is responsible for the administration and oversight of the online manuals.

101.3.1 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 City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety reserves the right to revise any policy content, in whole or in part.

101.4 FORMATTING CONVENTIONS FOR THE POLICY MANUALS

The purpose of this section is to provide examples of abbreviations and definitions used in the manuals.

101.4.1 ACCEPTABLE ABBREVIATIONS

Policy Manual

The following abbreviations are acceptable substitutions in the manuals:

- Interim Directives may be abbreviated as "ID"
- Policy Manual sections may be abbreviated as "P 106.X" or "F 106.X"

101.4.2 DEFINITIONS

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

Adult - Any person 18 years of age or older.

Bureau - A work force commanded by a Department Manager who is directly responsible to the Chief of Public Safety.

Chief - Plans and administers all Public Safety activities and has complete internal control over departmental functions and exercises wide discretion in the administration of the department. As referenced in this policy "Chief" includes his/her designee.

CFR - Code of Federal Regulations.

City - The City of Sunnyvale.

Command Officer - All sworn officers above the rank of Lieutenant.

Community Service Officer - Employees, who are not sworn police officer, but who handle non-emergency police services.

Company - A group of members assigned to a piece of fire service apparatus.

Department /SDPS - Sunnyvale Department of Public Safety.

Department Manager - Command Officers, Senior Management Analyst, Management Analyst, Communications Manager, Records Manager, Fire Marshal and the Neighborhood Preservation Manager are Department Managers who plan and administer all Public Safety activities through general supervision and control over bureau functions and personnel, and exercises wide discretion in the administration of an assigned bureau; Police Services, Fire Services, Special Operations, Administration, and Strategic Services

Division - A work force which is also a sub-section of a Bureau, commanded by a Captain who is directly responsible through the Bureau Deputy Chief to the Chief of Public Safety.

DMV - The Department of Motor Vehicles.

Employee/Personnel - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person who is employed by or appointed by the Sunnyvale Department of Public Safety including sworn officers and professional employees (professional staff) and volunteers.

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Officer/Sworn - Those employees, regardless of rank, who have peace officer powers pursuant to Penal Code section 830.1.

On-Duty - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

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

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

Privilege - Employment conditions that are not a right, but are granted at the convenience of the Department.

Professional Staff - Employees who are not sworn peace officers.

Program - An undertaking which has definite objectives, and budgeted allocations for resources, as defined in the official City of Sunnyvale fiscal year Resource Allocation Plan (Budget).

Rank - The job classification title held by an officer.

Right - In reference to conditions of employment, the term "right" shall designate conditions specifically outlined in Federal or State law, City Charter or Ordinances, and City Civil Service Rules.

Seniority - Seniority is determined first by position and then by years of service in that position / job classification.

Shall or will - Indicates a mandatory action.

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

Squad/Station - A group of officers which is also a sub-unit of a Team, commanded by a supervisor who is directly responsible to a Department Manager.

Supervisor - Plans and supervises the activities of a Public Safety Unit through direct supervision.

Team - A group of employees assigned to a span of time (shift) for duty purposes.

Unit - A work force which is also a sub-section of a Division within a Bureau.

USC - United States Code

Volunteer - Citizens who volunteer their time to the Sunnyvale Department of Public Safety.

Watch/Shift - A designated span of time within a 24 hour period during which personnel are actually engaged in the performance of their assigned duties.

101.4.3 DISTRIBUTION OF MANUALS

Computerized versions of the Law Enforcement and Fire Policy Manuals will be made available on the Department network for access by all employees. The computerized versions will be limited

Policy Manual

to viewing and printing of specific sections. No changes shall be made to the electronic versions without authorization.

101.5 EMPLOYEE RESPONSIBILITY

As a condition of employment, all employees are required to read and obtain necessary clarification of this department's policies. All employees are required to sign a statement of receipt acknowledging that they have been provided access to the Law Enforcement and Fire Manuals and understand they are responsible to read and become familiar with the contents.

101.5.1 REVISED POLICIES

All employees are responsible for keeping abreast of all Law Enforcement Policy and Fire Policy Manual revisions. All employees shall log in to the department's policy system at the beginning of their work week to ensure there are no new or revised policies. Each employee shall read and acknowledge each new or revised policy and seek clarification as needed.

Each Bureau Captain will ensure that employees under his/her command have acknowledged any Law Enforcement Policy and Fire Policy Manuals revisions.

Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

102.3 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 faithfully discharge the duties upon of a Public Safety [position] true to the Public Safety Code of Ethics, according to the best of my ability."

102.4 MAINTENANCE OF RECORDS

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

Chief Executive Officer

103.1 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.

103.1.1 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).

City Policy

104.1 INTRODUCTION

The City Manager and Directors of Departments of the City of Sunnyvale develop orders, directions, policy statements and procedures within the realm of their responsibility and authority, as required to achieve proper levels of community service.

104.2 CITY ADMINISTRATIVE POLICY MANUAL

The City of Sunnyvale Administrative Policy Manual sets forth the official policy in matters generally concerning all employees and departments of the City regarding Fiscal, Property, Reports, and Public subjects. These policies shall be observed and contradictory orders or orders concerning the same subject will not be issued within the department, except to draw attention to those orders or to clarify policy in unique circumstances. Copies of the Administrative Policy Manual are maintained on the City Intranet website.

104.3 CITY OF SUNNYVALE SERVICE RULES AND REGULATIONS

The Civil Service Rules and Regulations set forth the official policy of the City of Sunnyvale as provided by the City Charter with regard to employment with the City. Information concerning recruitment, examinations, eligibility lists, appointments, performance, separation, reinstatement, grievances, standard of conduct and other miscellaneous provisions are contained therein. Copies are available for review in the Human Resources Department.

104.4 SALARY RESOLUTION BY THE SUNNYVALE CITY COUNCIL (PAY PLAN)

According to the provisions contained in the City Charter, the City Council, through the "Salary Resolution", establishes a pay plan for classified and unclassified Civil Service positions. The Salary Resolution provides rules and procedures for the administration of the plan. Since this information is subject to annual revision, all inquiries should be referenced to the current Salary Resolution or Wage Supplement Program Handbook. The documents are available for review in the Human Resources Department.

104.5 MEMORANDUM OF UNDERSTANDING

A "Memorandum of Understanding" is an agreement between representatives of the City of Sunnyvale and representatives of employee organizations. It is the document which determines benefits and addresses selected terms and conditions of employment for the specified period of time. It is the basis on which the Salary Resolution is prepared.

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.

200.1.1 ORGANIZATIONAL STRUCTURE

[See attachment: FY 16-17 DPS Org Chart-Rev July 2016.pdf](#)

200.2 BUREAUS

The Chief is responsible for administering and managing the Sunnyvale Department of Public Safety. There are three bureaus in the Sunnyvale Department of Public Safety as follows:

- Bureau of Police Services
- Bureau of Fire Services
- Bureau of Special Operations

All bureaus are expected to stay within planned costs and meet mandated training and certification standards.

200.2.1 BUREAU OF POLICE SERVICES

The goals of the Bureau of Police Services are:

Provide a safe community and a feeling of security among the citizens, through:

- Enhancing the quality of life, prevent and reduce crime, and demand for police services in neighborhoods, schools, and businesses.
- Maintaining a low crime rate for violent crimes.
- Maintaining a low crime rate for property crimes.
- Maintaining a high clearance rate for murder, forcible rape, robbery, and aggravated assault.
- Responding in a safe and timely manner to all emergency and non-emergency calls for service.
- Responding to community complaints regarding traffic related issues in a timely manner.
- Providing traffic enforcement and education to ensure the safe and orderly flow of traffic throughout the city.
- Providing major accident investigations.
- Conducting preliminary and follow-up investigations.
- Identifying and arrest all violators.

Organizational Structure and Responsibility

- Preparing cases for prosecution.
- Providing preventive patrol and community policing activities.
- Maintaining a perception of safety throughout the City.
- Maintaining a high resident satisfaction rating.

Provide police services that directly respond to the emergency and general needs of the people and businesses within Sunnyvale by:

- Responding in a safe and timely manner to all Police, Fire, and Medical emergencies.
- Providing traffic enforcement to ensure the safe and orderly flow of traffic throughout the City.
- Providing pro-active patrol to prevent, detect, and apprehend perpetrators.
- Responding to special enforcement demands such as gang activity, SWAT calls, drunk driving enforcement, large public gatherings, and community events to ensure safe operation.

Provide Police services that ensure the capacity of Police, Fire and Emergency Medical Services to meet the needs of the community by:

- Ensuring training is provided and received by all personnel to maintain certifications and qualifications in all areas.
- Ensuring that all fees and audits are paid for or completed in a timely and efficient manner.
- Providing resources to ensure the capacity to support the prosecution of criminal and traffic complaints.
- Providing resources to ensure the capacity to support all administration functions by the Deputy Chief, Deputy Chiefs and Administrative Support.

200.2.2 BUREAU OF FIRE SERVICES

The goals of the Bureau of Fire Services are:

Ensure protection of the lives and property of the community and the delivery of effective and efficient fire, emergency medical, hazardous material, false alarms, and mutual aid calls for service in a tiered system in partnership with patrol, other DPS bureaus, emergency advanced life support contractors, mutual aid agencies, and the community by:

- Responding in a safe and timely manner to all fire, hazardous material and medical emergencies.

Organizational Structure and Responsibility

- Providing essential fire and emergency medical services to emergencies and general needs of the Sunnyvale community.
- Ensuring skillful application of available resources in the preservation of life and property.
- Providing fire services that improve fire safety compliance and provides education and support resources to the Sunnyvale community.
- Providing a timely response to all calls for service both from time of call to dispatch and from dispatch to arrival at scene given the priority/nature of the call for service.
- Fostering cooperative partnerships with other City departments and the community to maintain the City ISO rating.
- Conducting effective inspection programs.
- Working in partnership to adequately deliver trained and equipped resources to any emergency scene in the City.

Maintain fire safety compliance and provide education and support resources to the Sunnyvale community by:

- Providing inspections to community businesses by fire station based firefighters as assigned with a focus on the reduction of emergency needs of the business through educational and compliance options such as corrective citations.
- Engaging fire station based personnel with the community in fire safety education through support of formal programs offered by Community Safety Services as well as opportunities in the field to provide fire prevention education and support such as drop in visits and station based programs.

Provide essential services that ensure the capacity of fire services to meet the needs of the community by:

- Maintaining fire apparatus and stations in a state of readiness through daily inspection.
- Training firefighters to meet the needs of the community through compliance with all local, state, and federally mandated training.
- Supporting new firefighter training efficiently through participation/instruction by on duty firefighters.
- Maintaining efficient operations through proper administration and utilization of firefighter time.

Organizational Structure and Responsibility

Minimize loss of life and property damage from fire by conducting a plan review program and a permitting and inspection program to ensure Fire Prevention code compliance within the community by:

- Reviewing regular building plan checks and fire safety related checks.
- Conducting comprehensive construction, fire safety, and hazardous materials site inspections.
- Minimizing loss of life and property damage from fire by conducting a plan review program, a permitting and inspection program to ensure fire prevention code compliance within the community.
- Completing hazardous materials plan checks for City permitted facilities.
- Conducting hazardous materials inspections at permitted facilities within the City.
- Investigating and determining the cause of hazardous materials releases and enforcing safety violations.

200.2.3 BUREAU OF SPECIAL OPERATIONS

The goals of the Bureau of Special Operations are:

Promote a safe environment for neighborhoods, businesses, and schools by providing emergency preparedness training and education, animal control services, and crime prevention programs by:

- Conducting community related outreach and training through the Office of Emergency Services (OES).
- Providing emergency preparedness services and training, in partnership with the community, to ensure an appropriate civic and community response to major disasters and emergencies.
- Ensuring adequate planning and research of possible major disasters and emergencies to become better prepared.
- Responding to complaints for schools, neighborhoods, business groups, and civic organizations.
- Working in partnership with the Columbia Neighborhood Center.
- Providing support for the juvenile diversion program and the services of a juvenile probation officer.
- Providing specialized services, in partnership with the community, to support a safe environment for neighborhoods, schools, and businesses.
- Providing crime and safety presentations to schools, neighborhood associations, business groups and civic organizations.
- Administering the false alarm program, crossing guard, nuisance vehicle abatement, and parking enforcement programs.

Organizational Structure and Responsibility

- Maintaining a resident's perception of safety in their neighborhoods, in downtown, and in parks during all hours.

Providing animal control and shelter services that meet the emergency and regulatory needs relative to all animals within the community by:

- Providing for animal control and care services throughout the community.
- Responding to community calls for Animal Control services.
- Investigating animal related cases and issuing animal licenses.
- Providing community outreach through effective service events.
- Maintaining the Shelter services contract.

Recruit, develop, and retain a public safety workforce that is responsive to the changing needs of the department and the community by:

- Recruiting and hiring highly qualified applicants.
- Conducting community based outreach and recruitment activities.
- Conducting thorough sworn selection processes.
- Performing complete and comprehensive backgrounds.
- Providing essential services to ensure that appropriate individuals are recruited and selected to become Public Safety Officers and meet the safety needs of the community.
- Providing initial and on-going professional training.
- Ensuring that appropriate training resources that meet Federal, State, and Department requirements are provided to new Public Safety Officers.
 - Providing Police Academy Training
 - Providing Fire Academy Training
 - Providing Emergency Medical Technician Training
 - Providing Field Training

Ensure community safety by conducting effective and efficient police criminal investigations, fire and hazardous materials investigations, and by providing inspection and permitting services by:

- Maintaining a low crime rate for violent crimes including murder, forcible rape, robbery, and aggravated assault.

Organizational Structure and Responsibility

- Maintaining a high clearance rate for the crimes of murder, forcible rape, robbery, and aggravated assault.
- Solving crime by conducting thorough criminal investigations to identify the persons responsible for the crimes.
- Working with the District Attorney's office to successfully prosecute criminals.
- Maintaining a low crime rate for the property crimes of burglary, grant theft, and motor vehicle theft.
- Maintaining effective and proactive deployment of the Community Crime Unit (CCU).
- Investigating and determining fire causes.

Provide efficient, accurate and safe emergency communications services to the community, internal public safety customers, other law enforcement/fire suppression and emergency medical provider agencies ensuring community and officer safety by:

- Processing 911 calls for service in a timely manner.
- Efficiently and accurately processing incoming and outgoing calls for service in a timely manner.
- Efficiently and accurately dispatching police, fire, and medical services in a timely manner.
- Meeting or exceeding medical protocol compliance standards set by the National Academy of Emergency Dispatch.
- Responding to requests for assistance and/or information from the community, City staff, and other public agencies in a timely manner.
- Providing administrative and supervisory support for all components of the Communications Program.

Provide records management and information services to the public, internal public safety customers, external law enforcement and judicial agencies by:

- Providing timely and accurate input and modifications into the Justice Systems databases.
- Responding to requests for information from the community, City staff, other public safety and judicial agencies efficiently and effectively.
- Submitting accurate court cases to the District Attorney's Office in a timely manner.
- Responding to requests for adjudication of parking citations in an efficient and effective manner.

Organizational Structure and Responsibility

- Ensuring that all fingerprint services (LIVESCAN) are submitted to State and Federal agencies efficiently and effectively.
- Auditing all Automated Reporting System (ARS) reports for accuracy in a timely manner.
- Providing timely and accurate statistical reports.
- Processing, storing, and purging property and evidence efficiently and effectively.
- Maintain an accurate inventory of and responding to requests for department equipment and supplies in a timely manner.
- Conducting audits and coordinating certifications to ensure the security of the Records Management Program (RMS).
- Providing administrative and supervisory support for all components of RMS.
- Ensuring accurate and timely data entry into the various records management and automated reporting systems.
- Providing administrative and supervisory support for all components of the Data and Statistics program.
- Ensuring that property and evidence is received, stored, and then purged in a timely manner.
- Ensuring that the management of equipment, uniforms, and supplies is conducted in an efficient and effective manner.
- Providing administrative and supervisory support for all components of the Property and Evidence program.

200.2.4 PUBLIC SAFETY MANAGEMENT SUPPORT

The goals of Public Safety Management and Support are:

Ensure the effective and efficient management of the Sunnyvale Department of Public Safety and maintaining the highest professional standards for the Department by:

- Providing leadership and oversight of the entire Department
- Conducting planning and research activities that ensures the utilization of best practices.
- Conducting Professional Standards investigations.
- Providing Administrative analysis of Departmental activities.
- Providing personnel services that support the human resource function of the Department.
- Providing budget administration to ensure the fiscal responsibility of the Department.

Organizational Structure and Responsibility

- Providing efficient coordination of licensing and permitting services.
- Providing facilities and maintenance support to maintain a safe and efficient work environment all Public Safety employees.
- Providing critical analysis of Department policy, procedures, and operations.

200.3 COMMAND PROTOCOL

The senior officer at a Public Safety activity is responsible for providing leadership, direction, and discipline to prevent disruption of Public Safety services, continuation of an act contrary to General Orders, or unnecessary risk to the Department personnel or others; and shall be obeyed as higher ranking officer regardless of rank. When an officer is assigned to the duties of a higher-ranking officer, he/she shall be obeyed accordingly.

Seniority of officers having the same rank is determined by years of service in rank.

200.3.1 SUCCESSION OF COMMAND

The Chief exercises command over all personnel in the Department. During planned absences the Chief will designate a Deputy Chief to serve as the acting Chief.

For purposes of seniority, the following is the precedence of ranks in descending order:

Chief of Public Safety

Public Safety Deputy Chief

Public Safety Captain / Professional Services Manager

Public Safety Lieutenant / Professional Services Supervisor

Public Safety Officer / Professional Services Employee

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

Employees shall obey lawful orders given by higher ranking officers. An employee shall not refuse or fail to obey an order given by a higher ranking officer, nor shall the employee ridicule these orders. Insubordination or disrespect towards a higher ranking officer is strictly prohibited. Insubordination is defined as a failure to recognize the authority of a higher ranking officer by disrespect or by disputing the higher ranking officer's lawful order.

Organizational Structure and Responsibility

200.3.4 MANNER OF ISSUING ORDERS

Orders issued from a higher ranking officer to a subordinate shall be clear, understandable and civil in tone. If asked to clarify an order, the person issuing the order shall do so without criticism or ridicule.

200.3.5 QUESTIONS REGARDING ASSIGNMENTS

Employees in doubt to the nature or detail of their assignment shall seek information from their supervisor.

200.3.6 UNLAWFUL ORDERS

No supervisor shall knowingly issue an order in violation of a law or ordinance.

Obedience to an unlawful order is never a defense for an unlawful action; therefore, no employee is required to obey any order contrary to Federal, State or City ordinance. Responsibility for refusal rests with the employee; he/she shall be required to justify his/her actions.

200.3.7 CONFLICTING ORDERS

Upon receipt of an order in conflict with any previous order, the employee affected will advise the person issuing the order. The responsibility for countermanding the original order then rests with the individual issuing the conflicting order. If so directed, the conflicting order shall be obeyed. No supervisor shall knowingly issue any order contrary to departmental regulations unless it is in the best interests of the Department.

200.3.8 OBEDIENCE TO UNJUST OR IMPROPER ORDERS

Employees given an order which they feel is contrary to regulations must first obey the order, then may appeal, through the chain of command, prior to acting upon the order. The supervisor issuing the disputed order may permit appeal prior to obedience.

200.4 OBEDIENCE TO LAWS AND REGULATIONS

Employees shall obey State and Federal laws and City ordinances. Employees shall not violate rights guaranteed by the constitutions of the United States and the State of California. All rules and regulations of the Department and general and special orders shall be observed. In the event of improper action or breach of discipline, it is presumed the employee had knowledge of the law, ordinance, rule, or policy in question.

An employee who is arrested for a crime, or has knowledge he/she has been named a suspect in a crime report or criminal complaint shall immediately notify the Chief in writing. If any employee's driver license is suspended or revoked the employee shall immediately notify the Chief in writing. There are State and Federal laws, which upon conviction prohibit possession of a firearm and/or ammunition. The commission by a Public Safety employee of any act which constitutes a criminal violation may be grounds for termination.

Interim Directive

201.1 PURPOSE AND SCOPE

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

201.1.1 INTERIM DIRECTIVE PROTOCOL

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

All existing Interim Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Any Interim Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number 01. For example, 12-01 signifies the first Interim Directive for the year 2012.

201.1.2 TEMPORARY ORDERS

Memorandum orders, personnel orders, etc. are merely used to convey information to personnel, and are temporary or self-canceling in nature. When these orders are issued, they are intended to be effective only during a specified period of time or until there has been an opportunity to issue a interim directive concerning the subject. When a interim directive is warranted, it shall be issued within 120 days from the date of issuance of the temporary memorandum.

201.2 RESPONSIBILITIES

201.2.1 STAFF

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

201.2.2 CHIEF

The Chief shall issue all Interim Directives.

201.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

Emergency Management Plan

202.1 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).

202.2 ACTIVATING THE EMERGENCY PLAN

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

202.2.1 RECALL OF PERSONNEL

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

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

202.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in the Emergency Operation Center (EOC).

202.4 UPDATING OF MANUALS

The Chief 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.

Emergency Action Plan and Fire Prevention Plan Training

203.1 PURPOSE AND SCOPE

The purpose of this policy is to establish training in support of the City of Sunnyvale Department of Public Safety Emergency Action Plan (EAP) and Fire Prevention Plan (FPP) in a manner consistent with California regulations for all City of Sunnyvale Department of Public Safety facilities (8 CCR 3220; 8 CCR 3221).

203.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to provide training to all members regarding the EAP and FPP. The Fire Training Lieutenant and the Fire Marshal will coordinate and provide the training.

203.3 TRAINING UNIT RESPONSIBILITIES

The Training Unit shall be responsible for developing and scheduling the department's EAP and FPP training. The Training Unit shall maintain records of all EAP and FPP training provided to members. Records should include, but are not limited to:

- (a) The dates of the training sessions.
- (b) A list of the topics or a summary of the content of the training sessions.
- (c) The names or other identifiers and job titles of the members who received the training.
- (d) The names, certificate numbers and qualifications of persons conducting the training.

The Training Lieutenant should maintain the training records in accordance with established records retention schedules.

203.4 TRAINING GUIDELINES

The EAP and FPP training shall include, but is not limited to (8 CCR 3220; 8 CCR 3221):

- (a) A review of the department's EAP and FPP including any information specific to each member's workplace or assignment.
- (b) Information on where written copies of the EAP and FPP are located and how members may review the plans.
- (c) The Department shall designate and train a sufficient number of people to assist in the safe and orderly emergency evacuation of all occupants in the event of an emergency.
- (d) The Department shall advise each member of his/her responsibility under the plan at the following times:
 - (a) Initially when the plans are developed
 - (b) Whenever the member's responsibilities or designated actions under the plans change

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Emergency Action Plan and Fire Prevention Plan Training

- (c) Whenever the plans are changed.
- (e) The Department shall review with each member upon initial assignment those parts of the EAP and FPP which the member must know to protect the member in the event of an emergency.

Training Policy

204.1 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.

204.2 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 Peace Officers Standards and Training (POST), the California Office of the State Fire Marshal (OSFM), the California Fire Service Training and Education System (CFSTES), the U.S. Department of Homeland Security or other accredited entities.

204.3 OBJECTIVES

The objectives of the Training Program are to:

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

204.4 TRAINING PLAN

A training plan will be developed and maintained by the Training Lieutenants. It is the responsibility of the Training Lieutenants to maintain, review, and update the training plan on an annual basis, ensuring that all mandated training is achieved. All training records will be maintained in accordance with established records retention schedules.

204.5 TRAINING NEEDS ASSESSMENT

The Training Unit will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by the Training Unit. Upon approval, the needs assessment will form the basis for the training plan for the fiscal year.

Training Policy

204.6 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
 - 1. Court appearances
 - 2. Approved leave
 - 3. Sick leave
 - 4. Physical limitations preventing the employee's participation (Modified Duty Assignments).
 - 5. Emergency situations approved by direct supervisor
- (b) When an employee is unable to attend mandatory training, that employee shall:
 - 1. Notify his/her supervisor according to the current leave policy.
 - 2. The first shift back on regular duty following each training session, supervisors will notify the appropriate Bureau captain with a list of employees that missed training and provide reasons for the absence.
 - 3. Each supervisor will recap training attendance and participation in the annual performance evaluation for their assigned officers.
 - 4. When employees miss scheduled training their supervisor will make a request to the Training Lieutenant to attend the required training on an alternate date. If an alternate date is not available the supervisor will look for alternative courses on the same topic and seek approval through the Bureau captain to send the employee. Alternative training can be from an online course, provided by PTO/FTO's, or through an outside vendor.

204.7 TRAINING RECORDS

The purpose of this section is to establish procedures for accumulating and maintaining records of all training provided by the Department and all training received by individual department members. This section shall apply to all training received but particularly training that is mandated by an external force such as a law, statute or regulation.

204.7.1 POLICY

It is the policy of the Department to maintain comprehensive records of all training provided by the Department to maintain comprehensive records of all training provided by the Department, and all training received by department members. The Training Lieutenants or authorized designee shall be responsible for creating and maintaining training records. All members of the Department are responsible for assisting the Training Unit in documenting training activities by signing course rosters, submitting certificates of completion from outside training or providing other means of training documentation.

Training records may be documented utilizing either hard copies stored in a traditional filing system or via electronic files.

Training Policy

204.7.2 INDIVIDUAL TRAINING RECORDS

The Training Unit will create and maintain an individual training file for each member of the Department. The member training files should be used to document a members training courses and training-related programs and activities.

The training records should not be used to store any work-performance records, member conduct records, member disciplinary records or any other documentation that is not specifically training-related. Information entered into the member training files will be a permanent part of that record. No training information or entries will be removed from the file unless the record is found to be factually incorrect or erroneously entered into that member's training file. Each member's training file will be part of that member's permanent record of activity while employed by the Department.

When a member ends employment with the Department, that member's training file will be archived and maintained for a minimum of seven full calendar years following the member's separation from service or in accordance with the department's established records retention schedule.

Members of the Department shall be provided access to their individual training file upon request. A member may request to review his/her training file either verbally or in writing. The Training Unit should facilitate those requests as soon as practicable but in all cases within 21 days of the member's request to review his/her file. Members may not remove any document or information from the training file without the express approval of the Training Lieutenant. Members may not add any documents or entries to their training file without the approval of the Training Lieutenant. Members shall be allowed to photocopy or otherwise reproduce images of any entries in their individual training file.

Member training files should be organized to readily allow for the retrieval of specific training subject documentation, particularly in regard to documentation of any mandated training subject compliance.

Member training files should contain documentation of all work- or job-related licensing and certification that the member earns, achieves or is awarded. Members should maintain their own copies of all training certifications. Information regarding member progress toward or application for licensing and certification should also be stored in the member training files.

204.7.3 TRAINING RECORDS FROM PREVIOUS EMPLOYERS

Members of the Department may submit training records from previous employers to the Training Unit for inclusion in their individual training file. The Training Unit staff will evaluate any submitted training records obtained during previous employment and will add any pertinent information to the member's training file as appropriate. New members should submit the Training Unit copies of any licenses, certifications and coursework that are pertinent to their position with the Department.

The Training Unit may request that new members obtain and submit copies of any previous employer training files for inclusion in their training file.

Training Policy

204.7.4 RELEASE OF FORMER MEMBER TRAINING RECORDS

Upon written request, the individual training file of any former Department member may be copied and released to either the former member or to a third-party upon receipt of a signed written request from a former member of the Department. The written request should include the past member's full name, approximate dates of employment with the Department and date of separation from employment with the Department. In the event that the former member is requesting that copies of his/her file be sent directly to a third party, the written request should include a statement authorizing the Department to release copies to the named third party.

204.8 TRAINING LIEUTENANT

The Chief shall designate a Training Lieutenant who is responsible for developing, reviewing, updating, and maintaining the department training plan so that required training is completed. The Training Lieutenant shall review the training plan annually.

204.8.1 TRAINING RESTRICTION

The Training Lieutenant is responsible for establishing a process to identify officers who are restricted from training other officers for the time period specified by law because of a sustained use of force complaint (Government Code § 7286(b)).

Electronic Mail

205.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (email) 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 City policy, 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.

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

205.3 PROHIBITED USE OF E-MAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and 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.

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.

205.4 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

On-duty employees are responsible for checking their e-mail daily and responding in a timely manner.

Communications and Correspondence

206.1 DEPARTMENT TELEPHONES RESTRICTED USE/CONFIDENTIALITY

Business calls to the Department are to be directed to published business lines.

Fire Station business numbers are regarded as non-published business lines to prevent the public from believing that they may call a Fire Station to report an emergency.

Personal use of telephones for private messages is restricted. Only toll free, brief personal messages concerning urgent matters affecting the welfare of an employee or family member may be transmitted when this can be done without interference with primary duties and responsibilities.

206.2 TELEPHONE REQUIREMENTS

Public Safety employees are required to have a telephone and provide the telephone number to the Department Principal Office Assistant. Changes in telephone numbers shall be reported within 24 hours of the change whether the employee is working or on leave.

206.3 EMPLOYEE'S TELEPHONE NUMBERS SECURITY

No employee of this Department is to give the personal phone number of another employee to anyone except Departmental employees. Depending upon the urgency of the request, it is permissible to:

- (a) Take a message from the party who called.
- (b) Call the employee at home and tell them the name and telephone number of the person attempting to contact them.

206.4 DEPARTMENT ADDRESS

Employees shall not use Department letterheads for private correspondence. Employees of the Department shall not use the Department as a mailing address for private business or correspondence, nor as an address on any motor vehicle registration or operator's license form.

206.5 NOTICE OF CHANGE TO RESIDENCE ADDRESS

Public Safety employees are required to provide their current residential address to the Principal Office Assistant. Any changes in residence shall be reported within 24 hours of a change, whether the employee is working or on leave. Residence address information is for internal use only and shall not be disclosed.

Post Office Boxes shall not be offered in lieu of a street address.

206.6 PRINTED FORMS

The use, revision or discontinuance of printed or copied forms is prohibited, except as coordinated with and approved by the Special Operations Deputy Chief. The maintenance worker shall maintain a file copy and index of all approved printed forms in current use of the Department.

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Communications and Correspondence

Internal Information and Notification

207.1 DEPARTMENT BUSINESS AND CONFIDENTIALITY

Employees are prohibited from divulging information obtained in the course of Departmental employment except as may be required in the performance of a Public Safety duty.

Employees are prohibited from using confidential or official information to advance the financial or other private interests of themselves or others wherein special knowledge or advantage has come to the employee's attention or which arose out of Departmental employment, except as may be specifically authorized by the Chief.

Employees are prohibited from using their position to obtain information for their personal use except as may be specifically authorized by the Chief.

207.2 ACCEPTANCE OF INFORMATION

All information reported to an employee, which may be related to criminal activity or otherwise within the scope of Public Safety responsibility, is to be regarded as Departmental business and acted upon according to policy.

An employee shall not hinder the passing of information to the proper person or unit because of personal indifference either to the reporting party or the nature of the incident or situation reported.

An employee shall not intentionally withhold information which is recognized as being useful to other employees of the Department in pursuit of Public Safety objectives, except with the consent of a Command Officer who has determined that the information is to be regarded as confidential.

No employee shall falsify records and/or make misleading entries or statements with intent to deceive or willfully mutilate any useful Department record, book, paper, or document.

207.3 GUIDELINES FOR STANDARD NOTIFICATIONS OF COMMAND PERSONNEL

Effective operation and administration of Department business is dependent upon reliable information. Incidents of special interest that commonly result in inquiries from the media, citizens, and other city officials must be communicated to Command Staff. Officers and supervisors should evaluate all incidents and notify command staff of any incident not listed below that he/she believes a notification should be made. When given direction by a command officer or incident commander, communications personnel are responsible to notify Command personnel of any of the following incidents. If a Command Officer is not on scene the first notification call for any of these incidents shall be made to any Command Officer that is on duty (e.g. the B.C. at Station 2, Patrol Operations Captain):

- (a) Arrest of an officer/public official/City employee or high-profile individual
- (b) Any incident that generates coverage from radio, television or print media
- (c) Bomb detonation
- (d) Deaths (homicide, fire fatality, traffic fatality)

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Internal Information and Notification

- (a) Homicide
- (b) Suspicious
- (c) Fire/Traffic fatality
- (d) In-custody
- (e) Juvenile
- (e) Natural disaster causing damage or injuries in Sunnyvale
- (f) Fire incidents that are third alarm or greater, or involve a significant injury which requires medical transport to a hospital, a death or significant traffic impact.
- (g) Firearms discharge by a DPS employee (accidental or intentional)
- (h) Hate crimes
- (i) Injuries to officers which require transportation to an emergency room.
- (j) Significant criminal cases (187 PC, 207 PC, 215 PC, gang related 245's, etc.)
- (k) Significant hazardous materials release
- (l) Significant incidents on school grounds (sex crimes, major 594, arson, bomb threat, arrests of campus staff, etc.)
- (m) Significant injury of a juvenile
- (n) Major rescue
- (o) Mutual aid request or deployment (not auto-aid)
- (p) Officer-involved shooting
- (q) Off-duty actions, where officer performs enforcement duties.
- (r) Off-duty officer-involved incidents involving contact with another law enforcement agency, which results in a criminal investigation.
- (s) Plane crash or train wreck
- (t) Riot, civil disturbance, demonstration, protests
- (u) Traffic collisions with serious injuries involving juveniles
- (v) Incidents/events that clearly are of special interest to Command staff (ie, hate crime, bomb threat involving a school)
- (w) Accusation of significant misconduct by a DPS employee
- (x) Pursuit resulting in a vehicle collision (property damage, injury, or death)
- (y) Use of force resulting in significant injuries

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Internal Information and Notification

207.3.1 INTERNAL DEPARTMENT TRANSMITTAL

To increase transparency and accountability the Internal Department Transmittal form shall be used by employees for the following notifications:

- (a) Policy suggestions for Chief's review and consideration.
- (b) Any personnel matters that require the Chief's review and approval.

The form can be found at <J:\DPS\Department-wide\MasterForms\Administration>

Personnel Assignment

208.1 PERSONNEL MATTERS

Responsibility for the coordination of personnel matters such as payroll and other personnel transactions within the department is assigned to the Bureau of Special Operations. Scheduling, paid time off (PTO) and leave requests are coordinated within TeleStaff by each Bureau. The Personnel Representative is assigned the duties of processing all timecards, forms and documents relating to personnel matters, keeping required records and files, and maintaining liaison with the Human Resources Department and the Finance Department. All forms and documents relating to personnel matters are to be directed to the Personnel Representative.

Requests for review of decisions or interpretations made by the Personnel Representative are to be sent, through the chain of command to the Deputy Chief of Special Operations.

208.2 WORK SCHEDULES

Public Safety operations require a complex deployment of staffing in appropriate numbers to a variety of positions. Some positions are staffed only during regular work hours, some must be staffed around the clock, and some require extended assignment periods. In order that employees of the Department may achieve and maintain proficiency in basic Public Safety skills, employees will be assigned to various jobs in a methodical way.

208.3 POLICY

To achieve its primary goals and observe the various constraints involved, the department has established a comprehensive policy regarding scheduling. The scheduling system is intended to accomplish objectives established for the good of the department. The primary objective is to provide effective Public Safety services. Budgeted levels of service in all programs will be maintained unless otherwise indicated.

In preparing schedules, equitable treatment of all members and consideration of everyone's personal needs will be considered provided they are not in conflict with the requirements of the department.

Members of the department are reassigned between functions to maintain basic skills and proficiency. Allowances will be made when practical for all personnel to develop their full capabilities for the benefit of the individual and the department. Scheduling may be adjusted to facilitate further education. Personnel will be assigned to as many different duties as practical to provide a well-rounded experience essential for career development. Persons demonstrating the required aptitudes and qualifications may be assigned to specialized duties.

Changes in assignment will be made at any time in order to meet the needs of the department. Scheduling practices are to conform to law, ordinances, Memorandums of Understanding, and City policies.

Personnel Assignment

208.4 WORK SCHEDULE MANAGEMENT

Scheduling of members to specific Divisions or Bureaus is the responsibility of the Bureau Captains. Team Year work assignments are generally prepared for a period of twenty-six (26) consecutive pay periods, beginning as soon as practical after each February 1st (to coincide with the beginning of a Fair Labor Standards Act (FLSA) cycle). Team Year work assignments will be issued no less than six (6) weeks before the effective date.

Assignment transfers will ordinarily be at the beginning of a pay period.

208.4.1 WORK SCHEDULE RULES

Generally, Officers and Lieutenants will not be permitted to work in a capacity requiring the operation of a Patrol vehicle for more than thirteen and a half (13.5) consecutive hours except in extenuating circumstances as determined by a Patrol Captain. Extenuating circumstances shall include, but not be limited to, the following examples:

- (a) Provide staffing at the scene of an in-progress emergency.
- (b) Temporarily provide minimum staffing for the Police Services Bureau while an appropriate relief is being arranged.

If the need arises for an officer to work greater than thirteen and half (13.5) hours (up to the MOU agreed maximum), absent extenuating circumstances, alternative assignments should be considered, i.e.: a headquarters' based patrol assignment.

Officers and Lieutenants who are assigned to the Bureau of Fire Services may not, except in extenuating circumstances, work in the Bureau of Police Services within eight (8) hours of the start of a fire duty assignment.

For extenuating circumstances or planned special events/training, an employee's work hours may be shifted not to exceed five (5) hours from their normal duty schedule.

In the instance of a special work detail, one-time schedule adjustments for all department personnel can be made with prior Management approval provided the work schedule change is temporary and in accordance with the employee's applicable MOU and/or documented special schedule agreement.

Special schedules of varying hours in a work week for individual employees on other than shift assignments may be mutually requested by the individual employee and the Department Director and approved by the City Manager. Refer to Administrative Policy for additional details.

For details regarding standard schedules for reassigning personnel, refer to applicable MOU.

208.5 SPECIAL TRAINING COMPENSATION

Special Training is defined as any training activity which is designed to enhance the skill level and career development of Public Safety employees and occurs as other than in service or remedial training.

Special Training is not mandatory for the employee, but generally recommended as a means of enhancing skills.

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Due to the varied schedules that Public Safety employees work, it is difficult to predict all training situations that will require compensation and schedule adjustments. This section defines Department policy for determining employee compensation and temporary schedule adjustments needed to attend Special Training (not considered a regular work schedule reassignment). Employee work schedules will be assessed by Management prior to course approval with intent to minimize costs associated with Special Training attendance. This section defines Department policy for determining employee compensation and schedule adjustments for Special Training.

The employee's normal FLSA designated work period and hour limitation do not change when a training schedule adjustment is required. Employee weekly overtime eligibility will be based on a seven (7) day period beginning at 0000 hours on Sunday and ending at 2359 hours on Saturday (unless the employee's special schedule designates an alternate seven (7) day period, e.g., in the case of a 9/80 schedule).

Any excess between actual training/travel time described herein and the employee's regular work schedule for the week the training occurs will be paid to the employee at the City overtime rate.

- (a) PSOA employees are excused from working any deficit hours between actual training/travel time and their regular work hour norm.
- (b) COA employees have the option of being paid straight time for actual training/travel time without any adverse effect to benefits or leave accrual, even if less than their regular work hour norm.
- (c) Professional employees are expected to supplement their training/travel time with leave or work additional straight time to meet their regular work hour norm (subject to pre-approval from their supervisor).

208.5.1 DEFINITIONS

Training Time

Time spent in the specified training activity, which includes instruction, quizzes or examinations, practical exercises, and periodic short rest breaks. It does not include travel time, meal periods not directly involving instruction, or any other interruptions.

Travel Time

The period of time that is reasonably necessary for the employee to arrive at and return from the training site.

208.5.2 TRAVEL TIME CALCULATION

Travel time will be calculated and distributed by the Training Unit in advance and will be specified on the employee's training changeover schedule. The distance/time will be calculated from the starting point to the training site using recognized/published driving or flight times. If the actual travel time exceeds the calculated travel time due to circumstances beyond the employee's control, travel time may be adjusted by the Training Unit upon the employee's submittal of a written statement detailing the reason for the difference. Timecard reporting of travel time is as outlined below for non-exempt employees:

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- (a) Daily Travel - Travel above and beyond scheduled work hours for the week, less normal commuting time to and from work, will be compensated at an overtime rate. (Refer to 29 CFR 553.221, 785.37 & 785.38).
- (b) Overnight Travel - If the employee drives to the overnight location or performs pre-approved work while traveling as a passenger, travel time will be considered regular work hours until their work hour norm for the week is met. Any driver with travel time above regularly scheduled work hours for the week shall be compensated at an overtime rate. Travel as a passenger involving a required overnight stay is only considered hours worked if the travel occurs during an employee's normal working hours or during the same hours on non-working days unless the employee is performing pre-approved work while traveling (Refer to 29 CFR section 785.39).

208.5.3 TRANSPORTATION

A City pool car shall be made available to any employee traveling by vehicle to a work assignment. If a pool car is unavailable, the employee may elect to use their personal vehicle with approval from a Training Lieutenant. Refer to the City's Administrative Policy Manual Travel Policy and Vehicles and Motorized Equipment Policy for additional details regarding transportation. (Note - If an employee elects to use a mode of transportation other than the most logical and least expensive, the City will pay only the cost of the most logical and least expensive mode.)

208.5.4 TRAINING LOCATION

It shall be the responsibility of the Bureau Manager approving the training to determine if the training is local or non-local training.

- (a) Local Training - Generally defined as training that is held at a training site that does not require overnight lodging. The employee is generally expected to travel to and from the training site daily and is compensated for mileage when a City vehicle is not available for use.
- (b) Non-Local Training - Generally defined as training that occurs at a site that requires overnight lodging for the participant.

208.5.5 CONTINUATION OF REGULAR WORK SCHEDULE TRAINING ADJUSTMENT

Training that is 24 hours or less in duration generally will not require a regular work schedule interruption. In these instances, the employee will remain on their regular work schedule and attend training either on their regular work days (RWD) or on their regular days off (RDO).

The rule for changeover schedules in these instances generally will be: a minimum of 8.0 hours off between the employee's regular shift end and the start of the first day of the training class. If travel is required to get to/from class, additional release time will be evaluated on a case-by-case basis by the Bureau Manager approving the training. A training changeover schedule will be provided to the employee (and scheduling personnel) as early as possible prior to the training start date.

208.5.6 INTERRUPTION OF REGULAR WORK SCHEDULE TRAINING ADJUSTMENT

Training that is greater than 24 hours in duration will generally require a regular work schedule interruption. In these instances, the employee is placed on a Training Week Schedule.

Personnel Assignment

The rule for changeover schedules in these instances generally will be: the day before the training begins is an RDO and the day after the training ends is an RDO. A training changeover schedule will be provided to the employee (and scheduling personnel) as early as possible prior to the training start date.

208.5.7 EMPLOYEE INITIATED VOLUNTARY TRAINING

There are often courses that the Training Unit becomes aware of which are applicable to Public Safety employment, but have not been included in the Department's Training Plan. In these instances, the Training Unit's role is to make the course information available to interested employees.

- (a) If an employee chooses to attend one of these courses, the employee assumes all responsibility for enrollment, payment of fees, and other associated costs, and shall attend said course on their own time.
- (b) Reimbursement for these costs must be requested in advance through the City's Education Reimbursement Program.

208.6 CALL BACK, RESPONSIBILITY TO REPORT FOR DUTY

In the event of a major emergency "call back" notification, officers who are notified to report for duty pursuant to administrative policy are obligated to do so without unnecessary delay except as they may be excused by a Supervisory Officer.

In the event of a routine manpower shortage due to absences of regularly assigned personnel, personnel of the Division generally and Team specifically are to be utilized for relief unless other qualified officers have offered to be assigned. A member is obligated to report for "call back" duty whenever the Command Officer in charge has exhausted reasonable alternatives and has so informed the called back officer.

License to Carry a Firearm

209.1 PURPOSE AND SCOPE

The Chief is given the statutory discretion to issue a license to carry a firearm to residents within the community (Penal Code § 26150; Penal Code § 26155). This policy will provide a written process for the application and issuance of such licenses. Pursuant to Penal Code § 26160, this policy shall be made accessible to the public.

209.1.1 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).

209.2 POLICY

The City of Sunnyvale Department of Public Safety will fairly and impartially consider all applications to carry firearms in accordance with applicable law and this policy.

209.3 QUALIFIED APPLICANTS

In order to qualify for a license to carry a firearm, the applicant must meet certain requirements, including:

- (a) Be a resident of the City of Sunnyvale (Penal Code § 26150; Penal Code § 26155).
- (b) Be at least 21 years of age (Penal Code § 29610).
- (c) Fully complete an application that will include substantial personal information. Much of the information in the application may be subject to public access under the Public Records Act.
- (d) Be free from criminal convictions that would disqualify the applicant from carrying a firearm. Fingerprints will be required and a complete criminal background check will be conducted (Penal Code § 26185).
- (e) Be of good moral character (Penal Code § 26150; Penal Code § 26155).
- (f) Pay all associated application fees. These fees are set by statute and may not be refunded if the application is denied.
- (g) Provide proof of ownership or registration of any firearm to be licensed.
- (h) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).
- (i) Complete required training (Penal Code § 26165).

License to Carry a Firearm

209.4 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.

209.4.1 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 Department of Justice (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. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination, at no cost to the applicant.
 - 2. If an incomplete application package is received, the Chief 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) At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of Sunnyvale for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (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) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, or Welfare and Institutions Code § 8103 will be

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issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26195).

- (d) The applicant should submit at least three signed letters of character reference from individuals other than relatives.
- (e) The Chief or designee will complete a background investigation of all materials submitted, including but not limited to an interview with the applicant, a review of publicly available information; contact with character witnesses; and a review of the findings from the fingerprint and criminal background investigation.
- (f) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Once the Chief or authorized designee has reviewed the completed application package and relevant background information, the application will either be advanced to phase two or denied.

In the event that an application is denied at the conclusion of, or during, phase one, the applicant shall be notified in writing within 90 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. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

209.4.2 PHASE TWO

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

- (a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief or the authorized designee. During this stage, there will be further discussion of any potential restrictions or conditions that might be placed on the license. The Chief requires that the applicant be referred to an authorized psychologist used by the Department for psychological testing (Penal Code § 26190). The cost of such psychological testing (not to exceed \$150) shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. Psychological testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).
- (b) The applicant shall complete a 24-hour community college course certified by the Commission on Peace Officer Standards and Training, which complies with Penal Code § 26165.
- (c) The applicant shall submit any firearm to be considered for a license to the Armorer or other department authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief 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).

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

License to Carry a Firearm

Whether an application is approved or denied at the conclusion of or during phase two, the applicant shall be notified in writing within 90 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. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

209.5 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 (Penal Code § 26150). Therefore, such applicants may be referred to the Sheriff for processing.

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 Sunnyvale (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).

209.6 ISSUED FIREARMS PERMITS

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

- (a) The license will be subject to any and all reasonable restrictions or conditions the Chief has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry the firearm.
 - 1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
 - 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 be laminated, bearing a photograph of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information clearly visible.
 - 1. Each license shall be numbered and clearly identify the licensee.

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2. All licenses shall be subjected to inspection by the Chief or any law enforcement officer.
- (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 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.

209.6.1 LICENSE RESTRICTIONS

- (a) The Chief 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.
 9. Obeying all federal, state, and local laws regarding time, place, and manner limitations, including any limitations on carrying a concealed weapon in sensitive places.
- (b) The Chief 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.

License to Carry a Firearm

209.6.2 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).

In the event that any amendment to a valid license is approved by the Chief, 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.

209.6.3 REVOCATION OF LICENSES

Any license issued pursuant to this policy may be immediately revoked by the Chief for any of the following reasons:

- (a) The licensee has violated any of the restrictions or conditions placed upon the license.
- (b) The licensee becomes psychologically unsuitable to carry a firearm.
- (c) The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103 or any state or federal law.
- (d) The licensee engages in any conduct which involves a lack of good moral character for the original issuance of the license.
- (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 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 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).

209.6.4 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 for a renewal by:

- (a) Verifying all information submitted in the original application under penalty of perjury.
- (b) Completing a department-approved training course pursuant to Penal Code § 26165.
- (c) Submitting any firearm to be considered for a license renewal to the Armorer for a full safety inspection. The Chief reserves the right to deny a license for any firearm

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that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

- (d) Paying a non-refundable renewal application fee.

Once the Chief 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. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal.

Whether an application for renewal is approved or denied, the applicant shall be notified in writing within 90 days of the renewal application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later (Penal Code § 26205).

209.7 DEPARTMENT REPORTING AND RECORDS

Pursuant to Penal Code § 26225, the Chief shall maintain a record of the following and immediately provide copies of each to the California DOJ:

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

209.8 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 public record (Government Code § 7923.808).

Any information in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of the applicant's family shall not be considered public record (Government Code § 7923.800).

Retiree Concealed Firearms

210.1 PURPOSE AND SCOPE

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

210.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to provide identification cards to qualified former or retired officers as provided in this policy.

210.3 LEOSA

The Chief 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.

210.3.1 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 City of Sunnyvale Department of Public Safety 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.

210.3.2 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:

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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.
 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.

210.4 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).

210.4.1 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."

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Retiree Concealed Firearms

210.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The City of Sunnyvale Department of Public Safety 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.
- (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.

210.5 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the on-duty sworn manager or supervisor 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.

210.5.1 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.

210.5.2 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 annually 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.

Retiree Concealed Firearms

210.6 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. The decision of the Chief is final.

210.7 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 Lieutenant 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 Lieutenant as soon as practicable. The Lieutenant 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.

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Retiree Concealed Firearms

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 Lieutenant should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief.
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 Lieutenant 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 Lieutenant may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

210.8 FIREARM QUALIFICATIONS

The Armorer 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 Armorer will maintain a record of the qualifications and weapons used.

Firearms Training Facility Rules and Regulations

211.1 OBJECTIVE

The Sunnyvale Department of Public Safety Firearms Training Facility is operated by the Sunnyvale Department of Public Safety for the purposes of training Sunnyvale Department of Public Safety personnel, training other law enforcement personnel, and to provide a firearms range open to other law enforcement agencies (guest agencies) for their own training.

The use of the facility is contingent upon the observation and acceptance of the attached rules and regulations that have been established for the safe operation of the facility.

211.2 GENERAL SAFETY

The following rules shall be adhered to by ALL personnel using the indoor range facilities:

- All weapons at the range should be treated as if they are loaded.
- Do not point a weapon at anything you are not intending to shoot.
- Weapons shall be cased or holstered unless directed to do otherwise by the Rangemaster, firearms instructor or supervising Lieutenant.
- Trigger fingers will remain off the trigger until the weapon is on target.
- Handling of weapons will be on command or by permission of range personnel only.
- No handling of weapons will be permitted while persons are down range, unless participating in a tactical shooting exercise overseen by a Department firearms instructor.

211.2.1 RANGE SAFETY

- (a) In matters of "Safety Operating Procedures", the on-duty Rangemaster, firearms instructor or supervising Lieutenant is the ultimate authority on the range. Any deviation from the Rangemaster's, firearms instructor's or supervising Lieutenant's commands, orders, or decisions may be grounds for immediate revocation and suspension of range privileges.
- (b) At the beginning of each day or at the beginning of a new shooting event, the Rangemaster, firearms instructor or supervising Lieutenant, will inspect the live-fire portion of the Firearms Training Facility for any hazards before allowing any firearms training.
- (c) Any Rangemaster, firearms instructor or supervising Lieutenant has the authority to inspect any and all firearms and ammunition brought onto the facility grounds for safety and approval. Refusal to submit said articles for inspection upon demand is grounds for immediate denial and/or suspension of range privileges.
 - (a) Defective or unsafe firearms will not be permitted on the firing line.
 - (b) Only factory loaded ammunition is permitted. Reloaded ammunition is not permitted.

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- (c) Armor piercing (AP), tracer or incendiary ammunition is not permitted.
- (d) The Department Rangemaster, firearms instructor or supervising Lieutenant has the authority to immediately revoke range privileges from any person for any violation of these rules or regulations and may order said person to leave the firing line and premises immediately. Command staff will determine when these privileges will be re-instated.
- (e) All personnel entering upon, remaining upon or leaving the facility shall carry all firearms in a safe manner, adhering to the following:
 - 1. All firearms brought into the facility shall be unloaded unless the firearm is worn directly on the person in a holster or carried concealed upon the person in a secure manner.
 - 2. Unless worn directly on the person, revolvers shall be carried either holstered, cased or with the cylinder open.
 - 3. Unless worn directly on the person, semiautomatic pistols shall be holstered, cased, or have the slide locked back in the rear position. The magazine shall be removed from the firearm.
 - 4. Other firearms (such as shotguns, rifles, automatic firearms, less lethal, etc...) shall be carried with actions open and ammunition removed.
- (f) Firearms will be loaded and unloaded with the muzzles pointed in a safe direction and only in the following locations:
 - (a) In the cleaning room or armory utilizing the bullet containment device.
 - (b) On the firing line with muzzle pointed down range as directed by the Rangemaster, firearms instructor or supervising Lieutenant.
 - (c) Forward of the firing line with muzzle pointed down range as directed to do so by the Rangemaster, firearms instructor or supervising Lieutenant.
 - (d) Any other area designated by the Rangemaster, firearms instructor or supervising Lieutenant.
- (g) At the completion of a shooting session, the student will ensure that the firearm used is unloaded and in a safe condition (action open, safety on, etc.) The safe condition of the firearm will be verified by either another shooter or by the Rangemaster, firearms instructor or supervising Lieutenant. The weapon will then be in a condition for transfer to weapons cleaning station
- (h) No shooting will take place in the Firearms Training Facility unless supervised by the Department Rangemaster, Department firearms instructor or supervising Lieutenant.
- (i) The guest agency's designated firearms instructor(s) shall retain complete responsibility for the safety of their personnel and safe firearms training within the Sunnyvale Department of Public Safety Firearms Training Facility, Training Room, and associated grounds.

Firearms Training Facility Rules and Regulations

- (j) Firearms shall not be handled, cycled, or displayed behind the firing line (except in designated areas). No firearms or equipment shall be left unattended.
- (k) Before cleaning or servicing of any firearm, the person shall make sure it is unloaded. Cleaning and/or servicing of firearms shall be permitted only in the designated areas.
- (l) Shooters unfamiliar with range operations or the course of fire shall contact the Rangemaster or a firearms instructor for clarification.

211.2.2 FIRING LINE SAFETY

All shooters on the firing line shall adhere to the following:

- (a) When on the Range, only shooters assigned to a target(s) shall be permitted on the firing line with the exception of the following:
 - (a) Rangemaster.
 - (b) Firearms Instructors.
 - (c) Coaches who have been authorized by the Rangemaster or firearms instructor.
 - (d) Training officers who have been authorized by the Rangemaster or firearms instructor.
 - (e) Lieutenants who have completed the Department range safety course and have been authorized by the Rangemaster to oversee basic firearms practice.
- (b) Upon the command of the Rangemaster or firearms instructor, all shooters on the firing line shall remove their firearms from their cases or holsters and load them if needed.
- (c) All shooters on the firing line shall cease fire, make the firearm safe and stay on the firing line when the following occurs:
 - (a) Upon the command of the Rangemaster, firearms instructor or supervising Lieutenant.
 - (b) Whenever anyone on the range calls "cease fire."
- (d) The muzzle of all firearms shall be pointed in a safe direction at all times.
- (e) The following firearms are prohibited from being fired at this facility:
 - (a) Black powder firearms
 - (b) Damascus barreled firearms
 - (c) Any firearm capable of chambering ammunition with greater muzzle energy than what is approved by the Rangemaster.
 - (d) Any firearm that the Rangemaster, firearms instructor or Supervising Lieutenant deems unsafe
- (f) No malfunctioning firearm shall be removed from the firing line without first clearing the malfunction and removing all ammunition, unless directed otherwise by the Rangemaster, Firearms Instructor or supervising Lieutenant.

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- (g) Everyone in the range shall wear eye and ear protection, and ballistic vest except when the Rangemaster, Firearms Instructor or supervising Lieutenant authorizes shooters to remove the gear temporarily for verbal instructions and lecture.
- (h) Sunglasses and other light restricting eyewear are not authorized to be worn on the firing line unless medically prescribed and/or approved by the Rangemaster.
- (i) Ammunition shall be handled with care.
- (j) Do not turn or twist the target carrier by hand as this will damage the target carrier assembly.
- (k) The top edge of all targets shall be attached to the cardboard backing at least 8 inches below the target holder clamp.
- (l) Prone Shooting - When shooting from the prone position on the range, shooters will insure that all expended rounds end up in the trap. The Rangemaster, firearms instructor or supervising Lieutenant will note the appropriate angles to insure that all rounds impact the bullet trap safely.
- (m) Fully automatic gunfire - Any and all fully automatic gunfire will be conducted no further than ten yards from the back stop on the range, and done so in a controlled manner to insure that all rounds impact the bullet trap safely, unless approved by the Rangemaster.

211.3 HOUR OF OPERATION

Use of Range is scheduled through the Department Rangemaster or Police Training Lieutenant. The use of the adjacent classroom will be scheduled by the Department Rangemaster, Police Training Lieutenant or Fire Training Lieutenant. The Range is intended to be utilized during normal business hours. Exceptions for utilizing the Range after hours will be granted and scheduled by the Department Rangemaster or Police Training Lieutenant.

Access to the Range by other agencies will be provided for scheduled events by means of cardkey. This cardkey will be located at Sunnyvale Department of Public Safety Headquarters. The Desk Officer will retain control of the cardkey along with a log of who the key was checked out to. Agencies utilizing the Range will return the cardkey to Desk Officer immediately after use.

211.4 GENERAL REGULATIONS

- (a) Cleaning of weapons in the range will only be allowed at the firearms cleaning stations. No ammunition will be allowed on this area. No cleaning will take place inside the range while shooting is in session.
- (b) Weapons will not be unnecessarily handled or displayed.
- (c) All weapons inside of the range will be considered to be real weapons, even those designated as training weapons and at all times will be handled accordingly.
- (d) Unless the event is a Department organized one, all personnel entering the range for the purpose of shooting will complete a training record 3"x5" card. This will detail the number of rounds fired and the type of shooting/training that was performed.

Firearms Training Facility Rules and Regulations

1. The completed 3"x5" cards will be placed in the training card box located inside the range.
2. The training cards will be picked up on a weekly basis by the Police Training Lieutenant.
- (e) A calendar of scheduled range dates will be maintained by the Rangemaster and Police Training Lieutenant. This calendar will show qualification dates, training dates, open range dates, etc.
- (f) The station crew will be notified when training at the range is occurring.

211.5 RESERVATIONS

- (a) The range can be scheduled for use by squads/teams with the Rangemaster or a firearms instructor present.
- (b) Firearms instructors can make use of the range during non-scheduled times (when the range is available.)
- (c) Requests for scheduled range time will be submitted to the Rangemaster or Police Training Lieutenant at least one week prior to the requested date.
- (d) The range may be used by non-sworn personnel with the approval of Command Staff. Such examples of use may be Retired Officer CCW qualifications, Military Units, Citizen Academies, Explorer Scouts, etc. At all of these events the Rangemaster or a firearms instructor must be present. No ammunition purchased by the Department will be supplied to non-sworn personnel during range operations without the approval of Command Staff.
- (e) A current list of Department qualified firearms instructors will be maintained and posted at the range. This list will be updated quarterly.
- (f) Department personnel will be allowed 100 rounds of practice ammunition per month supplied by the department. All training ammunition provided by the department shall be used during practice, qualifications or training sanctioned by the department. The utilization of this ammunition will be monitored by the appointed Rangemaster.
- (g) The range will operate at all times with a minimum of two people. One of the persons present will be the Rangemaster, a firearms instructor or a supervising Lieutenant. The only exception to this will be when the Rangemaster or firearms instructor is utilizing the range for the purpose of testing or sighting in a weapon.

211.6 FIREARMS TRAINING FACILITY PRACTICE SESSIONS

A Lieutenant who has completed a Department firearms safety and orientation course and has been authorized by the Rangemaster may open the firearms training facility to supervise general firearms practice and marksmanship. These voluntary practice sessions are supplemental to Departmental firearms training and qualifications are not intended to replace or substitute Departmental firearms training. Practice sessions will be limited to general static firearms practice with Department-issued handguns or personally -owned off-duty weapons.

Firearms Training Facility Rules and Regulations

The following procedure will be followed when a Lieutenant wishes to open the firearms training facility for a practice session:

1. The Lieutenant must attempt to contact both the Rangemaster and Police Training Coordinator via email or phone call during regular business hours at least 24 hours in advance of the intended practice session. If a firearms instructor is available to assist during the intended practice session, the firearms instructor will be assigned to be present and assist with the session. During weekends or holidays, the requesting Lieutenant will consult the current list of firearms instructors to see if one is on-duty and able to assist. If a firearms instructor is not available (or becomes unavailable), the Lieutenant may continue with the intended practice session. An updated list of active firearms instructors will be maintained on the department intranet site.
2. The supervising Lieutenant will open the range following the procedures and guidelines outlined in policy 211.2.1 (Range Safety). The Lieutenant will complete a 3x5 training record card per policy 211.4 (General Regulations) to document the practice session and ammunition use.
3. The practice of allowing a maximum of 100 rounds of Department-issued practice ammunition per Officer/Lieutenant per month as outlined in policy 211.5(f) will remain in place and ammunition use will be monitored by the Rangemaster.

During Lieutenant supervised firearms practice sessions, the following guidelines shall be followed:

1. The supervising Lieutenant may not participate in shooting during the range practice session unless another range-authorized Lieutenant, the Rangemaster or a firearms instructor is present.
2. The supervising Lieutenant will maintain a static firing line consisting of a maximum of 2 shooters. "Shoot and move" or other dynamic or tactical shooting is prohibited during practice sessions.
3. The range will be illuminated with standard lighting during practice sessions. No low-light shooting will be permitted.
4. Drawing a firearm from a holster, as well firing from standing, kneeling and prone shooting positions on a static firing line is permitted.
5. In general, the supervising Lieutenant will refrain from conducting any firearms-related instruction, training or presenting tactical considerations. If the supervising Lieutenant wishes to include any firearms or tactical instruction or training, the Rangemaster or Police Training Coordinator will be contacted so that qualified department training staff can facilitate the instruction.

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 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.

300.2.3 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.

300.2.4 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

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the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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 AFFECT AN ARREST

Any peace officer may use reasonable force to affect 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 (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.

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- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (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 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).

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration

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or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the City of Sunnyvale Department of Public Safety for this specific purpose.

300.3.6 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 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.

300.3.7 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).

300.4 ADDITIONAL RESTRICTIONS

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.

"Positional Asphyxia" as defined in Government Code 7286.5 (b)(4) means situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.

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300.5 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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):

- (a) An officer may use deadly force to protect him/herself or others from what he/she 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 him/herself, 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).

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).

300.5.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. 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.

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300.5.2 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.

300.6 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.

300.6.1 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) The individual indicates intent to pursue litigation.
- (e) Any application of a CEW or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) 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.

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300.6.2 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 Unit Policy. This data is retained in the Internal Affairs Unit and is the responsibility of the IA Lieutenant to report statistical data involving use of force to California Department of Justice.

300.7 MEDICAL CONSIDERATION

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)).

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 he/she 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 (sometimes called "excited delirium"), 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.

300.8 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. The responding supervisor is expected to (Government Code § 7286(b)):

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- (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.
 - 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) Review and approve all related reports.
- (g) 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.
- (h) In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- (i) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

300.8.1 LIEUTENANT RESPONSIBILITY

The Lieutenant 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. All in car video and body

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worn camera data shall be reviewed. The Lieutenant shall complete the basic use of force form electronically and ensure the ARS report is uploaded as an attachment. The form shall be routed through the chain of command to the Bureau Deputy Chief for review.

300.9 TRAINING

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

Subject to available resources, the Training Lieutenant should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

Training should also include (Government Code § 7286(b)):

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) 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.

300.10 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)).

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

300.13 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)).

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

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

301.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

301.3 USE OF RESTRAINTS

Only members who have successfully completed City of Sunnyvale Department of Public Safety-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.

301.3.1 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.

301.3.2 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

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determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

301.3.3 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.

301.3.4 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.

301.4 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, prevent resistance, attempting escape, injuring him/herself, injuring an officer or damaging property.

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. Any person who is under arrest and being transported in a police vehicle shall be searched and handcuffed prior to and during transport.

In most situations handcuffs should be applied with the hands behind the person's back. Absent extenuating circumstances, handcuffs should be double-locked to prevent tightening.

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.

301.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS

Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

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Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons, the WRAP 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. A supervisor shall be notified when auxiliary restraint devices are used.

Only department-authorized devices may be used. The auxiliary restraint devices shall be applied in a manner that will not restrict circulation. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

301.7 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).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

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- (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.
- (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).

301.8 REQUIRED DOCUMENTATION

If an individual is restrained and released without an arrest, the officer shall document in the CAD event or crime report the details of the detention and the need for handcuffs or other restraints.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. If an officer observes signs of physiological problems, known or suspected drug use, or any other situation that is out of the ordinary, the observations should be documented in the crime report.

Control Devices and Techniques

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

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

302.3 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 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.

302.4 RESPONSIBILITIES

302.4.1 WATCH COMMANDER RESPONSIBILITIES

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

302.4.2 RANGEMASTER RESPONSIBILITIES

The Armorer 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 Armorer or the designated instructor for a particular control device. The inspection shall be documented.

302.4.3 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 Armorer for disposition.

302.5 BATON/COLLAPSIBLE BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin 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.

When carrying a baton/collapsible baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt or approved patrol vest. Plainclothes and non-field personnel may carry the baton/collapsible baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.5.1 FLASHLIGHT GUIDELINES

When time does not allow use of the baton or collapsible baton or other less-lethal options and the safety of the Officer or other person is in immediate jeopardy, the flashlight may be used subject to the same restrictions for a baton or collapsible baton.

- (a) The flashlight is not considered routine replacement for the police baton or collapsible baton.

302.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Lieutenant, Incident Commander or SWAT/CNT Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

302.7 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 or as defense from an aggressive animal. 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.

Once the person no longer demonstrates his/her intent or ability to resist, the use of OC spray is prohibited.

Control Devices and Techniques

302.7.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt or approved patrol vest. 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.

Only Officers having received a Department-approved training class are authorized to carry OC spray. Officers shall only use Department-approved chemical agents.

302.7.2 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 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 Officers who have completed the Department Pepperball/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

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. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

302.7.3 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.

302.8 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.

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302.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

302.9.1 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 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.

302.9.2 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

Control Devices and Techniques

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, neck and groin 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.

302.9.3 SHOTGUN SAFETY PROCEDURES

Shotguns assigned to SWAT specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles as needed 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 secured in the SWAT armory. 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.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

302.10 TRAINING FOR CONTROL DEVICES

The Police Training Lieutenant 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) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

302.11 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 Weapon

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Conducted Energy Weapons (CEWs).

It is recognized that officers regularly respond to dynamic and rapidly changing incidents and are sometimes forced to make split-second decisions based on the officer's perceptions at that time. While various degrees of force exist, each officer is expected to use force reasonable under the circumstances to successfully accomplish a legitimate law enforcement purpose in accordance with this policy. The Department is committed to reducing the potential for violent confrontations between officers and suspects as well as reducing the risk of injury to all involved. To accomplish this, the Department authorizes the use of less lethal tools, such as the CEW, a neuromuscular device.

When properly applied in accordance with this policy, the CEW device is a control device, which is intended to temporarily incapacitate a violent or potentially violent individual without causing serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects. Although designed to lower the risk to officers and suspects, the Department recognizes that any less lethal weapon has the potential to cause serious injury or death.

303.2 CEW DESCRIPTION

- (a) The CEW is the only neuromuscular device authorized for use by the Sunnyvale Department of Public Safety. Personnel authorized to carry a CEW shall utilize the CEW in accordance with this policy.
- (b) The CEW is a conducted energy weapon that employs pressurized nitrogen to deploy two barbed probes. The probes are designed to pierce skin and clothing and the small barb prevents their unintended removal. The probes are attached to insulated wires that deliver an electrical current to the intended target. The CEW can also be used by directly contacting the skin.
- (c) The CEW is a less lethal weapon used to temporarily incapacitate violent or potentially violent individuals by discharging an electric current. This electric current causes involuntary muscle contraction, incapacitating the individual.

303.3 ISSUANCE AND CARRYING CEW

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

Certified personnel shall only use the CEW and cartridges that have been issued by the Department. Uniformed personnel who have been issued the CEW shall wear the device on their person, except in extenuating circumstances or while in headquarters.

Personnel carrying the CEW should perform a spark test on the unit prior to every shift.

Conducted Energy Weapon

When carried while in uniform officers shall carry the CEW in a weak-side draw position.

- (a) Whenever practicable, officers should carry two or more cartridges on their person when carrying the CEW .
- (b) Officers shall be responsible for ensuring that their issued CEW is properly maintained and in good working order.
- (c) Officers should not hold both a firearm and the CEW at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CEW 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 CEW 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 CEW . The 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 CEW in the related report.

303.5 USE OF THE CEW

The CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the device. Although the CEW 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.

303.5.1 FACTORS TO DETERMINE REASONABLENESS OF FORCE

The application of the CEW is likely to cause neuromuscular, but momentary, incapacitation. As such, officers should carefully consider and balance the totality of circumstances available prior to using the CEW including, but not limited to, the following factors:

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.

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- (e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or the reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers, and suspects.
- (j) Risk of escape.
- (k) Other exigent circumstances.

303.5.2 APPLICATION OF THE CEW

The CEW 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.
- (c) Generally, only a sworn peace officer may use a CEW on a human subject. It is the intent of the Department that a Community Service Officer and Animal Control Officer utilize the CEW on a human subject in self-defense only.
- (d) The CEW may be used to disable a vicious or aggressive animal that appears to present a danger to the officer, Community Service Officer, Animal Control Officer, or the public.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CEW to apprehend an individual. Fleeing is defined as an active attempt by a person to evade apprehension by a law enforcement officer by attempting to leave the scene. The severity of the offense and totality of the situation (e.g., the potential for a suspect to sustain significant injury from a fall while running) should be considered before an officer uses a CEW on a fleeing subject.

303.5.3 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CEW on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, impractical 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.

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- (d) Individuals who are handcuffed or otherwise restrained, unless doing so is necessary to prevent them from causing serious bodily harm to themselves or others and if lesser attempts of control have been, or are deemed to be ineffective.
- (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 capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).
- (g) As a prod or escort device, or as a pain compliance technique to overcome passive resistance. Passive resistance is defined as physical action that does not prevent an officer's attempt to control a subject; for example, an uncooperative but non-violent passive demonstrator, etc.
- (h) To stop a subject from swallowing potential evidence or to retrieve evidence a suspect is attempting to swallow.
- (i) Individuals who are in control of a moving vehicle (or vehicles that could begin moving if the CEW is activated). Moving vehicles include autos, trucks, motorcycles and bicycles.

Because the application of the CEW in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance and requires proximity to the subject, additional caution should be exercised. The application in drive-stun only mode should be limited to brief applications in which pain compliance would reasonably appear necessary to achieve control. 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 separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

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

303.5.4 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 CEW 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.

When used in the "probe discharge mode", the CEW is most effective when targeted at the subject's back, below the neck, when practical. When used in the "drive-stun mode", the CEW should be activated against the muscle or nerve points in the subject's front torso, back torso, sides, legs, arms, and/or clavicle.

303.5.5 MULTIPLE APPLICATIONS OF THE CEW

Officers should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. More than three (3) applications of the CEW against a single

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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 CEW appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CEW, 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 CEW at a time against a single subject.

303.5.6 DANGEROUS ANIMALS

The CEW 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.

303.5.7 OFF-DUTY CONSIDERATIONS

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

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

303.6 DOCUMENTATION

Officers shall document all CEW discharges in the related arrest/crime report . Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

303.6.1 REPORT OF USE

All CEW discharges shall be documented in the related arrest/crime report and notification made to a supervisor. Accidental discharges of a CEW cartridge shall also be reported to a supervisor. Any report documenting the discharge of a CEW cartridge shall include the cartridge serial number and an explanation of the circumstances surrounding the discharge.

The onboard CEW memory shall be downloaded through the data port by the Crime Scene Investigator (CSI) or supervisor. Photographs of probe sites should be taken, Anti-Felon Identification (AFID) tags should be collected and the expended cartridge along with both probes and wire should be submitted by the CSI into evidence for future reference. The cartridge serial number should be noted and documented on the evidence paperwork. The probes shall be stored in a plastic sharps container and the evidence packaging shall be marked "Biohazard," if contaminated Only qualified personnel shall take custody of the probes.

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The "Report Extra" tab of the police report shall be completed, and the report routed to the department Police Training Lieutenant, the Deputy Chief of Police Services, and the Chief.

Reports completed regarding the deployment and application of the CEW should contain, at a minimum, the following information:

- (a) The type and brand of CEW cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Identifying and descriptive information and investigative statements of the subject (including membership in an at-risk population), all personnel firing the CEW, and all witnesses.
- (d) Whether any display, laser or arc deterred a subject and gained compliance.
- (e) Level of aggression encountered.
- (f) Any weapons possessed by the subject.
- (g) The type of crime/incident the subject was involved in.
- (h) Determination of whether deadly force would have been justified.
- (i) The type of clothing worn by the subject.
- (j) Terrain and weather conditions during the CEW use.
- (k) Lighting conditions.
- (l) The number of CEW activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (m) The range at which the CEW was used.
- (n) The type of mode used (probe or drive-stun).
- (o) Location of any probe impact.
- (p) Location of contact in drive-stun mode.
- (q) Description of where missed probes went.
- (r) Whether medical care was provided to the subject.
- (s) Whether the subject sustained any injuries.
- (t) Whether any officers sustained any injuries.

Unless it is prohibited by County Protocol, Officers may review video evidence prior to completion of reports to assure accurate recollection of the events surrounding the application of the CEW. Digital data retrieved from any CEW may not be removed from the Public Safety Department in any manner, including copied CDs and electronic file transfer, without authorization from a Bureau Deputy Chief. The onboard CEW memory shall be downloaded through the data port by a trained supervisor or designee and saved. A copy of the report shall be attached to the general file.

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The Training Lieutenant should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Lieutenant should also conduct audits of data downloads and reconcile CEW reports with recorded activations. CEW information may be made available to the public in accordance with the Public Records Act.

303.7 MEDICAL TREATMENT

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

All persons who have been struck by CEW probes or who have been subjected to the electric discharge of the device shall be transported to the hospital and medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be transported by paramedics to the hospital and examined by 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 CEW probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.
- (f) 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 multiple officers to be brought under control, may be at an increased risk of sudden death and should be 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.
- (g) Officers shall attempt to obtain an "Authorization for Release of Medical Information and Records" form from the subject prior to release or transfer to a custodial facility. The officer shall document the subject's authorization or denial in their report.
- (h) All subjects who have received an application of the CEW should be monitored regularly while in police custody even after they receive medical care.

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 disposition. 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 CEW. The officer shall advise the treating physician how many times the subject had the CEW applied, either in probe or stun mode.

303.8 SUPERVISOR RESPONSIBILITIES

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

The supervisor shall ensure the following:

- (a) The subject receives prompt medical treatment.
- (b) CSI's gather and process evidence related to any incident involving the use of a CEW.
- (c) CSI's secure and submit the CEW probes, wires, AFID's, and blast doors into evidence.
- (d) Download CEW deployment data onto the CEW download station.
- (e) Download all digital photo evidence and MVAR videos pursuant to Department policy.
- (f) Print a copy of the CEW firing data and submit into evidence.
- (g) A crime report is generated and verifies officers have sufficiently described the facts preceding the CEW application.
- (h) View MVAR or any available video footage to assist in completing a use of force investigation.
- (i) Complete use of force report pursuant to policy and submit to the Patrol team captain.

303.9 CAPTAIN RESPONSIBILITIES

A Captain should respond, if available, to the scene of any CEW application and ensure that a thorough investigation, as required by this policy, is conducted.

A Patrol Captain shall review all MVAR footage and reports documenting the incident for completeness and accuracy.

303.10 ADMINISTRATION NOTIFICATION

In any incident wherein a subject received severe injuries as a result of a CEW application, the supervisor shall notify the Patrol Captain as soon as practical.

At the direction of Command Staff, the Patrol Training Coordinator or designee shall periodically conduct random audits of CEW data downloads to reconcile with reported applications.

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303.11 TRAINING

Personnel who are authorized to carry the CEW shall be permitted to do so only after successfully completing the initial department-approved training.

Prior to being issued, carrying, or using a CEW, qualified personnel must complete a department approved in-house training course;

- (a) The training course shall include scenario and judgment based training that recognizes the limitations of the CEW application.
- (b) Training in the CEW shall not include any application of the device on any employee of the department.
- (c) Hands-on control tactics during an application of the CEW, including handcuffing the subject during application of the CEW.

Qualified personnel will recertify annually under a department training program to include:

- (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.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Qualification on a department approved application course.
- (f) Physical competency and device retention.
- (g) Handcuffing a subject during the application of the CEW and transitioning to other force options.
- (h) De-escalation techniques.
- (i) The risk of positional asphyxia and the use of restraint techniques that do not impair respiration following the application of the CEW.
- (j) Scenario and judgment based training that recognizes the limitations of the CEW application.
- (k) An emphasis that multiple applications or continuous cycling of the CEW resulting in an exposure of more than 15 (fifteen) seconds (whether continuous or cumulative) may increase the risk of serious injury or death and should be avoided if possible.
- (l) Changes in technology.
- (m) A review of local and national trends in CEW use.

Officer-Involved Incidents

304.1 PURPOSE AND SCOPE

The value of human life is immeasurable in our society. Public Safety Officers have been delegated the responsibility for protecting people's rights to life, liberty, and property. To fulfill these responsibilities, society has authorized law enforcement to use lethal force under certain circumstances. This policy and its accompanying procedures are the basis for decision-making and the exercise of judgment by officers in the use of lethal force. It is in both the public's and the officer's interest that law enforcement be guided by a uniform policy that creates confidence in peace officers rather than doubt resulting from disorganized and conflicting views concerning the use of lethal force.

The use of lethal force is the most serious act a law enforcement officer will engage in. It is imperative that the officer act within the boundaries of legal guidelines, good judgment, and accepted practice. The officer must also be prepared by training, leadership, and direction to act judiciously whenever using lethal force.

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 incident.

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

304.2 POLICY

The policy of the City of Sunnyvale Department of Public Safety is to ensure that officer-involved incidents and deaths are investigated in a thorough, fair and impartial manner according to the County protocol - Officer Involved Incident Guidelines.

[Officer Involved Incident Guidelines- September 2021](#)

304.3 DEFINITIONS

304.3.1 OFFICER-INVOLVED INCIDENT

Any incident in which a peace officer, acting under color of authority, is directly involved in the following:

- (a) Any discharge of a firearm by an officer which proximately causes the death of or injury to another.
- (b) An intentional use of any deadly or dangerous weapon by an officer which proximately causes the death of or injury likely to produce death to another.
- (c) An intentional act on the part of an officer which proximately causes the death of or injury likely to produce death to another.
- (d) Any death of a person while in custody or under officer control.

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1. Excluded from mandatory protocol investigations are post-booking deaths of prisoners, which occur in jails, hospitals or other facilities, while the prisoner is under the custody and care of a law enforcement agency's medical care provider for diagnosed diseases or conditions which have been known and monitored and/or treated by the agency's medical care provider prior to death, but only when the deaths were medically expected and when custodial suicide, trauma, accident or use of intoxicants was not involved.

304.3.2 LETHAL FORCE

"Lethal Force" as used in this policy is defined as that force which may cause death or great bodily injury or creates some specified degree of risk a reasonable and prudent person would consider likely to cause death or great bodily injury.

304.3.3 DEFENSE OF LIFE

An officer may use lethal force to protect himself/herself or others from what he/she reasonably believes to be an imminent threat of death or great bodily injury.

304.3.4 SUBSTANTIAL RISK

An officer may use lethal force to effect the capture or prevent the escape of a suspect whose freedom is believed to represent an imminent threat of great bodily injury or death to the officer or other person(s).

304.3.5 AGAINST JUVENILES

No distinction shall be made to the age of the intended subject of the lethal force. Self-defense and imminent threat shall be the only guideline for employing lethal force.

304.3.6 RISK TO INNOCENT PERSONS

An officer considering lethal force must not only consider the intended target but must be cognizant of the likelihood that innocent third parties may be present. Officers are prohibited from using lethal force when it appears likely an innocent person may be injured. This prohibition shall not extend to the sacrifice of an Officer or other person because of the possibility of injuring an innocent third party.

304.3.7 VEHICLES

- (a) Officers shall not discharge a firearm at a moving vehicle, except in exigent circumstances and in the defense of life.
- (b) Officers threatened by an oncoming vehicle will attempt to move out of the vehicle's path, if practical, prior to using lethal force.
- (c) Officers shall not discharge a firearm from a moving vehicle, except in exigent circumstances and in the defense of life.

304.4 TYPES OF INVESTIGATIONS

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

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- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

304.5 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

304.5.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the City of Sunnyvale Department of Public Safety would control the investigation if the suspect's crime occurred in Sunnyvale.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief and with concurrence from the other agency.

304.5.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief or the authorized designee for approval.

304.5.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

304.6 INVESTIGATION PROCESS

The Santa Clara County Officer-Involved Guidelines will be followed.

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

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304.6.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved DPS officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

304.6.2 LIEUTENANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Lieutenant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief or a Captain.

All outside inquiries about the incident shall be directed to the Lieutenant.

304.6.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practicable:

- Chief
- Captain
- Investigations Unit
- Santa Clara County District Attorney's Office
- Outside agency investigator (if appropriate)
- Internal Affairs Unit Lieutenant
- Critical Incident Stress Management Team (CISM)
- Santa Clara County Medical Examiner- Coroner
- Public Safety Officer's Association (PSOA)

304.6.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved DPS supervisor should ensure completion of the duties as outlined above, plus:

- (a) Ensure all reasonable steps to obtain emergency medical attention for all apparently injured individuals has occurred.
- (b) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

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- (c) If necessary, the supervisor may administratively order any DPS officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (d) Provide all available information to the Lieutenant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (e) Take command of and secure the incident scene with additional DPS members until properly relieved by another supervisor or other assigned personnel or investigator.
- (f) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved DPS officer should be given an administrative order not to discuss the incident with other involved officers or DPS members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

304.6.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved DPS officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-DPS officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved DPS officer. A licensed psychotherapist may also be provided to any other affected DPS members, upon request.
 - (a) Interviews with a licensed psychotherapist will be considered privileged.
 - (b) An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members

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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.

- (c) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy -Lexipol 1015).
- (e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

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

Each involved DPS officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Lieutenant to make schedule adjustments to accommodate such leave.

304.6.6 INVESTIGATION PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Investigation Unit supervisor to assign appropriate detective personnel to handle the investigation of related crimes.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Deputy Chief.

304.6.7 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, or his 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).

304.7 CRIMINAL INVESTIGATION

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

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:

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- (a) DPS supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of DPS 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 his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). 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.

304.7.1 REPORTS BY INVOLVED DPS OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved DPS 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 DPS 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 DPS 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.

304.7.2 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.

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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.

304.7.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigations Unit supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators 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 Investigations Unit 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.

304.8 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 DPS officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit 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) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from

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the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

- (b) 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.
- (c) 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 Internal Affairs Unit 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.

304.9 AUDIO AND VIDEO RECORDINGS

County protocol shall be followed for the use of any audio and video recordings.

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304.10 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.

304.11 ADMINISTRATIVE LEAVE

Any Officer directly involved in a lethal force incident may be placed on administrative leave. This leave shall be with pay and benefits, pending the results of the investigation. The assignment to Administrative Leave shall not be interpreted to imply the Officer has acted improperly.

While on Administrative Leave, the Officer shall remain available for Department interviews and statements regarding the lethal force incident and shall be subject to recall to duty at any time. The Officer shall not discuss the incident with anyone except the assigned Deputy District Attorney/ Investigator, Departmental investigators, the Officer's private attorney, the Officer's chosen clergy, the Officer's psychologist or psychotherapist, and the Officer's immediate family.

Upon returning to duty, the Officer may be assigned to "administrative duty" for a period of time as deemed appropriate by the Officer, his/her psychologist, and the Chief of Public Safety.

On lethal force incidents involving the discharge of a firearm, prior to returning to full duty, the Officer will satisfactorily complete a demonstration of proficiency, at the direction of the Rangemaster/Armorer.

304.12 PSYCHOLOGICAL COUNSELING

Officer(s) involved in a lethal force incident shall undergo a debriefing with a law enforcement psychologist as soon as possible. The Department will ensure that the Officer is aware that the services of a psychologist are available to him/her. The purpose of this debriefing is to allow the Officer to express his/her feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing shall not be related to any Department investigation of the incident and nothing discussed in the debriefing will be reported to the Department. The debriefing session will remain protected by the privileged psychotherapist-patient relationship.

In cases of a lethal force incident, the involved Officer and his/her family will have the services of a law enforcement psychologist available to them. The purpose of this offer is to provide the Officer and/or his/her family with a source of professional consultation to aid them in dealing with the potential moral and ethical after-effects of a lethal force incident. The psychological services shall not be related to any Department investigation of the incident and nothing discussed will be divulged to the Department. The consultation sessions will remain protected by psychotherapist-patient privilege as defined by law.

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The involved Officer shall have an officer trained in Critical Incident Stress Management (CISM) assigned to him/her as soon as possible to assist with needs the Officer may have. The assigned CISM Team member may assist with coordinating any professional psychological assistance between Officer and psychologist and may provide individual crisis intervention as needed. The communication between the involved Officer and the CISM Officer is not, by law, deemed privileged communication.

304.13 DEBRIEFING

Following an officer-involved shooting or death, the City of Sunnyvale Department of Public Safety may conduct both a critical incident/stress debriefing and a tactical debriefing.

304.13.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration Captain is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

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.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other professional personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.

304.13.2 TACTICAL DEBRIEFING

A tactical debriefing may take place to identify any training or areas of policy that need improvement. The Chief should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

304.14 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Lieutenant, Special Operations Captain and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved DPS officer to visits by the media (Government Code § 3303(e)). No involved DPS officer shall make any comment to the media unless he/she is authorized by the Chief or a Captain. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment

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and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

304.15 REPORTING

If the death of an individual occurs in the City of Sunnyvale Department of Public Safety jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Special 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).

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305.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to sworn officers who are authorized to carry firearms.

305.2 POLICY

The City of Sunnyvale Department of Public Safety will equip its sworn officers with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

305.3.1 HANDGUNS

The authorized department-issued handgun is the Glock.

305.3.2 LOSS OR THEFT OF FIREARMS

Officers shall report any loss or theft of their issued or personally owned concealable firearms to the Bureau Captain, and file an official police report with the agency having jurisdiction. The Bureau Captain will prepare a memo advising of the incident and forward the memo through the chain of command to the Chief.

305.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR-15

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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.
- (b) When an officer is faced with a situation that may require 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 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 requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed and the manual safety in the safe position.

305.3.4 PERSONALLY OWNED DUTY FIREARMS

Officers desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief or the authorized designee. All associated gear will be purchased by the officer choosing to carry a personally owned weapon. The officer must qualify with the weapon and duty gear.

Approved calibers all duty handguns are: 9mm .40 SW, and .45 ACP. The handgun must be inspected and approved by the department armorer and meet all of the following specifications prior to carrying it on duty:

- (a) The firearm shall be in good working order.
- (b) Semi-automatic police duty type firearm that conforms to factory specifications. Manufactured by a reputable firearms company.
- (c) Have a blue, black matte or brushed-matte stainless steel finish.
- (d) Have black, brown or gray grips.
- (e) Have night sights.
- (f) Have at least two (2) spare magazines.
- (g) Have a 3 to 5.5 inch barrel.

Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be inspected by the Armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

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- (b) The Armorer shall maintain an inspection sheet on each personally owned duty weapon.
- (c) Prior to carrying the firearm, officers 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.
- (d) Officers shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Armorer, who will maintain a list of the information.

305.3.5 AUTHORIZED SECONDARY HANDGUN

Officers desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun and holster shall be in good working order and approved by the department Armorer.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the officer unless the handgun and ammunition are provided by the Department.
- (d) Officers shall notify their supervisor and squad members that they are carrying a secondary firearm.
- (e) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (f) The handgun shall be inspected by the Armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (g) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Rangemaster shall approve the ammunition.
- (h) Prior to carrying the secondary handgun, officers 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 handgun functions properly.
- (i) Officers shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Armorer, who will maintain a list of the information.

305.3.6 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by officers while off-duty is permitted by the Chief but may be rescinded should circumstances dictate (e.g., administrative leave). Officers who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) The officer may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms

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requirements in this policy. An officer carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.

1. The purchase of the personally owned firearm and ammunition in calibers other than issued by the Department shall be the responsibility of the officer.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the officer to submit the firearm to the Armorer for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Armorer.
- (d) Prior to carrying any off-duty firearm, the officer shall demonstrate to the Armorer that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The officer will successfully qualify with the firearm prior to it being carried.
- (f) Officers shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Armorer, who will maintain a list of the information.
- (g) If an officer desires to carry more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Officers shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry a badge (uniform or flat) and carry their City of Sunnyvale Department of Public Safety identification cards.

305.3.7 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 firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Armorer when needed, in accordance with established policy.

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.

305.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual officer.

305.4.1 REPAIRS OR MODIFICATIONS

Each officer shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Armorer.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved

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and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Armorer.

Any repairs and maintenance to the officer's personally owned firearm beyond the capability of the Armorer will be paid by the officer owning the personal duty weapon.

305.4.2 HOLSTERS

Only department-approved holsters shall be used and worn by officers. Officers shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

305.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Armorer. Tactical lights should not normally be activated by the trigger finger. Once the approved tactical lights have been properly installed on any firearm, the officer shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

305.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried off-duty after they have been examined and approved by the Armorer. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the officer shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Except in an approved training situation, a officer may only sight in on a target when the officer would otherwise be justified in pointing a firearm at the target.

305.5 SAFE HANDLING, INSPECTION AND STORAGE

Officers shall maintain the highest level of safety when handling firearms and shall consider the following:

- (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 Armorer. Officers shall not dry fire or practice quick draws except as instructed by the Armorer or other firearms training staff.
- (c) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) 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, using clearing barrels.
- (e) 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 an arrestee, but shall place all firearms in a secured location. Officers providing access to the jail section to persons

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from outside agencies are responsible for ensuring firearms are not brought into the jail section.

- (f) Officers shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by an officer to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Armorer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Armorer will be immediately removed from service. If the firearm is the officer's primary duty firearm, a replacement firearm will be issued to the officer until the duty firearm is serviceable.

305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the officer to whom the weapon is issued. The officer shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Firearms may be safely stored in lockers or another approved location at the end of the shift.

Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

305.5.2 STORAGE AT HOME

Officers 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. Officers shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Officers should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

305.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any officer, either on- or off-duty, who has consumed an amount of an alcoholic beverage, or has taken any drugs or medication, has taken any combination thereof that would tend to adversely affect the officer's senses or judgment.

305.5.4 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 that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

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If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

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

305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- (b) Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer 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 Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

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

- (a) If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

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- (b) If off-duty at the time of the incident, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

305.7.1 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 where there is sufficient advance notice that a potentially dangerous animal may be encountered, department officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, Conducted Electrical Weapon, 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.

305.7.2 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).

305.8 ARMORER DUTIES

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

The Armorer has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by officers of this department to verify proper operation. The Armorer has the authority to deem any department-issued or personally owned firearm unfit for service. The officer will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Armorer.

The Armorer has the responsibility for ensuring each officer meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the officer is authorized to carry.

The Armorer shall complete and submit to the Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides

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the training, a description of the training provided and, on a form that has been approved by the Department, a list of each officer who completes the training. The Armorer should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Lieutenant.

305.9 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 officers 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, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their City of Sunnyvale Department of Public Safety badge and identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief 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 license, passport).
- (c) The City of Sunnyvale Department of Public Safety must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the City of Sunnyvale Department of Public Safety an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a 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.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) 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.

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- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

305.10 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 City of Sunnyvale Department of Public Safety 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.

Vehicle Pursuits (CRITICAL)

306.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officer's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

306.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is 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.

306.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

306.2.1 WHEN TO INITIATE A PURSUIT

Officers are authorized to initiate a pursuit with someone who is suspected of committing either:

- (a) **A violent felony or**

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- (b) **A misdemeanor who has threatened to use, possesses or has used a deadly weapon.**

306.2.2 WHEN TO CONTINUE A PURSUIT

The following factors individually and collectively shall be considered in deciding whether to continue a pursuit:

- (a) 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.
- (b) Apparent nature of the fleeing suspects (e.g., whether the suspects represent a serious threat to public safety).
- (c) The identity of the suspects has been verified and there is comparatively minimal risk in allowing the suspects to be apprehended at a later time.
- (d) 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 and the speed of the pursuit relative to these factors.
- (e) 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.
- (f) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- (g) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (h) Vehicle speeds.
- (i) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (j) Availability of other resources such as helicopter assistance.
- (k) Units carrying prisoners, witnesses, or other non-sworn personnel, including ride-alongs, shall not become involved in a pursuit.

306.2.3 WHEN TO TERMINATE A PURSUIT

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

The factors listed in "When to Initiate a Pursuit" in this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against

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the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in "When to Initiate a Pursuit" in this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers 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) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) There are hazards to uninvolved bystanders or motorists.
- (e) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (f) Pursuit is terminated by a supervisor. The pursuing officer shall do so immediately and shall acknowledge the directive on the radio.

306.2.4 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 shall 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 shall 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.

306.3 PURSUIT UNITS

Pursuit units should be limited to two vehicles (primary unit and secondary unit); however, the number of units involved will vary with the circumstances. An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would 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.

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306.3.1 SUV PATROL VEHICLES (NOT PURSUIT RATED) OR MOTORCYCLE OFFICERS

A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a non-pursuit rated SUV patrol vehicle or motorcycle as primary and/or secondary pursuit unit as soon as practical. Officers on a motorcycle or in a SUV patrol vehicle (not pursuit rated) shall not remain a secondary unit after becoming aware of the arrival of a secondary marked patrol car.

306.3.2 LOW PROFILE POLICE UNITS

Low Profile Police Units (flat tops) which initiate a pursuit shall assume a support role when a fully marked unit (light bar) is in position to assume the role of primary unit. If a second fully marked unit is able to join the pursuit, then the Low Profile vehicle should discontinue involvement in the pursuit unless authorized to continue by a supervisor.

306.3.3 UNMARKED UNITS

- (a) Unmarked vehicles equipped per 21806 CVC that become involved in a pursuit shall relinquish the role as the primary unit when a marked patrol car has joined the pursuit.
- (b) Unmarked vehicles equipped per 21806 CVC that become involved in a pursuit shall not remain a secondary unit after becoming aware of the arrival of a secondary marked patrol vehicle.

306.3.4 VEHICLES WITHOUT EMERGENCY EQUIPMENT

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

306.3.5 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 it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to him/herself or other persons.

Notify Dispatch that a vehicle pursuit has been initiated, their unit identification and as soon as practicable provide information including, but not limited to:

- (a) Reason for the pursuit, including known laws violated.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.
- (h) Traffic conditions.
- (i) Weather/roadway conditions.

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Note: Changes in conditions should be updated by the primary or secondary unit.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary officer should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

306.3.6 SECONDARY UNITS RESPONSIBILITIES

The second officer in the pursuit is responsible for the following:

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Constantly evaluate the necessity of continuing the pursuit.

306.3.7 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. 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 caution when proceeding through controlled intersections.
- (c) Officers shall not pursue a vehicle driving left of center (wrong way) on a roadway. In the event that the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from an air unit.
 - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 - 3. Requesting other units to observe exits available to the suspects.

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- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their 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.

306.3.8 TACTICS/PROCEDURES FOR 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.

Non-pursuing personnel needed at the termination of the pursuit should respond as authorized 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.

306.3.9 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 termination point in order to provide necessary information and assistance for the arrest of the suspects.

The term trail means to follow 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 unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

306.3.10 AIRCRAFT ASSISTANCE

With supervisor approval, helicopter assistance may be requested from SJPd, SCCSO, CHP, or other allied agencies. Helicopter assistance can provide valuable information to ground units concerning traffic congestion, hazards, or other factors which might endanger the safety of the officer or public. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider disengaging from the pursuit and following at a safe distance behind the violator while other ground units deploy for apprehension.

306.4 SUPERVISORY CONTROL AND RESPONSIBILITY

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

All pursuits must be monitored by a supervisor. Should a pursuit be initiated that cannot be monitored by a supervisor, dispatch shall advise the initiating officer who shall terminate the pursuit immediately. Pursuits already in progress shall be terminated when circumstances are present that prevent a supervisor from monitoring the event.

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

- (a) Acknowledge by radio that the pursuit is being monitored and supervised.
- (b) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (c) Exercising management and control of the pursuit.
- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) The supervisor may approve additional units to join the pursuit if it appears that the number of officers involved would not be sufficient to safely effect the arrest of the suspect(s). The following factors should be considered when requesting additional units:
 - 1. Nature of the crime;
 - 2. Number of suspects;
 - 3. Whether participating units are one or two person units;
 - 4. Other clear and articulable facts that would warrant the increased personnel involvement.
- (f) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (g) Request additional support (K-9, Air Support, etc.)
- (h) Ensuring that the proper radio channel is being used and restricted.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (j) Controlling and managing DPS units when a pursuit enters another jurisdiction.
- (k) Respond to the termination point of the pursuit to provide the necessary supervision.

If a supervisor is actively involved in the pursuit, another supervisor shall assume supervisory control the pursuit.

306.4.1 CAPTAIN RESPONSIBILITY

The supervisor shall review all pertinent reports, audio and video recordings for content and forward to the Captain. The Captain will also consider preparing a post pursuit critique and analysis with the assistance of the Training Unit.

306.5 COMMUNICATIONS

If the pursuit is confined within the City limits, radio communications will be conducted on the primary talk group unless instructed otherwise by a supervisor or communications dispatcher. If

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the pursuit leaves the jurisdiction of this department or such is imminent, involved units may switch radio communications to a regional talk group (i.e. BAYMACS, SBLaw, etc), if necessary.

306.5.1 COMMUNICATION CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Dispatch will:

- (a) Restrict radio traffic.
- (b) Coordinate pursuit communications of the involved units and personnel.
- (c) Notify and coordinate with other involved or affected agencies as practicable.
- (d) Ensure that a field supervisor is notified of the pursuit.
- (e) Document updates in the event on CAD.
- (f) Broadcast pursuit updates as well as other pertinent information as necessary.
- (g) Prompt units for updates as needed.

306.5.2 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 will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

306.6 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.

306.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the City of Sunnyvale Department of Public Safety is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

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. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a

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pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

When a pursuit enters another jurisdiction, officers shall immediately terminate the pursuit when requested to do so by that jurisdiction.

306.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

When notified of a pursuit extending into this jurisdiction Dispatch shall immediately notify the on-duty units, including the appropriate supervisors, of the pursuit by an outside agency. The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless directed to by a supervisor.

If assistance is requested, Dispatch shall notify the appropriate supervisor at the first opportunity and the supervisor shall acknowledge by radio.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider the following factors:

- (a) Compliance with this policy regarding initiation and continuance of the pursuit.

As soon as practicable, a supervisor should consider a request for assistance from another agency. The supervisor, after consideration of the above factor, may decline to assist in, or assume the other agency's pursuit.

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 upon approval by a supervisor.

At the direction of the supervisor, officers should be prepared to provide logistical support to the pursuing units. In the event that a pursuit from another agency terminates within this jurisdiction, officers shall 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 assistance requested or needed.

306.7 TERMINATION TACTICS

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle.

Officers will not use their vehicles to create a stationary or moving roadblock.

Officers should not cause their vehicle to come into contact with the vehicle being pursued unless, as a last resort, it becomes necessary in order to protect the officer or the community from the suspect(s)' violent actions.

306.7.1 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably

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appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

306.7.2 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 properly perform their lawful duties.

Unless relieved by a supervisor, the primary 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 to contain and capture the suspects.

306.8 REPORTING REQUIREMENTS

The following reports should be completed upon conclusion of all pursuits:

- (a) The primary officer should complete appropriate crime/arrest reports.
- (b) The pursuit supervisor shall ensure completion of all appropriate department reports required to document the pursuit. He/She will also ensure the Allied Agency Vehicle Pursuit Report (form CHP 187A) is completed and submitted to the Team Captain.

The Patrol Captain will review and critique the incident. The analysis and critique will include the actions of the supervisor and officers involved in the incident. The Captain will retain a copy of the CHP Pursuit Report and mail the original to the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1).

306.8.1 COMMAND NOTIFICATIONS

The team captain shall be notified of all pursuits. In the absence of the team captain the on-duty fire captain shall be notified.

If a pursuit results in death, injury or City property damage, notification shall be made to the appropriate command personnel.

306.8.2 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others (Vehicle Code § 17004.7(d)).

306.8.3 POLICY REVIEW

Each sworn member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments. The POST attestation form, or an

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equivalent form, may be used to document the compliance and should be retained in the member's training file.

306.9 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.

While the intent of this policy is to provide general guidelines for the safe conduct of police vehicle pursuits, it is recognized that such activities are not always predictable. Nothing in this policy shall be interpreted to impose a duty on any officer of the department, and all related conduct will be considered discretionary.

On-Duty Vehicle Collision Review

307.1 PURPOSE AND SCOPE

The Department of Public Safety operates a number of vehicles ranging from patrol cars, and unmarked vehicles to specialized vehicles such as fire trucks and motorcycles. Safety should always be paramount in the operation of all vehicles, since traffic collisions and other accidents involving vehicles represent an area of potential injury and liability for the employee, the Department, and the community. The purpose of this policy is to define procedures for reviewing collisions involving department vehicles.

307.2 DEFINITIONS

307.2.1 DEPARTMENT VEHICLES

City owned, rented or leased vehicles operated by a department employee or volunteer are considered "department vehicles."

307.2.2 ACCIDENT INVESTIGATION

A motor vehicle accident is defined as an unintentional act involving one or more motor vehicles that result in an injury or property damage. Accidents involving city vehicles will be thoroughly investigated and properly documented pursuant to the Policy Manual.

307.2.3 AVOIDABLE ACCIDENTS

An avoidable accident is one where an employee would have reasonably been expected to take an alternate action that would have prevented the collision from occurring.

307.2.4 UNAVOIDABLE ACCIDENTS

An unavoidable accident is one that an employee could not reasonably have avoided, and was most likely caused by another party or other factors. Supervisors should examine contributory circumstances beyond the actual collision itself. These categories of accidents indicate that no violation of departmental policy and procedure occurred.

307.3 ACCIDENT REVIEW

All accidents when completed, approved and reviewed by the chain of command, will be forwarded to the Bureau Deputy Chief of the employee involved in the accident.

The Deputy Chief will meet with the command staff operations group (Deputy Chiefs and Captains) to review and determine whether an accident was avoidable or unavoidable and what appropriate corrective action, if any, is recommended to the Chief. Corrective action for both accidents may include but is not limited to additional training, policy revision, equipment change, counseling, and discipline.

Division Captains continue to be responsible for all corrective action within their Division. Copies of the decision by the Deputy Chief of the involved employees will be forwarded to the involved employee, his or her supervisor, the Director of Public Safety and the Risk and Insurance Manager,

On-Duty Vehicle Collision Review

A record of the officer involved accident and findings will be maintained by the training unit.

307.4 COMMAND OPERATIONS REVIEW

The Command Operations group will be responsible for reviewing the findings and recommendations of all on-duty accidents. They will address any training related issues, recommend changes to training programs, and provide feedback to the Bureau Deputy Chief of the employee involved in the accident on other corrective actions that might be taken. The final disposition will be approved by the Bureau Deputy Chief and the Chief.

Officer Response to Calls (CRITICAL)

308.1 PURPOSE AND SCOPE

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

This policy is to ensure proper and effective use of vehicles. Each officer must know the laws of the California Vehicle Code, and has a legal and ethical responsibility to obey those laws.

An authorized emergency vehicle is described by Section 165(b)(1) of the California Vehicle Code.

Department emergency vehicles shall be operated at any given time in either:

- (a) A non-emergency mode without exemption of traffic laws; or
- (b) An emergency mode employing all required devices specified in 21055(b) CVC.

308.1.1 DEFINITIONS

Code One: Routine Responses – Rules of the road will be obeyed. No emergency equipment will be used. Utilized for routine responses and 'fill unit' requests. Officers responding to a routine 'fill unit' request should respond directly.

Code Two: Urgent Responses – Direct and immediate response. Rules of the road will be obeyed. Code Two does not include any special driving response or the use of emergency equipment as defined under the Code Three response. Utilized when there is a heightened sense of urgency to a 'fill unit' request or response, but does not rise to the level of an emergency (Code Three) response.

Code Three: Emergency Response – Officers responding Code Three must display a fixed red light facing forward and sound a siren and air horn as may be reasonably necessary and in accordance with Vehicle Code Section § 21055 and 27000. Utilized for responses to emergency situations that justify a quick and expedited response. Audible warning devices should be used in a manner consistent with generally accepted industry standards and practices and shall not be used to harass, intimidate or annoy. Upon receiving authorization or determining a Code Three response is appropriate, an officer shall immediately give the location from which he/she is responding. Code Three driving carries significant risk and speed will be kept to a level that will allow the driver to avoid hazards that are reasonably anticipated. Officers must constantly evaluate the need for a Code Three response.

308.2 ORDINARY MODE

308.2.1 COURTESY AND SAFETY

Drivers of police vehicles shall display courtesy in their conduct toward other drivers, pedestrians, and bicyclists.

Police vehicles shall be driven in accordance with existing laws and officers shall demonstrate exemplary driver behavior. Officers shall always employ safe driving techniques. An infraction

Officer Response to Calls (CRITICAL)

may be justified to perform an important duty in the interest of public safety, if the maneuver can be performed safely. Seat belts shall be worn at all times. Prisoners will always be restrained with a seat belt by the transporting officer; unless safety to officers outweighs the prisoner being seat belted and is authorized by a supervisor.

308.2.2 USE OF SEATBELTS

In accordance with City Administrative Policy, all employees are required to wear seatbelts when traveling in a motor vehicle on City business. This section applies when the employee is traveling as the driver or as a passenger.

308.2.3 CONSERVATION

Drivers shall operate vehicles in a manner which prevents unnecessary use of fuel or damage to the vehicle.

308.2.4 PUSHING DISABLED VEHICLES

When immediate removal from the roadway is not required, service will be limited to relaying a call for private roadside service. Police cars may be used when necessary in the interest of public safety to remove a disabled vehicle from the roadway, and only to the nearest place of safety.

308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC:

- (a) In response to an emergency call:
- (b) In pursuit of a suspected violator of the law:
- (c) As directed by other DPS policy:
- (d) As directed by a supervisor.

When responding to a Major Injury Accident (11-80) or an Accident with No Details (11-83), the closest patrol unit shall respond in the emergency mode unless otherwise directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

Officer Response to Calls (CRITICAL)

308.4 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate need for the safety of officers, professional personnel 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 personnel shall immediately notify Dispatch.

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

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

308.5 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.

308.5.1 PARKING

Whenever reasonably possible, police cars shall be parked in full compliance with the law. Officers shall not ordinarily:

- (a) Double park;
- (b) Park within 20' of any hydrant, standpipe, FDC, etc.
- (c) Obstruct or impede access to walkways, driveways, accesses, etc. by emergency workers near the scene;
- (d) Enter a fire scene unless parking is available and that parking will not interfere with operations of equipment, personnel, or evacuation efforts; and
- (e) Park the police vehicle in a traffic lane except as required for use as a protective shield while working in the roadway. Anytime a police vehicle is parked within a traffic lane as a protective shield, officers shall activate emergency lighting as a warning to approaching traffic

Officer Response to Calls (CRITICAL)

308.6 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. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the on-duty supervisor.
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance)
- (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 on-duty supervisor or Captain.

308.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the on-duty supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than those units reasonably necessary under the circumstances are involved in the response
- (c) Affected outside jurisdictions are being notified as practical

The on-duty 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. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

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 on-duty supervisor should consider the following:

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

Officer Response to Calls (CRITICAL)

308.8 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 Lieutenant, field supervisor, or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

Patrol Response - Automated External Defibrillator (AED)

309.1 POLICY

Public Safety Police Services deploys automated external defibrillators (AEDs) in patrol vehicles in order to enhance rapid delivery of emergency medical services at suspected cardiac events.

309.2 RESPONSE PROCEDURES

Communications shall dispatch two Patrol units Code 3 to calls with a high probability of cardiac arrest. These calls include, but are not limited to, the following examples:

- Chest pain with difficulty breathing
- Unexplained falls with altered level of consciousness
- Drowning
- Unconscious person
- Electrocutation
- Asphyxiation

309.3 MAINTENANCE AND DOCUMENTATION

- A. Defibrillators will be properly stored and housed in protective cases. The defibrillator unit shall be checked for operational status at the beginning of each shift. This operational check shall include a check of the AED status indicator as well as a confirmation that all supplies are within their expiration dates. Any expired supplies should be restocked from the supply in the EMS Coordinator's office. If the defibrillator is found non-operational and a battery change does not remedy the problem, the immediate supervisor shall be notified. The defective defibrillator will be removed from the patrol vehicle and tagged out of service. The supervisor will contact the EMS Unit and report the defective defibrillator. A spare AED from a reserve fire apparatus can be used as a temporary replacement.
- B. Defibrillator units that are used for cardiac incidents will be restocked by responding fire apparatus.
- C. All report documentation regarding the medical incident shall be the responsibility of the Fire Services Division. Patrol officers shall be prepared to provide accurate details of the defibrillator use to aid fire personnel with proper documentation.
- D. Comprehensive instructions on the use of AEDs can be located within the Fire Services Procedures Manual.
- E. Users Manuals for the AEDs deployed in patrol vehicles are available for review on DPSWEB.

Canines (CRITICAL)

310.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment police services to the community including, but not limited to locating individuals, contraband, narcotics, explosives and accelerant detection, and apprehending criminal offenders. The intent of this policy is to accomplish the Department's mission of ensuring safety of community and public safety officers while recognizing the appropriate deployment of police canines.

310.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

310.3 ASSIGNMENT

The canine teams shall be assigned to the Bureau of Police Services.

Canine teams should function primarily as cover units however; they may be assigned by the canine supervisor to other functions based on operational needs.

Canine teams should not be assigned to handle matters that will take them out of service for extended periods of time unless absolutely necessary and only with the approval of the canine handler's supervisor.

Canine teams working a shift on overtime or a shift trade shall utilize a '90' unit call sign so the team can be recognized as a canine resource. Canine Patrol Teams shall use the 90 - 95 series call signs while Canine Specialty Teams shall use the 96 - 99 series call signs. Regardless of the call sign, the squad supervisor has the authority to assign the canine team a specific beat responsibility.

310.3.1 DEFINITION OF A CANINE TEAM

Canine Team- A canine team is comprised of the Public Safety Officer handler and the police dog.

Canine Patrol Team- A team consisting of a Public Safety Officer handler and police dog used in law enforcement for routine patrol work, such as building searches, field or open searches, wooded area searches, swamp or marsh searches, article searches, tracking, scent detection, and criminal apprehension.

Canine Specialty Team- A team consisting of a Public Safety Officer handler and a police dog used in law enforcement specifically for scent detection, article/evidence searches, or tracking work for non-criminal reasons. Canine Specialty Teams are non-apprehension canine teams and shall not be used to search for suspects wanted for criminal offenses.

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310.4 CANINE MANAGER

A Bureau of Police Services Captain shall be assigned as the canine manager. The responsibilities of the manager include, but are not limited to:

- (a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining a liaison with the vendor kennel.
- (c) Maintaining a liaison with command staff and functional supervisors.

310.5 CANINE COORDINATOR

A Police Services Lieutenant shall be assigned as the canine coordinator.

The responsibilities of the coordinator include, but are not limited to:

- (a) Communicate regularly with the canine manager regarding the program.
- (b) Maintaining a liaison with other agency canine coordinators.
- (c) Maintaining accurate records to document canine activities.
- (d) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
- (e) Scheduling all canine-related activities.
- (f) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.

310.6 REQUEST FOR CANINE TEAMS

Requests for a canine team from department units outside of the Police Services Bureau shall be reviewed by the on-duty supervisor.

310.6.1 OUTSIDE AGENCY REQUEST

All requests for canine assistance from outside agencies must be approved by a Lieutenant and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific outside agency request that he/she deems unsuitable or inconsistent with this policy.
- (c) Canine teams shall not be called out while off-duty or used for pre-planned operations, unless authorized by a Patrol Captain.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

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310.6.2 PUBLIC DEMONSTRATION

All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine coordinator prior to making any resource commitment. The canine coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.

310.7 CRITICAL EVENTS AND HANDLER INJURY

In the event a handler is involved in a shooting (or other incident involving death or great bodily injury), and the canine is injured in the event, to the extent that it requires emergency veterinary care, the supervisor will ensure that an officer, not directly involved in the incident (or a witness to the incident), will accompany the handler to the veterinary hospital. This will be done to ensure chain of custody of evidence (officer's weapon, uniform, etc) for the investigation.

In the event a handler is injured, it will be common for the canine to try and protect its handler. If the canine cannot be simply leashed, and is preventing the handler from receiving emergency medical treatment, the following options need to be considered for removing the canine from the handler:

- (a) Request an on-duty handler from another agency respond to the scene.
- (b) Request an officer that has previous experience as a handler, or a team member that is familiar with the canine, respond to the scene.
- (c) Attempt to utilize the animal control noose.
- (d) Request assistance from animal control.
- (e) Retrieve a bite sleeve from the handler's car and attempt to lure the canine away from the handler.
- (f) If the canine can be removed from the handler, place the canine in the rear of a caged patrol car (not an uncaged K9 car).
- (g) If the handler's life is in imminent jeopardy, and no other alternative is practical or effective, deadly force against the canine is a final option.

310.8 USE OF A CANINE FOR LOCATION AND/OR APPREHENSION OF A SUSPECT

310.8.1 AUTHORIZED USE OF CANINES FOR LOCATION AND/OR APPREHENSION

A canine handler who, upon reasonable belief that an individual has committed, is committing, or is threatening to commit (1) any violent felony (CA Penal Code 667.5), (2) a burglary (either residential or commercial), or (3) a misdemeanor with threatened use or possession of a deadly weapon, may use a canine to locate and apprehend the subject. In addition to the reasonable belief standard above, canine use is appropriate only 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 physically resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.

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- (c) The suspect is believed to be concealed in an area where entry by anyone other than the canine would pose a threat to the safety of officers or the public.

Mere flight from a pursuing officer, without reasonable belief or any of the situational conditions above, shall not serve as the basis for the use of a canine to apprehend a suspect.

In all apprehensions, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler shall secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler shall promptly command the canine to release the suspect.

310.8.2 SUSPECTS NOT SUBJECT TO APPREHENSION USING CANINES

Notwithstanding the fact that a particular case and suspect meets the standards set forth above, canines shall not be deployed in the apprehension of:

1. Suspects who, based on information reasonably known to the officer, are less than 15 years of age;
2. Suspects who, based on information reasonably known to the officer, are more than 70 years of age; or
3. Suspects who are known to be pregnant.

Exception: A Lieutenant may authorize deployments on these categories of suspects when there are specific, articulable facts that indicate the suspect poses an immediate threat of loss of life or serious bodily injury to public safety officers or others and there is a reasonable belief that the suspect has committed, is committing, or is threatening to commit one of the three types of crimes listed in section 310.8.1.

310.9 PREPARATION FOR DEPLOYMENT

The United States Supreme Court ruled in *Graham v. Connor* that use of force including a canine deployment must be analyzed under the Fourth Amendment's objective reasonableness test. The application of this test requires an analysis of the totality of circumstances.

The canine handler and/the supervisor should carefully consider all pertinent information reasonably available at the time in order to analyze the totality of the circumstances. Prior to the use of a canine to locate or apprehend any suspect, absent exigent circumstances, a supervisor shall be notified and shall review the totality of the circumstances prior to canine deployment where practicable. The analysis shall 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.

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- (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 shall 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 and/or out of policy.

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

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

310.9.1 WARNINGS AND ANNOUNCEMENTS

A patrol canine warning announcement shall be made prior to releasing the canine in a search for a criminal suspect. The announcement shall be a clear, audible warning indicating that a canine shall be used if the suspect does not surrender and shall be made as often as reasonably necessary during the course of the search. If possible, the warning shall be made with an amplified speaker to increase the chances of the warning being heard. Where appropriate, the warning shall be made in other languages. If possible, the canine handler shall provide an additional warning instructing the suspect to surrender if the canine handler believes the suspect is nearby based on the behavior of the canine. The warning requirement is not required only where the warning would increase the risk of injury or escape. Absent exigent circumstances, after making the announcement, the Canine Handler shall allow a reasonable and sufficient amount of time before releasing the canine to allow the suspect time to surrender and allow uninvolved people time to move to a place of safety. Other officers shall use such time to employ tactics for officer safety and to gain a tactical advantage. If feasible, other members should be in a location opposite the warning to verify the announcement could be heard.

If a warning is not to be given, the canine handler, when practical, shall 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.

310.9.2 BITES AND INJURIES

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor shall be promptly notified, and the injuries documented in a canine use report. The injured person shall be promptly treated by emergency medical services personnel and, if

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appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries shall also be summarized in any related incident or arrest report. Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine shall be documented in an administrative memo, not in a canine use report.

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 practical 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).

310.10 NON-CRIMINAL DETECTION GUIDELINES

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-criminal detection 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 handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

310.10.1 ARTICLE DETECTION

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search shall be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

310.10.2 NARCOTICS DETECTION

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

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- (a) The search of vehicles, buildings, bags and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

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

310.10.3 BOMB/EXPLOSIVE DETECTION

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 canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred, and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

310.10.4 ACCELERANT/ARSON DETECTION

A canine training and certified in accelerants (flammable liquids) may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, building, outdoor areas, and articles.
- (b) Assisting in the search for accelerants during a search warrant.
- (c) Assisting in the search of scenes where a fire has occurred, and a possible accelerant was used or could have been used.

An accelerant-detection trained canine will not be used to search a person for accelerants and will not search a scene until rendered safe by an Incident Commander.

310.11 CROWD CONTROL

Canines shall not be used for crowd control.

310.12 REPORTING DEPLOYMENTS

The Canine Use Report (ARS) shall be used to document any canine deployment which results in a find or apprehension or the location of evidence, narcotics, explosive or accelerant.

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310.12.1 USE

- (a) To document all apprehensions.
- (b) To document a missing persons deployment, where the missing person is located by the canine or which yields some type of pertinent information.
- (c) To document a tracking function which leads to the location of evidence.
- (d) To document a narcotics, explosive, or accelerant search which results in the identification and/or location of narcotics, explosives, or accelerants.
- (e) Any other time the canine supervisor, canine coordinator or a Patrol captain requests a report.

310.12.2 RESPONSIBILITIES

Handlers are responsible to document any incident specified above. The report shall be completed and submitted to their assigned supervisor or another supervisor if their assigned supervisor is not available. The report will be completed and submitted by the end of the following day.

Supervisors are responsible for reviewing Canine Use Reports to ensure that the report(s) is accurate and that all necessary information is included.

310.13 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) As noted per the Specialty/Collateral Assignment Rotation/Selection procedures.
- (b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (c) A garage that can be secured and accommodate a canine vehicle, if the vehicle is authorized to be taken home.
- (d) Agree to be assigned to the position for the minimum time as noted in the Specialty/Collateral Assignment Rotation/Selection procedures.

310.14 HANDLER RESPONSIBILITIES

The canine 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 canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, 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.
- (c) Handlers must receive approval from his/her Patrol captain prior to taking the canine vehicle home.

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- (d) If the assigned canine vehicle is taken home, the handler shall maintain the vehicle in a locked garage, away from public view.
- (e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator and manager as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should 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.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by his/her patrol captain.
- (k) Whenever a canine handler is away on PTO, it is the responsibility of the handler to ensure the canine is properly cared for during his/her absence. If the canine is to be temporarily relocated only a Department approved private kennel may be used.

310.14.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

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

310.15 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).

310.16 CANINE INJURY AND MEDICAL CARE

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or on-duty Lieutenant as soon as practicable.

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All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All non-emergency surgical treatment shall be approved by the canine coordinator. All records of medical treatment shall be maintained in the handler's personnel file.

310.17 DEMONSTRATION OF PROFICIENCY

Demonstration of proficiency shall be evaluated as pass or fail.

310.17.1 NARCOTIC DETECTION TEAM

- (a) The team shall attend a minimum amount of training courses to maintain proficiency.
- (b) The team's proficiency shall be tested annually using the standards set for and recommended by the California Commission on Peace Officer Standards and Training (POST).
- (c) The team may obtain additional certification from the California Narcotics Canine Association (CNCA) or other approved certification standards.

310.17.2 EXPLOSIVE DETECTION TEAM

The team shall attend a minimum amount of training courses to maintain their proficiency.

The team shall be tested by the following standards: The handler must interpret his/her assigned canine's final response. If the canine fails to give a final response, and the handler is confident that a training aid is there, he/she may call the area. The handler must be as specific as possible as to where he/she believes the training aid is located. If there is an aid within a reasonable distance, the team will be credited with the find. If there is no aid within the area, it will count as a false indication.

The following tests shall be given in a variety of locations, with a variety of explosives at different times and in different weather conditions. An evaluator shall witness the tests. The evaluator shall be one of the following: (past/present) explosives/narcotics detection handler from the canine unit, or a third party explosive detection handler/bomb squad technician.

Test 1:

A large parking area, open to the elements will be selected. The parking area will have no less than six (6) automobiles parked in close proximity to each other. The evaluator will have two (2) to three (3) plants of various explosives. The plants will be hidden by the evaluator, who will log the location, type, amount, and time plant was made. The plant should vary in height, size and degree of difficulty. The handler whose canine is taking the test should not know the location of the plants.

The canine will be allowed to search as long as the handler feels necessary to complete an assigned area. The handler will be allowed to break his/her canine to give water or relieve it as needed. No plants should be made on a vehicle for which permission to be used has not been obtained.

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After the canine indicates on an area, the handler will point it out. The indication by the canine will be a "Passive" indication.

Test 2:

A building of medium to large size will be selected with adequate office space and furnished with a variety of office furniture. The office will be free of occupants and the air conditioning system, if any, should be turned off. The evaluator will have five (5) to ten (10) plants of various explosives. The plants will be hidden by the evaluator, who will log the location, type, amount, and time plant was made. The plants should vary in height, size and degree of difficulty. The plants should not be visible and not known to the handler whose canine is taking the test.

The evaluator should concentrate a number of the plants in those areas used normally by bombers in actual situations. Example: Open to the public, such as lobbies and rest rooms.

The canine shall be allowed to search as long as the handler feels necessary to complete an assigned area. The handler shall be allowed to break his/her canine to give water or relieve it as needed.

After the canine indicates on an area, the handler shall point it out. The indication by the canine shall be a "Passive" indication.

310.18 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines.

The canine 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.

310.18.1 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 City of Sunnyvale Department of Public Safety canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the canine 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 the Department.

310.18.2 FAILURE TO SUCCESSFULLY COMPLETE 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.

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310.18.3 TRAINING RECORDS

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

310.18.4 TRAINING AIDS

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

310.18.5 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 & Safety Code § 11367.5; 21 USC § 823(f)).

310.18.6 CONTROLLED SUBSTANCE PROCEDURES

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

- (a) As needed the narcotic detection handler(s) may make a request through the canine coordinator for existing controlled substance training samples to be replaced with fresh samples.
- (b) All necessary controlled substance training samples shall be acquired from the Sunnyvale Department of Public Safety's Property unit or from allied agencies authorized by Health and Safety Code § 11367.5. With the approval of the canine coordinator, the handler(s) will request a list of closed cases from the assigned Property Clerk, who will:
 - 1. make sure the cases have completed court actions and appeal periods.
 - 2. verify that the selected cases have sufficient amounts of the type of narcotics.
 - 3. verify that the narcotics are still in useable condition.
- (c) The assigned Property Clerk and handler(s) shall record the case numbers, types of narcotics and/or paraphernalia, and gross weight.
- (d) Obtain a court order authorizing the diversion of narcotics for specified department use per Health and Safety Code § 11367.5.
- (e) A copy of the list shall be filed with the court order. The original order list shall stay with the Property Unit and an additional copy given to the canine coordinator.
- (f) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (g) The weight and test results shall be recorded and maintained by this department on the Narcotics Receipt/Assignment Log. Any discrepancies shall be noted and accounted for.

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- (h) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records in his/her Narcotics Logbook regarding any loss of, or damage to, those controlled substances.
- (i) All controlled substance training samples will be inspected and weighed annually by the canine coordinator or designee. The results of the annual inspection shall be recorded and maintained by the canine coordinator on the Narcotic Receipt/Assignment Log.
- (j) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport. When not used for training the locked cases shall be stored in the designated locked evidence locker. There are no exceptions to this procedure.
- (k) Training samples shall be checked in and out using the Training Aid Log. The log shall be kept in the designated evidence locker.
- (l) The canine coordinator or designee shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (m) Any unusable controlled substance training samples returned for destruction shall be returned to the Property Unit or to the dispensing agency:
 - 1. The returned sample shall be weighed.
 - 2. Any discrepancies shall be noted and accounted for.
 - 3. All parties present shall sign the log.

When a narcotic detection handler leaves the canine unit the above procedures shall be followed to reassign or destroy his/her controlled substance training samples.

310.18.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (Penal Code § 18800; 18 USC § 842; 27 CFR 555.41).

Explosive training aids designed specifically for canine 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 by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.

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- (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 authorized second person on -scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, 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).

310.18.8 ACCELERANT/ARSON TRAINING AIDS

Accelerant training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns handling and transporting such items, accelerants for use as training aids by canine teams are subject to the following:

- (a) All flammable liquids will be kept in the flammable liquid's storage container located in the large sally port at headquarters.
- (b) Only members of the canine teams shall have access to the accelerants.
- (c) When feasible all flammable liquids shall be kept in their original packaging or vapor proof containers within the storage container.
- (d) Training aids shall be examined continuously for stability and leaks. Aids should be discarded and cleaned if leaking or corroding.
- (e) During transportation of large amounts of flammable liquids, the liquids shall be kept in a Pelican case in the vapor proof glass containers.
- (f) Small amounts of flammable liquids may be transported in the trunk of a patrol vehicle if kept in a vapor proof container and protected from damage.

310.19 POLICE SERVICE CANINE DISPOSITION

Whenever a Police Service Dog Handler is transferred or otherwise leaves the Police Service Unit, the dog assigned to the handler remains the property of the City of Sunnyvale.

The decision as to serviceability of any dog in the Police Service Dog Unit shall be determined by the Chief of Public Safety with input from the Department Police Services Deputy Chief, Patrol Captains, and Police Service Dog Coordinator Trainer as appropriate.

Domestic Violence (CRITICAL)

311.1 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.

The Sunnyvale Public Safety Department will respond to and investigate all reports of domestic violence. Domestic violence is criminal conduct that shall be investigated thoroughly and arrests shall be made when appropriate.

Persons arrested for domestic violence offenses should be booked into County Jail.

Officers shall adhere to the provisions of the Santa Clara County Domestic Violence Protocol. See [attachment: 06-DomesticViolence ProtocolforLawEnforcement_2018.pdf](#)

311.1.1 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.

311.2 POLICY

The City of Sunnyvale Department of Public Safety'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.

Officers shall adhere to the provisions of the Santa Clara County Domestic Violence Protocol.

311.3 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.

311.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

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- (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.
- (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 Investigations Unit 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.

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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.

311.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (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.

311.4.2 LAW ENFORCEMENT SUSPECTS

All domestic violence incidents involving law enforcement suspects shall be handled according to the County Domestic Violence Protocol for Law Enforcement. There shall be no deviation from the protocol because the suspect is employed by a law enforcement agency.

Any officer investigating an alleged incident of domestic violence involving a law enforcement suspect shall have an on-duty supervisor notified as soon as possible. The investigating agency shall notify the employing agency as soon as possible after the incident or initial report. All alleged incidents of domestic violence involving suspects who are employed as peace officers will be reviewed by the District Attorney's Office. All reports and information regarding suspects who are employed as peace officers shall be delivered to the suspect's law enforcement employer as soon as practical, at the completion of the investigation.

311.4.3 JUVENILE SUSPECTS

All provisions of this procedure, including pro arrest and booking of the perpetrator, whether a felony or misdemeanor, and offering the victim an Emergency Protection Order, enforcing protective and restraining orders, shall be applied to all juvenile cases of domestic violence. Domestic violence, as defined by the Penal Code, is violence perpetrated against juveniles as well as adults.

311.4.4 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:

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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.

311.4.5 SEIZURE OF FIREARMS OR DANGEROUS WEAPONS

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).

A Receipt of Seizure will be provided to the owner of the firearms or weapons.

311.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) 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.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.
- (i) Fill-out the Santa Clara County Domestic Violence Lethality Assessment for First Responders form and fax the form to the YWCA Support Network (408) 295-0608.
- (j) An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

311.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

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.

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311.7 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).

311.7.1 VERIFICATION OF A RESTRAINING ORDER

Whenever a complainant advises of the existence of a restraining order, the officer shall ascertain the following:

- (a) Whether a restraining order is listed in the statewide registry, or is on file with the Department, or whether the complainant has a copy of the restraining order in his/her possession.
- (b) Whether a restraining order is still valid as to duration/time.
- (c) Whether the proof of service or prior notice exists, or that the suspect was in court when the order was made.
- (d) The terms of the restraining order.

311.7.2 NON-VERIFIABLE RESTRAINING ORDER

When the victim is not in possession of the Temporary Restraining Order, officers may not be able to confirm the order's validity.

- (a) Penal Code Section 13730(c) requires that an Officer shall write a report, give the victim the case number and direct the victim to contact the appropriate Department unit for follow-up information.
- (b) When an order is not verifiable through the verification procedures, officers should advise the victim of the right to make a private person's arrest for the appropriate violation.

311.7.3 RESTRAINING ORDER ENFORCEMENT

- (a) A violation of a restraining order is a misdemeanor under either Penal Code Sections 273.6 or 166(a)(4). An arrest shall be made when there is reasonable cause to believe the subject of the restraining order had violated the order in the presence of the officer and any one of the following conditions are met:
 - 1. The existence of the order and proof of service on the suspect has been verified by the officer.

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2. The complainant produces a valid copy of the order bearing a file stamp of a court and proof of service on the suspect.
 3. The officer has verified the existence of the order; no proof of service is required if the order reflects that the suspect was personally present in the court when the order was granted.
 4. The existence of the order has been verified and there is proof that an officer has previously admonished the suspect.
- (b) A misdemeanor warrantless arrest shall be made if an officer has reasonable cause to believe that the person violated a restraining order outside his/her presence. (PC 836(c)(1))
- (c) When the officer verifies that a restraining order exists, but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall:
1. Inform the suspect of the order. Complete the proof of service and return the document to the victim for filing with the court. Advise the victim to respond to Department of Public Safety Headquarters and file a copy of the completed order and a copy of the proof of service with the Desk Officer.
 2. Admonish the suspect of the order that the suspect is now on notice, and that violation of the order will result in arrest. If the suspect violates the order after being advised of the terms, an arrest should be made.
 3. If the suspect complies after admonishment of the terms, the officer shall write an offense report showing the suspect was admonished/advised of the terms of the order, the specific terms of the order the suspect was advised about, the name of the admonishing officer, time, and date. The Department's copy of the restraining order will be updated to reflect the admonishment information listed above.
 4. In the event the suspect has left the scene of the incident, an investigation shall be made to determine if a crime has been committed. Penal Code Sections 13730(c) and 13701(c)(8) require that a retrievable report be made, and complainant shall be advised of the follow-up criminal procedure and case number of the report.
 5. In situations where mutual protective orders have been issued, officers shall make reasonable efforts to identify and arrest the dominant aggressor involved in the incident.
 6. Occasionally, an officer may encounter a situation wherein a protected party has encouraged or invited a restrained party to violate the terms of an order by initiating contact. Officers should remember that the order remains in effect until cancelled by a competent court and that the restrained party is the only person in violation of the order in such a situation. The "protected person" cannot be in violation of his or her own protective order.

311.7.4 OUT-OF-STATE PROTECTIVE OR RESTRAINING ORDERS

Officers shall enforce out-of-state protective restraining orders presented to them if:

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- (a) The order appears valid on its face.
- (b) The order contains the name of both parties, and
- (c) The order has not yet expired.

Officers should check CLETS (California Law Enforcement Telecommunications System), to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity. If validation cannot be substantiated, officers should contact the Duty Judge for an EPRO (Emergency Protective Restraining Order), but the out-of-state protective or restraining order must still be enforced if it meets the above criteria.

If the order is not registered in California, parties should be advised to immediately register the order through the Family Court.

311.8 EMERGENCY PROTECTIVE ORDERS (EPRO)

311.8.1 ARREST SITUATIONS

EPROs are not provided at the jail, nor is a Stay Away Order automatically issued. An officer should not request a Stay Away Order or an EPRO on the probable cause affidavit. If he/she feels a restraining order is required upon the defendant's release, follow the Emergency Protective Order procedures. In all cases of domestic violence, officers shall advise the victim of the availability of an EPRO.

311.8.2 NON-ARREST SITUATIONS

When no arrest is made in a domestic violence incident, an EPRO may be necessary to protect the victim from further violence. In such incidents, Department members will evaluate the circumstances to ascertain if there are reasonable grounds to believe that a person is in immediate and present danger of domestic violence by a family or household member. Officers are encouraged to offer an EPRO whenever possible. Examples of circumstances which may provide grounds for requesting an emergency order are:

- (a) The suspect has a history of domestic violence.
- (b) The victim expressed fear of retaliation or further violence.
- (c) Threats of serious danger have been made to the victim or to the victim's family.
- (d) Suspect has used, or has threatened to use, physical force to injure a pet. Officers shall check the condition of pets at the scene of any domestic violence situation and document any findings in the EPRO.

311.8.3 EPRO PROCEDURES

- (a) The officer shall advise the victim of the availability of an EPRO and civil restraining orders in every case even if the suspect is arrested or in non-criminal situations where the victim is fearful. The officer is required to request the protective order if the officer believes the person requesting the order is in immediate and present danger.

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- (b) During normal court hours, officer should contact the Family Court at (408) 534-5601, and request the EPRO through the "Supervising Judge". During nighttime hours, weekends, and/or holidays, officers should call County Communications at (408) 299-2501, and request the EPRO through the "Duty Judge".
- (c) If issued, the officer is required to make a reasonable attempt to serve the restrained party. If the restrained party is present or can be readily contacted, serve the order. The canary copy is given to the restrained the party. Document if and how the order was served in the offense report.
- (d) Persons subject to an EPRO or DVRO are required to surrender all firearms when told to do so by law enforcement. Refer to the Firearms Relinquishment Procedure contained in the Santa Clara County Domestic Violence Protocol.
- (e) If an EPRO is issued advise the protective party to go to Family Court no later than 9:00am on the fourth court day after issuance of the order, to allow time for the new order and forms to be completed, reviewed, and signed by the Court. The protected party needs to be sure to bring a copy of the EPRO to court at that time.
- (f) The original copy of the EPRO is submitted to Records.
- (g) Records personnel are responsible for the entry of the EPRO into the State Domestic Violence Restraining Order System (DVROS). The Records clerk entering the order shall write the FCN File Control number, date and his/her initials on the order.
- (h) If the restrained person was arrested and not served, Records personnel will fax a copy of the order to jail for service.
- (i) Records shall distribute a copy of the order to the Desk Officer and Court Liaison, if the restrained person was arrested.
- (j) A copy of the order and the CLETS entry will be placed in the General file. The original order shall be faxed, then mailed to Family Court.
- (k) If an officer provides verbal notification to the restrained person, the officer should notify Records. The service information will be entered in DVROS by Records personnel.

311.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

311.9.1 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

- (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).

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- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her 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).

311.9.2 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

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311.9.3 VICTIM CONFIDENTIALITY

- (a) Pursuant to California Penal Code Section 293, any law enforcement agency employee who personally receives a report from an alleged victim of an offense, as defined in California Penal Code Sections 236, 261, 261.6, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, shall inform the alleged victim that his or her name shall become a matter of public record unless the victim specifically requests that it not become a matter of public record.
- (b) Additionally, the law states that any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed and shall memorialize his or her response by completing one of the two Affidavits Re: Confidentiality of Identity of Sexual Assault Victims in The County of Santa Clara (PS340 for a single victim and PS 341 for multiple victims).
- (c) The affidavit shall be completed by the investigating officer and submitted with the offense report to Records. The purpose of the affidavit is to support an interim order by the court to refer to the victim as "John Doe" or "Jane Doe" in the criminal complaint until a court hearing can be held to make the necessary findings pursuant to California Penal Code 293.5(a).

311.9.4 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).

311.9.5 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 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)(2)).

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311.9.6 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.

Search and Seizure

312.1 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 City of Sunnyvale Department of Public Safety personnel to consider when dealing with search and seizure issues.

312.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

312.3 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.

Search and Seizure

312.4 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.

312.5 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

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.

Search Warrants

313.1 PROCEDURES

The Santa Clara County District Attorney's Office has provided the Search Warrant Duty Manual which should be consulted during the drafting of any warrant. This is for all search warrants including facsimile, telephonic and email.

The DA Search Warrant Duty Manual will be maintained and updated on the Police page of iDPS by Investigations.

Unless extenuating circumstances exist, search warrants should be reviewed by a Deputy District Attorney prior to being presented to a Judge.

Personnel shall ensure all areas of the departmental background checklist are completed. Prior to serving any issued search warrant a departmental operations plan shall be completed. The operations plan needs to be approved by a Captain or Deputy Chief.

In the event that the persons or location to be searched pose a risk of assault with weapons based on criminal history or background intelligence, the Captain supervising the S.W.A.T. Team should be consulted to determine if the search warrant should be executed by S.W.A.T.

A Public Safety Lieutenant shall be present during the execution of any search warrant by Sunnyvale personnel.

Warrant/Probation/Parole Search Checklist

314.1 INTRODUCTION

The serving of an arrest warrant and conducting a probation-parole search create officer safety and liability issues. To ensure the safety of officers and to protect the rights of the public the following procedures are to be followed when serving an arrest warrant or conducting a probation-parole search during a pre-planned event. These procedures **do not** apply to the serving of a warrant or conducting a probation-parole search when an officer is already on scene at a call for service or the circumstances make it impractical to conduct the checklist.

314.2 PROCEDURES

When an officer plans to serve an arrest warrant or conduct a probation/parole search, the officer shall use the Warrant Service/Probation/Parole Search Checklist:

- (a) The officer will attach a copy of the warrant or probation/parole hit to the check list. The officer will verify with Records that the warrant or probation-parole grant is active.
- (b) If the warrant or probation/parole grant is no longer active Records will shred the packet.
- (c) If the warrant or probation/parole grant is active, the officer will obtain an EV number from Dispatch. The packet with the EV number will be given to Records personnel to complete the Records section of the checklist. The officer needs to review the entire RAP sheet. The officer shall complete the Officer section and present the complete packet to a patrol supervisor for approval.
- (d) The patrol supervisor will review the packet to ensure all required system checks have been completed. The supervisor shall also review the entire RAP sheet. If the packet is not complete the supervisor can give the packet back to the officer with required follow-up or not approve the packet. If the packet is complete the supervisor will sign and approve.
- (e) Once the officer receives the supervisor approved packet the officer shall notify Dispatch of the address of the attempted service, and the subjects name and date of birth.
- (f) After the service has been completed the officer will return the packet to Records to update the due diligence file (JWUD). The officer's supervisor shall ensure Record's due diligence file (JWUD) has been updated with the results of the service, and any pertinent information.

314.3 SAFETY AND LIABILITY

Officers serving the arrest warrant or conducting the probation-parole search will ensure that proper officer safety tactics are used. MVAR and/or digital recorders should be activated when practical. Officers shall be mindful of current search and seizure laws.

Officers serving the warrant or conducting the probation-parole search will ensure the person they have seized or searched is the correct person listed on the warrant/probation-parole hit.

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Department Policies

Warrant/Probation/Parole Search Checklist

Temporary Custody of Juveniles (CRITICAL)

315.1 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 Sunnyvale Department of Public Safety (34 USC § 11133).

The purpose of this policy and the goal of the Department of Public Safety is to minimize unnecessary incarceration of youthful offenders by seeking alternatives to custodial confinement.

In determining disposition of youth offenders, it is the policy of the Department of Public Safety to balance legal mandates, community safety, and the best interests of the juvenile. The alternative that is least restrictive to the juvenile is preferred. Whenever appropriate, community resources will be utilized as an alternative to incarceration.

The Department of Public Safety is committed to working with community partners to create viable alternatives to the incarceration of juveniles.

This policy is consistent with the Juvenile Detention Reform Protocol adopted by Santa Clara County.

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

315.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her 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 his/her 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) (Penal 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(d); 15 CCR 1150).

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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.
- (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.

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).

315.2 POLICY

The City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

315.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the City of Sunnyvale Department of Public Safety:

- (a) Unconscious

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- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except after medically cleared. A medical clearance shall be obtained at Valley Medical Center 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). Any juvenile under the influence of drugs, alcohol or any other intoxicating substance shall be medically cleared.
- (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).

These juveniles should not be held at the City of Sunnyvale Department of Public Safety 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).

315.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. An on-duty supervisor shall be notified of the need for medical attention for a juvenile. Department members should administer first aid as applicable. Medical treatment for juveniles may only be obtained at Valley Medical Center (15 CCR 1142).

315.3.2 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 him/herself or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

A juvenile prisoner considered a potential suicide risk is handled on a case-by-case basis by Juvenile Hall. The Juvenile Screening Officer shall decide how the juvenile will be processed and where the juvenile is to be taken. The Juvenile Screening Officer can be contacted at (408) 278-5818 from 0800 to 2300, Monday through Thursday, and 0800 to 0100, Friday through Sunday. Outside of these hours, the juvenile shall be taken directly to Juvenile Hall. Juveniles who are a suicide risk shall be transported to a County facility or as directed by the Juvenile Hall intake officer as soon as possible.

315.3.3 INTOXICATED JUVENILES

A juvenile, under the influence of drugs or alcohol, that is held at the Sunnyvale facility prior to transport to Juvenile Hall or release to a parent or guardian shall be physically checked every 15 minutes and the results recorded.

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Juveniles may be housed in the Detox cell (#7) if there are no adults in the temporary holding facility. They must otherwise be transported or in the personal care of an officer.

315.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety without authorization of the arresting officer's supervisor. 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 with a written promise to appear, release to a diversion program, or to alternative community resources unless one or more of the following circumstances exist:

- (a) Juvenile is 14 years old, or older, and commits a violation specified under section 707(b) W&I.
- (b) An outstanding arrest warrant exists for the juvenile, or a probation officer directs incarceration.
- (c) Release of the juvenile would create a continuing threat to public safety and/or an individual.
- (d) Crime is violent, serious, or involves a firearm.
- (e) Any crime involving domestic violence.
- (f) When satisfactory evidence of identity cannot be established.
- (g) A parent or guardian cannot be located.
- (h) Juvenile demands to be taken before a magistrate.
- (i) The person arrested is so intoxicated that he/she could be a danger to himself/herself or others.
- (j) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety.
- (k) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, may be jeopardized by his/her immediate release.
- (l) There is reason to believe the person will not appear at the time and place specified in the notice. The basis for this determination shall be specifically documented.

Exceptions to those conditions listed in above shall be reviewed and approved by a supervisor and documented on the JCR and arrest report.

An **Informal Intake** (report only) is required in **all** cases where a juvenile is not transported to Juvenile Hall and the officer would like the juvenile immediately assigned to a Probation Officer.

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In the top right corner of the JCR, in the area labeled “Arrest Disposition”, check the box labeled “Citation.”

In no event **shall a juvenile be held beyond six hours** from the time of his/her entry into the City of Sunnyvale Department of Public Safety (34 USC § 11133; Welfare and Institutions Code § 207.1(d)).

315.4.1 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 City of Sunnyvale Department of Public Safety. 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.

315.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Juveniles contacted under 601 W&I should be released to a parent or guardian, or referred to another social services agency. No juveniles will be transported to the Children’s Shelter without first attempting to contact the Joint Response Unit. Status offenders shall not be held in secure custody (34 USC § 11133).

315.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the City of Sunnyvale Department of Public Safety 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 suspected of using a firearm in violation of Welfare and Institutions Code 625.3 shall be transported to a juvenile facility.

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 602(b), 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 to a parent or other responsible adult after processing at the Department.
- (b) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

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- (c) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).
- (d) Santa Clara County law enforcement agencies can refer 602 W&I offenders – (not eligible to be admitted to Juvenile Hall and when parents are not available or are unwilling to accept the juvenile), to the following alternate community resource on a 24 hour basis:
 - 1. Bill Wilson Center - (408) 243-0222. The officer shall provide the responding case manager with a completed green copy of the Juvenile Contact Report (JCR).

Officers will make every effort to complete the booking process for the juvenile at headquarters before releasing him/her on a citation.

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative which 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).

315.4.4 JUVENILE DIVERSION

The juvenile diversion program is designed as an alternative to placing certain arrested juveniles into the Juvenile Probation/Court System.

The program is supervised by the Community Services Division Neighborhood Resource Officers and a Deputy Probation Officer.

Juveniles directed into this program are generally 602 W&I first offense, misdemeanor arrestees.

Upon completion of the diversion program, the Juvenile Contact Report (JCR) is withheld from the Santa Clara County Juvenile Probation Department and is retained only by Sunnyvale Department of Public Safety.

- (a) Failure to complete the diversion program results in the juvenile contact report being forwarded to the Santa Clara County Juvenile Probation Department for further action against the juvenile.

315.5 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, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

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Anytime a juvenile offender is placed in secure custody, he/she 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(d)).

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 his/her parent or guardian; one to a responsible relative or his/her 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).

315.6 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 located in the Desk Officer's office, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the City of Sunnyvale Department of Public Safety (15 CCR 1150).
- (c) Supervisor 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(d); 15 CCR 1145).
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

A supervisor shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

315.6.1 RESPONSIBILITIES

Desk Officer - The Desk Officer shall ensure all required information is entered into the log prior to the minor's release or transport.

Arresting Officer - The arresting Officer shall make all entries into the log with the required log information (i.e. minors name, sex, age, reason for confinement, and time of confinement.)

Transport/Release Officer - The transport/release Officer shall make all entries in the log with the required release information (i.e., date and time of release and type of release.)

Temporary Custody of Juveniles (CRITICAL)

Supervisor - A supervisor shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

Patrol Administrative Staff Lieutenant - The Patrol Staff Lieutenant shall review the log for completeness and compile the required statistics the first of each month for the preceding month and shall e-mail detention logs to the California Board of Corrections after review and approval of the Temporary Holding Facility Manager (Patrol Operations Deputy Chief).

315.7 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(d); 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 City of Sunnyvale Department of Public Safety (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).

315.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the City of Sunnyvale Department of Public Safety shall ensure the following:

- (a) An on-duty supervisor should be notified if it is anticipated that a juvenile may need to remain at the City of Sunnyvale Department of Public Safety more than four hours. This will enable the supervisor to ensure no juvenile is held at the City of Sunnyvale Department of Public Safety 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. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. 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).

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- (f) 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).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian and/or lawyer visits (15 CCR 1143).
- (j) 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).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
 - 1. Desk Officer should ensure that there is an adequate supply of clean blanket.
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
- (o) 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).

315.9 USE OF RESTRAINT DEVICES

- (a) The use of restraint devices on a juvenile in non-secure custody is prohibited.
- (b) The use of restraint devices on a juvenile in secure custody is prohibited except restraining devices may be used on those persons who display behavior which results in attempted destruction of property or who reveal an intent to cause physical harm to themselves or others. Such persons shall be transported as soon as possible.
- (c) Restraints shall only be used with the approval of the Patrol supervisor.
- (d) All restraints shall be applied in a manner that they do not restrict the prisoner's blood circulation. Officers need to be aware of the dangers of positional asphyxia.
- (e) Officers shall notify the Desk Officer whenever a juvenile has been placed in restraints and the Desk Officer shall make direct visual checks of the prisoner every 15 minutes.
- (f) 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).
- (g) Only devices that are specifically manufactured as restraint devices, such as "The Wrap" or padded belts and cuffs, may be used.
- (h) Juveniles who are restrained shall be transported to a County facility as soon as possible, and shall not be held at Public Safety Headquarters in excess of two hours.

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- (i) Restrained juveniles must be provided with food, hydration, and accommodation of personal needs as necessary.

315.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the City of Sunnyvale Department of Public Safety 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.

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 City of Sunnyvale Department of Public Safety.

315.11 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). Supervisor 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 him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself 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

Contact with adult prisoners is limited to booking or movement of the juvenile within the facility, and during such time the juvenile shall be in constant side-by-side contact with an Officer.

Communication between juvenile and adult prisoners is prohibited.

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).

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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).

315.11.1 LOCKED ENCLOSURES

Juveniles held in secure custody will only be housed in Cells #6, 7, or 8 when not attended by an Officer. If an adult prisoner is present in the jail area, no juvenile shall be housed in a cell and the juvenile shall remain in physical custody of the arresting/booking Officer until transported or released.

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) Officers need to ensure the video monitoring system is functioning properly prior to placing a juvenile in the above cells.
- (b) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (c) Juveniles shall have constant auditory access to department members (15 CCR 1147).
- (d) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).
- (e) 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 his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 - 3. Requests or concerns of the juvenile should be logged.
- (f) Males and females shall not be placed in the same locked room (15 CCR 1147).
- (g) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (h) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

Temporary Custody of Juveniles (CRITICAL)

315.12 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY OF A JUVENILE

The Patrol Staff Lieutenant will ensure procedures are in place to address the suicide attempt, death or serious injury of any juvenile held at the City of Sunnyvale Department of Public Safety (15 CCR 1142; 15 CCR 1047). In the event of any of the above the following procedures will address:

- (a) Immediate notification of the on-duty supervisor, Patrol Team Captain, Patrol Service Deputy Chief, Chief and Investigations Bureau Supervisor.
- (b) The Professional Standards Lieutenant shall be responsible for the coordination of the administrative investigation.
- (c) The Patrol Services Deputy Chief or designee, shall notify the parent, guardian or person standing in loco parentis, of the juvenile.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the City attorney.
- (f) Notification to the coroner.
- (g) Notification of the juvenile court.
- (h) In the case of a death, County Protocol will be followed. And a report will be provided 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).
- (i) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (j) Evidence preservation.

315.13 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor.

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 supervisor or Investigation Unit 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

Any time a juvenile is arrested and booked at SDPS headquarters, the officer shall contact Records staff to conduct a CJIC PFN search prior to conducting an AFIS/Livescan booking.

The CJIC PFN search shall consist of providing Records staff with the juvenile's name, DOB, and all other descriptor information available (i.e. ID card, SSN, DL#) in order to determine if a PFN

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already exists. If a PFN is found to exist, the officer shall conduct the AFIS/Livescan booking entry as follows:

- (a) At the Livescan terminal, enter booking information by the PFN using the "Full Criminal Book" profile. The PFN goes into the very last field on the screen.
- (b) AFIS/Livescan will search for a match on the PFN, but will use the PFN entered for the booking. This way, the PFN already assigned to the individual by CJIC gets substantiated by fingerprints instead of creating a duplicate PFN.
- (c) PFN's (Personal File Numbers) are intended to be unique identifiers.

If a PFN is not found by the Records staff for the juvenile, the officer should conduct the AFIS/Livescan booking as per normal protocol using the "Full Criminal Book" profile.

315.14 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 City of Sunnyvale Department of Public Safety Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827. Refer to the Records Maintenance and Release policy within this manual.

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 Investigations Unit supervisors to ensure that personnel of those bureaus act within legal guidelines.

315.15 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Police Services Captain shall coordinate the procedures related to the custody of juveniles held at the City of Sunnyvale Department of Public Safety and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

315.16 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

Questioning or Arrest of Students While in Attendance at School

316.1 INTRODUCTION

Peace Officers, including Probation Officers, have the right to interview suspects and witnesses. To conduct such interviews, Officers may need to call on a suspect or witness at home, at a place of employment, and in the case of students, while the student is in attendance at school.

School officials do not have the right to prohibit an Officer from interviewing a pupil. School officials have been instructed to ascertain the identity and official capacity of Officers, their authority for the investigation, and in the case of the arrest of a pupil, the reason for the arrest and place where the pupil is to be taken.

316.2 PROCEDURE

When an Officer responds to a school to interview a student, the Officer should ask to speak to a school administrator and be prepared to provide the following information:

- (a) Identification, official capacity and the reason for the interview.
- (b) Whether the student is a victim, suspect or witness.

When the Officer's purpose is to arrest and/or remove a student from school, the Officer should give notice of the contemplated action and request assistance in completing the desired investigation(s).

The Officer, prior to the interview, will inform the student of his/her rights, including the right to have a parent or school official present during the interview. The investigating Officer may decide it is advisable for a school official or parent to be present at the interview even though the student has not requested their presence.

The school stands in the position of the parent while the student is in the custody of the school. In the event that an investigating Officer removes a student from the school to a place of confinement, the investigating Officer shall take immediate steps to notify the student's parent or guardian of the action taken. Officers who interview juveniles at a school for any reason other than a situation where the parent or guardian is a suspect in the case under investigation shall notify the parents of the interview even if the juvenile is not taken from the school.

Adult Abuse (CRITICAL)

317.1 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 the Sunnyvale Department of Public Safety. It is the policy of the Sunnyvale Department of Public Safety to treat reports of adult abuse as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspects.

Officers shall adhere to the provisions of the Santa Clara County Law Enforcement Elder and Dependent Adult Abuse Protocol. dps/Internal/Admin/SitePages/CountyProtocols.aspx

317.2 DEFINITIONS

Definitions related to this policy include:

Dependent Adult - Any person residing in this state, 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 includes any person between 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law (Health and Safety Code § 1250; Health and Safety Code § 1250.2; Health and Safety Code § 1250.3).

Elder - Is any person residing in this state, 65 years of age or older.

Financial Abuse - Is a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property by undue influence or intent to defraud or to any use or purposes not in the due and lawful execution of his or her trust (Welfare and Institutions Code § 15610.30).

Abuse - Is physical abuse, neglect, financial abuse, abandonment, isolation or other treatment with resulting physical harm, pain, mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63).

Adult Protective Services (APS) - a program administered by the Social Services Agency, Department of Aging and Adult Services, Adult Protective Services (APS) has the important responsibility of: identifying, evaluating and assisting vulnerable county residents who are at risk for many forms of abuse or neglect, including self-neglect. Adult Protective Services social workers provide services to clients in their own homes, as well as coordinate with a large number of community agencies with the goal of keeping clients safe and able to live as independently as possible.

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Neglect - Is the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

- (a) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- (b) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he/she voluntarily relies on treatment by spiritual means through prayer alone instead of medical treatment.

317.3 POLICY

The City of Sunnyvale Department of Public Safety will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

317.4 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of 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 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) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the adult abuse (Welfare and Institutions Code § 15640(f)).
- (k) Whether a death involved the End of Life Option Act:

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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 adult abuse and investigated similarly.

317.5 QUALIFIED INVESTIGATORS

Qualified investigators, who have attended the required POST courses, should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).
- (g) This sub-section does not prohibit patrol officers from conducting the initial investigation.

317.6 MANDATORY NOTIFICATION

Members of the City of Sunnyvale Department of Public Safety shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

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A dependent adult is 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 (Welfare and Institutions Code § 15610.23).

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 is physical abuse and 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 there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 - 3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
 - 4. When a report of abuse is received by the Department, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).
- (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
- (f) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
- (g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (h) 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

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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)).
 - (i) If during an investigation it is determined that the 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)).
 - (j) 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 Investigations Unit 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).

317.6.1 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.
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

317.7 PROTECTIVE CUSTODY

Before taking an 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

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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 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 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 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 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.

317.7.1 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)).

317.8 INTERVIEWS

317.8.1 PRELIMINARY INTERVIEWS

Officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation.

317.8.2 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.

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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.

317.9 MEDICAL EXAMINATIONS

When an 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.

317.10 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 adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

317.10.1 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an 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 Investigations Unit supervisor so an interagency response can begin.

317.10.2 SUPERVISOR RESPONSIBILITIES

The Investigations Unit 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 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 Investigations Unit supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an 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.

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317.11 TRAINING

The Department should provide training on best practices in 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 adult abuse investigations.
- (f) Availability of victim advocates or other support.

317.12 RECORDS BUREAU RESPONSIBILITIES

The Records Unit is responsible for:

- (a) Providing a copy of the 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 adult abuse report with the initial case file.

317.13 JURISDICTION

The City of Sunnyvale Department of Public Safety 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 in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

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318.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when City of Sunnyvale Department of Public Safety members are required to notify the county Department of Family and Children's Services (DFCS) of suspected child abuse. The procedures set forth in the Child Abuse Protocol for Santa Clara County Law Enforcement shall be followed. dps/Internal/Admin/SitePages/CountyProtocols.aspx

318.1.1 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).

318.2 GENERAL PROCEDURES

The City of Sunnyvale Department of Public Safety will investigate all reported incidents of alleged criminal child abuse and ensure DFCS is notified as required by law for the following situations:

- (a) Alleged or Suspected abuse;
- (b) Unfounded abuse;
- (c) Neglect/endangerment;
- (d) Any act which results in a non-accidental injury.

If sexual abuse is suspected, the reporting officer should not conduct an in-depth interview. Obtain sufficient information to determine what crime has occurred, approximate time, location, and identity of the perpetrator.

If the case involves serious injury, neglect, or any sexual abuse notify an Investigations supervisor.

When the investigating officer encounters incidents of child abuse that they deem needs an immediate response to the scene by a social worker, or consultation with DFCS, they should utilize the Joint Response Protocol, which can be activated through Communications. In situations where the investigating officer is seeking to just cross report child abuse for information purposes or later follow-up by DFCS, he or she should contact the 24 hour Child Abuse Hotline at 299-2071.

If the investigation occurs within 72 hours of the offense a medical examination should be obtained. If after 72 hours, the officer will determine the need. The examination will be performed by S.A.R.T. at Valley Medical Center. In sexual abuse cases, parental consent is required for sexual assault examination unless there are exigent circumstances or there is a court order authorizing the exam.

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Child victims age 12 or older may also consent to the exam. Victims and non-suspect parents shall not be forced to cooperate.

The Severe Child Injury or Death Team (SCID) shall be contacted by the investigating officer or supervisor immediately on any investigation in which a child is hospitalized with a severe injury and child abuse, neglect, or endangerment is a possible contributing factor. The SCID Team is contacted through the District Attorney's Bureau of Investigation, 24 hours a day, at (408) 590-8370.

The Public Safety Department will refer all victims of child abuse to the Victim Witness Assistance Center for support and financial assistance.

318.3 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. 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 should not be reported to the District Attorney (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 (Penal Code 11166.1; Penal Code 11166.2).

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 his/her employment as a peace officer.

318.3.1 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.

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- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

318.4 QUALIFIED INVESTIGATORS

Qualified investigators, who have attended the required POST courses, 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).
- (g) This sub-section does not prohibit patrol officers from conducting the initial investigation.

318.5 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.
- (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.

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- (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).

318.5.1 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).

318.5.2 DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES (DFCS) REFERRALS

Referrals received from the Santa Clara County Department of Family and Children's Services (DFCS) should be reviewed by an on-duty patrol lieutenant to determine whether or not an immediate patrol response is necessary to protect a child from imminent harm.

DFCS utilizes three (3) primary referral classifications:

- (a) Immediate - Indicate an immediate need for a joint response from both the police and DFCS.
- (b) Evaluate Out - Indicate a criminal allegation in which DFCS is not going to respond but necessitates a police investigation.
- (c) 10 Day - Indicate DFCS is currently conducting an investigation.

Upon receipt of a DFCS referral the following procedure should be followed:

- (a) Obtain an event number and write the event number on the upper right hand corner of the referral's first page.
- (b) If it is an "immediate" or "evaluate out" referral an officer will be assigned to conduct an initial investigation pursuant to Santa Clara County protocol and this policy.
- (c) If it is a "10 day" referral the on-duty patrol lieutenant should review the narrative to determine whether or not there is an immediate patrol response necessary to protect a child from imminent harm. If no immediate response is necessary the referral should be forwarded to the Investigations Unit to monitor the DFCS investigation.

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318.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should consult the “Joint Response Protocol” in place between the law enforcement agency and DFCS to secure the presence of a social worker at the scene. Whenever possible, the investigating officer shall coordinate the investigation with the DFCS worker while mindful that the officer’s investigative focus may differ from that of the DFCS worker. The investigating officer should include the DFCS worker in interviews with the child victim and family members whenever possible. State law and local standing orders authorize the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect.

Generally, members of this department should remove a child from his/her 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 DFCS.

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, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, 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.

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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 or Penal Code § 278.5 or Penal Code § 279.6.

A child taken into protective custody shall be delivered to DFCS unless otherwise directed by court order.

Officers shall thoroughly investigate and document all cases of juveniles coming under the provisions of Welfare and Institutions Code § 300.

318.6.1 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 DFCS.

318.6.2 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.

318.6.3 REPORT REQUIREMENTS

- (a) A JCR is required in all cases where a child falls within the provisions of Welfare and Institutions Code § 300.
- (b) An ARS report shall be completed to document the appropriate code violation and explain why the child falls within Welfare and Institutions Code § 300.
- (c) If the child falls within the 5150 W&I reporting requirements, an Application for 72-Hour Detention for Evaluation and Treatment form shall be completed and the child shall be transported to Central Mental Health Center (VMC) for evaluation. The Children's Shelter shall be notified and advised of the 300 W & I, 601 W & I or 602 W & I status and consulted about the proper processing procedures.
- (d) Case status shall be one of the following:
 1. J - If case is cleared by arrest.
 2. A-PIXX - Further follow-up required by Investigations Unit.

318.7 INTERVIEWS

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318.7.1 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.

318.7.2 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:
 - 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.

318.7.3 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).

318.8 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.

Child Abuse (CRITICAL)

318.9 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.

318.9.1 SUPERVISOR RESPONSIBILITIES

The Investigations Unit supervisor should:

- (a) Work with professionals from the appropriate agencies, including DFCS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children 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 Investigations Unit 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.

318.9.2 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 Investigations Unit supervisor so an interagency response can begin.

318.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

318.10.1 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).

318.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL 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.

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318.10.3 CACI HEARING OFFICER

The Investigations Unit 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.

318.10.4 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 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.

318.10.5 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).

318.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

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- (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.

Missing Persons (CRITICAL)

319.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

319.1.1 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.
- 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).

319.2 POLICY

The City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

319.3 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 Persons (CRITICAL)

- 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

319.4 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).

319.5 INITIAL INVESTIGATION

Officers or Community Service Officers (CSO) 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 Critical Reach bulletin if the person is under 16 years of age or there is evidence that the missing person is at risk. The BOL should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 16 or may be at risk (Penal Code § 14205).
- (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) Notify a supervisor if the missing person qualifies for a public alert, as described in the Public Alert policy.
- (g) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (h) Collect and/or review the following:
 1. A photograph and a fingerprint card of the missing person, if available.

Missing Persons (CRITICAL)

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, etc).
- (i) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
 - (j) 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.
 - (k) A Patrol Captain should be notified as soon as practicable when a public alert or enlisting of help of the media and public could assist in locating the missing person(s), apprehending a dangerous person, or gather information.

319.6 REPORT PROCEDURES AND ROUTING

Officers/CSO 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.

319.6.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall review and approve missing person reports upon receipt and ensure resources are deployed as appropriate. The reports should be promptly sent to Records Unit.

The supervisor shall also ensure applicable notifications and public alerts are made and documented and that records have been entered into the appropriate missing person networks.

The supervisor should also take reasonable steps to identify and address any jurisdictional issues to ensure cooperation between agencies.

319.6.2 RECORDS UNIT RESPONSIBILITIES

The Records' personnel 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 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).

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- (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 Investigation Unit.
- (e) Coordinate the NCIC Terminal Contractor for California to have the missing person record in NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

319.7 INVESTIGATIONS UNIT 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 Medical Examiner.
- (h) Should obtain and forward medical and dental records, photos, X-rays and biological samples pursuant to Penal Code § 14212 and Penal Code § 14250.
- (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).

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- (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 § 586).

319.8 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 and other involved agencies and refer the case for additional investigation if warranted.

Records' personnel 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.

319.8.1 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.

319.9 CASE CLOSURE

An Investigation 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.
- (b) If the missing person is a resident of Sunnyvale 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.

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- (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.

Public Alerts

320.1 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.

320.2 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.

320.3 RESPONSIBILITIES

320.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the City of Sunnyvale Department of Public Safety should notify their supervisor, Lieutenant or Investigations Unit 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.

320.3.2 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 Patrol Captain, the Special Operations 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

320.4 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.

320.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.

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- (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.

320.4.2 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)

320.5 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.

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320.5.1 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.

320.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

- (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

320.6 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).

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320.6.1 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.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

320.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

320.7 MUTUAL AID FOR PUBLIC SAFETY ALERT INVESTIGATIONS

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department county communications facility and staff can be made available in the event of a high call volume.

If the Lieutenant or Investigations Unit Supervisor elects to use the services of the Sheriff's Department, the following will apply:

- (a) Notify the Sheriff's Department Lieutenant of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Lieutenant.
- (c) The Public Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department will be referred back to this department.

The City of Sunnyvale Department of Public Safety shall assign a minimum of two detectives/officers to respond to the Sheriff's Department emergency communications facility to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the emergency communications facility.

Public Alerts

320.8 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).

320.8.1 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.

320.8.2 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

Terrorism Liaison Officers

321.1 PURPOSE

The 9-11 Commission Report was chartered to prepare a full and complete account of the circumstances surrounding the September 11, 2001 terrorist attacks, including preparedness for and the immediate response to the attacks. The Commission was also mandated to provide recommendations designed to guard against future attacks. As a result of the investigation, it was recognized that prior to the attacks the US Government had vast amounts of information and intelligence but weak systems to process and use it. Nationally, networks of intelligence fusion centers have been created to serve as a central hub to collect, analyze, and disseminate information regarding threats. Fusion centers are multi-discipline task forces with representatives from law enforcement, the fire service, public health and the private sector. The fusion center serving the City of Sunnyvale is the Northern California Regional Intelligence Center (NCRIC).

The role of the law enforcement and fire service community in relation to the fusion center is to maintain a two-way sharing of information both in receiving threat related information as well as reporting information that may portend a criminal and/or terrorist threat. The purpose of this policy is to establish a process for intelligence sharing between the Sunnyvale Department of Public Safety and the Northern California Regional Intelligence Center (NCRIC) as well as insuring that the privacy concerns and civil rights of the public are well protected.

321.2 POLICY

It shall be the policy of the Sunnyvale Department of Public Safety to disseminate intelligence received throughout the organization on a need to know basis. Information which is disseminated is confidential and shall not be shared with the media, the public or anyone who is not an authorized direct recipient. It shall be the policy of the Sunnyvale Department of Public Safety to report information, activities or observations which are suspicious in nature to NCRIC either directly or through the Terrorism Liaison Officers (TLO). When Sunnyvale Department of Public Safety employees discover information they believe may be indicative of terrorist activity, it is the policy of the Department that all such information will be scrutinized and balanced against the individual's right to privacy, applicable laws, and the Constitution.

Nothing in this policy should be construed as suggesting that any law, such as those related to search and seizure, do not apply when it comes to an incident that might be terrorism related. To the contrary, it is the policy of this agency that its employees will not use factors such as race, religious affiliation, and social or political views as the sole basis for determining if a matter qualifies as possible terrorism activity.

Employees will neither collect nor report information to other agencies regarding an individual's religious activities, political views, social agendas, or other non-criminal activity. The exception will be when those factors have bearing on other articulated facts that suggest terrorist or criminal behavior. Any files kept by The Sunnyvale Department of Public Safety on individuals or organizations will be kept in accordance with 28 Code of Federal Regulations Part 23.

Terrorism Liaison Officers

321.3 DEFINITIONS

Fusion Center: a collaborative effort of two or more agencies that provide resources, expertise and/or information with the goal of maximizing the ability to detect, prevent, apprehend and respond to criminal and terrorist activity.

Intelligence: Information with a limited inherent meaning that is assessed for validity and reliability and further reviewed for relevance to a threat or investigation thereby giving it meaning.

NCRIC: The Northern California Regional Intelligence Center, based in San Francisco, is one of four California fusion centers (San Francisco, Sacramento, Los Angeles and San Diego).

Suspicious in nature: an action, response, person, possession or threat which is unusual and may portend a criminal or terrorist motive.

Need to know: Requested information is pertinent and necessary to the requestor agency in initiating, furthering, or completing an investigation.

Right to know: Requestor has official capacity and statutory authority to the information being sought.

Terrorism Liaison Officer (TLO): A sworn Public Safety Officer, crime analyst, or other specially selected Department employee who has attended a POST Certified TLO "Basic" course and has been trained in terrorist tactics and strategies. The TLO (1) receives and disseminates intelligence from fusion centers and public safety partners and (2) reports suspicious/unusual activity in accordance with this policy.

321.4 ROLES AND RESPONSIBILITIES

Terrorism Liaison Officer (TLO): Shall be responsible for the dissemination of information received and the reporting of information as approved by the TLO-Coordinator. The TLO will also serve as a subject matter expert within the agency, available to assist other employees in determining what constitutes suspicious activity.

Terrorism Liaison Officer Coordinator (TLO-C): A Supervisor who shall coordinate and oversee the collection and dissemination of information from the TLO's to insure policy is followed, and that information is shared with the appropriate divisions including Investigations and Command Staff as appropriate. The TLO-C will insure that information is shared with other employees that is relevant and in accordance with policy.

Sunnyvale Department of Public Safety Employees: Relative to intelligence, it shall be the responsibility of the department personnel throughout all divisions to be cognizant that they play a vital role in reducing crime and terrorism by reporting information that may prove actionable

321.5 PROCEDURES

Threat Warnings

Successful terrorist attacks have followed an established pattern with three identifiable phases:

Terrorism Liaison Officers

- (a) Research and Reconnaissance
- (b) Planning
- (c) Execution

The purpose for sharing information is to identify and disrupt terrorist activities before they reach the execution phase. Given that local law enforcement and fire personnel may be the first to encounter terrorist activity at any phase, it is vital that they be equipped with current information regarding terrorist and criminal activity, networks and patterns. The NCRIC and other Fusion Centers will disseminate information concerning terrorist and criminal activity to local jurisdictions via authorized TLO's. The Department's TLO's will be responsible for disseminating that information to the rest of the Department as appropriate after receiving approval from the TLO-C. The information shared, including information deemed "Unclassified// For Official Use Only" shall not be discarded in the trash, given to the media or posted or placed on uncontrolled websites. Any questions concerning the dissemination of information shall be referred to the TLO.

Field Operations

Department personnel observing activities, actions, persons, transactions, equipment, paraphernalia or propaganda, which in their opinion is suspicious in nature and may have a terrorism nexus should report it to the Sunnyvale Department of Public Safety TLO Officer or directly to the NCRIC within a timely basis. Examples of suspicious and actionable information may include or are not limited to:

Suspicious Fire, Jihadist Materials, Chemical Stockpiles, Shadow Business Occupancies, Burns from Chemicals, Theft of Official Vehicles, Radiation Burns, Theft of Uniforms/Equipment, Explosions, Smuggling Operations, Targeted Vandalism, Detailed Plans of Critical Infrastructure, Violent Anti-Government Propaganda, Illogical Explanations of Injuries, Surveillance Activities, and Defensive/Evasive Communication

Since there may be a justifiable and legitimate explanation for each of these activities, none of these observations independently signify that the subject(s) are involved in terrorism related activity. However, the information may be part of a larger set of indicators pointing to a terrorism nexus. Generally, after being notified of suspicious activity, the Sunnyvale Department of Public Safety TLO Officer will notify the TLO-C who will approve further reporting to the NCRIC if applicable. The TLO-C will insure that the Sunnyvale DPS Investigations Supervisor and other pertinent staff are alerted to the situation if warranted. Depending on the nature of the information observed, a field investigation may be warranted. Any field investigation will be coordinated through NCRIC and the Sunnyvale Department of Public Safety.

Victim and Witness Assistance

322.1 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.

322.2 POLICY

The City of Sunnyvale Department of Public Safety is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the City of Sunnyvale Department of Public Safety will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

322.3 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.

322.4 VICTIM INFORMATION

The Administration 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.
- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

Victim and Witness Assistance

- (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).

322.5 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.

322.6 SUPERVISOR RESPONSIBILITY

Supervisors are to ensure that notifications are made and recorded as required by this policy.

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323.1 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 City of Sunnyvale Department of Public Safety 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).

323.1.1 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, 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 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

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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, whether or not 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 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 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:

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- 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 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:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution

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- Public agency
- Library
- Other victim or intended victim of the offense

323.2 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 or other command-level officer to whom the Chief formally delegates this responsibility.

323.3 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.

323.3.1 HATE CRIMES COORDINATOR

A The Special Operations Captain 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

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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 immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.
- (i) Coordinating with the Training Lieutenant to 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 Unit for mandated reporting to the Department of Justice.
- (l) Reporting any suspected multi-mission extremist crimes to the agency 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 Unit Policy.
- (m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
- (n) Annually assessing this policy, including:
 - 1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, 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.

323.3.2 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:

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- (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.

323.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

323.4.1 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.

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- (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 § 6254.
 - 4. Prior occurrences in this area or with this victim.
 - 5. Statements made by suspects; exact wording is critical.
 - 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.

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323.4.2 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.
 - 2. Identity of witnesses, including those no longer at the scene.
 - 3. Offer of victim confidentiality per Government Code § 6254.
 - 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.

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- (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.

323.4.3 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 § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
 - 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).

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- (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 Special Operations Captain for approval.

323.5 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 and gender bias.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

323.6 REPORTS AND TRACKING

Per Santa Clara County Protocol <http://dps/Internal/Admin/SitePages/CountyProtocols.aspx>, a designee in the agency will collect, review and store all incident reports to assist in pattern analysis and aid in the prosecution of hate crimes. The report, when appropriate, will state suspect's and victim's race, color, religion, ancestry, national origin, disability, gender or sexual orientation. This information will be utilized for follow-up and appropriate referral to mutually concerned agencies, including the Santa Clara County Network for a Hate-Free Community.

323.7 APPENDIX

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

Standards of Conduct

324.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the City of Sunnyvale Department of Public Safety and are expected of all department 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. Employees shall set an example for all citizens and visitors of the City. Each employee is an integral part of the City of Sunnyvale, Department of Public Safety, and their effectiveness will depend upon performance of duty. Employees shall conduct their lives in a manner to avoid bringing the Department into disrepute. Conduct which adversely reflects upon the Department will be conduct unbecoming a Public Safety employee. Each case of misconduct will be examined to determine if a reasonable person would find that such conduct was unbecoming a Public Safety employee.

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. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action.

324.2 POLICY

The continued employment or appointment of every member of the City of Sunnyvale Department of Public Safety 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.

324.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

324.3.1 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.

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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, in writing, the person issuing the original order, indicating the action taken and the reason.

324.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

Supervisors shall be responsible for supervising activities of employees, for acting in an administrative and supervisory role over assigned personnel, and for preparing, approving and maintaining reports and records.

Supervisors shall be alert for unacceptable performance of employees and be required to address unacceptable performance that comes to their attention. For minor unacceptable performance, the supervisor may counsel and/or document the performance with the employee. For serious unacceptable performance, the supervisor shall document and/or notify the Chief through the chain of command.

324.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

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.

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Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

324.4.1 CONDUCT TOWARDS DEPARTMENT PERSONNEL/CITY EMPLOYEES

Employees shall treat City employees and staff with respect. They shall be courteous and civil in their relationship with one another. When on duty, in the presence of others, supervisory officers shall be referred to by rank. Employees shall maintain harmonious working relationships with other City employees.

324.4.2 COOPERATION

Cooperation between the ranks and units of the Department is essential to effective Public Safety administration. All employees are required to maintain cooperation within the Department. Employees, regardless of rank, shall cooperate with governmental agencies in the performance of official duties.

324.4.3 GENERAL Demeanor

Unless required by duty, employees shall not use obscene or uncivil language in public, in-quarters or in events which the Department is represented. Engaging in altercations is prohibited. Employees are forbidden to engage in boisterous conduct, or similar activities not required by duty, which may result in injury or illness to anyone.

324.4.4 CLASS C DRIVERS LICENSE/FIREFIGHTER ENDORSEMENT

Effective January 1, 2011, California Vehicle Code Section 12804.11(a), changed the provisions of the firefighter driver's license from Class B: Non-Commercial, Firefighter Restriction driver's license to a Class C: Non-Commercial, Firefighter drivers license with an 'F' endorsement. Public Safety Lieutenants and Officers shall possess this type of endorsement as a requirement and a condition of employment. Sworn Personnel will be required to submit to DMV the Physicians Health Report - form 546(a), every four years. This form will be completed and signed by a physician. During the Apparatus Driver/Pump Operator course the practical instruction will be provided to meet DMV requirements. However, it is the individual's responsibility to complete testing or documentation required by DMV to obtain the license and maintain validity.

The Department does not require personnel assigned to truck companies possess a non-restrictive commercial drivers license. Officers who currently have such a license and wish to maintain it, shall at their own expense.

The Department will reimburse personnel for fees charged by DMV that result from obtaining the Class C: Non-Commercial, Firefighters endorsement. To request reimbursement, submit DMV receipt to the Planning and Research Officer.

324.4.5 PERSONAL SAFETY/ASSISTANCE

It is the duty of employees to exercise measures to avoid injury to themselves and others while on-duty and to take action toward aiding employees exposed to danger or in a situation where

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danger might be impending. Employees shall immediately report to a supervisor any injury so it can be properly documented.

324.5 PERFORMANCE OF DUTY

All employees shall perform their duties as required by law, departmental order, rule, policy, and procedure, and by the orders of a higher ranking officer. All lawful orders shall be performed promptly.

Employees shall respond to calls for assistance from citizens. The administrative delegation of enforcement of certain laws to particular units of the Department does not relieve employees of other units from the responsibility of taking prompt action within the scope of those laws when the occasion requires. Employees assigned to special duties are not relieved from taking action outside of the scope of their specialized assignment when necessary.

Employees are always subject to duty although periodically relieved from its routine performance.

324.5.1 GENERAL RESPONSIBILITY

Within the City of Sunnyvale, on-duty employees shall take appropriate action to:

- (a) Protect life and property
- (b) Preserve the peace
- (c) Prevent, detect, investigate and arrest violators of the law.
- (d) Prevent fire loss
- (e) Enforce Federal, State laws, and City ordinances

324.5.2 TRUTHFULNESS AND INTEGRITY

Truthfulness and integrity are the foundations upon which public service is based. Employees must understand that if they are not truthful, they may be disciplined up to and including termination.

Employees shall not:

- (a) Knowingly make false statements when questioned or interviewed;
- (b) Knowingly make false statements to any person conducting a departmental investigation;
- (c) Knowingly make false statements in any report;
- (d) Give false testimony in legal proceedings;
- (e) Make false statements to any supervisor or fellow employee unless specifically directed by the Chief as part of a departmental investigation.

324.5.3 PUBLIC ASSISTANCE

Employees shall always be alert to assist persons in need of help.

Employees shall provide service to the public in response to all reasonable requests that they are trained and equipped to handle.

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324.5.4 SECURING AND REPORTING CERTAIN CONDITIONS

Occurrences such as stop signs down, broken water mains, vegetation obstructing traffic control devices, and other conditions should be temporarily corrected as practicable or secured as necessary and appropriate by this Department and shall be reported to communications for referral to the appropriate department.

324.5.5 AVAILABILITY ON DUTY

Employees on-duty shall not conceal themselves except for public safety purpose. They shall be readily visible and available to the public.

Employees will not devote their on-duty time to activity which does not relate to public safety. They will not perform public safety duty for private gain, nor make private purchases in uniform unless for personal maintenance or sustenance, or as authorized by a supervisor.

324.5.6 REPORTING AVAILABILITY TO DISPATCH

Officers subject to assignment by the Communications Unit shall immediately report their availability to Communications or if justifiably detained, their location at the beginning of each tour of duty and upon completion of each assignment.

324.5.7 RESPONDING TO CALLS

Employees shall respond without delay to call for assistance. Emergency calls take precedence, however, calls shall be answered consistent with safety precautions and applicable vehicle code laws. Failure to answer a call for public safety assistance promptly, without justification, is misconduct. Except under most extraordinary circumstances, or when directed by a higher ranking officer, no employee shall fail to answer any radio call.

324.5.8 PROHIBITIVE ACTS ON DUTY

Employees are prohibited from engaging in the following activities while on duty:

- (a) Sleeping
- (b) Unapproved use of personal communication devices. Refer to the Personal Communication Device policy.
- (c) Conducting private business for personal gain.
- (d) Gambling, unless in the furtherance of a public safety duty.
- (e) Loitering - Employees who are on-duty or in uniform shall not enter taverns, theaters, or any other public places except to perform a public safety duty. Loitering and unnecessary conversation in such locations is forbidden. Eating in a licensed liquor establishment is discouraged; eating in public places which engage in the business of entertainment, recreation, or amusement activities is prohibited. Employees who are off-duty and not on any official stand-by shall not loiter in department areas.
- (f) Intoxicants on Department premises - Employees shall not bring into or keep any intoxicating liquor on department premises except:
 - 1. if necessary in the performance of a public safety duty;

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2. packaged for temporary storage in locker spaces when seals are unbroken;
 3. liquor brought into department premises in the furtherance of a public safety duty shall be properly identified and stored according to current policy.
- (g) Medicine and drugs - No employee shall ingest any drug while on-duty or in uniform, except standard patent or prescribed medications by a physician maybe used with the knowledge and consent of the supervisor on duty, when directions for use are followed and the label warnings as to the reactions have been considered by the supervisor, and the drug is deemed not to be such as to impair the ability of the employee to perform his/her duties safely and properly.
- (h) Picket lines - On-duty employees shall not cross picket lines in order to obtain services or goods without the consent of his/her supervisor. This prohibition is not intended to impede or restrict access or entry whenever services or investigations would ordinarily be provided or conducted.

324.5.9 PATROL BREAKS

Lunch periods shall be no longer than one half hour. Meal periods may be extended to 45 minutes in lieu of a second break with the consent of the squad supervisor.

Breaks shall be no longer than fifteen minutes (emergency conditions permitting). Breaks shall not be taken during the last hour of duty.

No more than two uniformed officers shall be on the premises of an establishment for meals or breaks at one time. Under certain circumstances a supervisor may approve more than two uniform officers at one time.

324.6 KNOWLEDGE OF LAWS AND REGULATIONS

Every employee is required to maintain a working knowledge of all laws of the State and City ordinances, which are applicable to his/her employee classification.

324.7 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

324.7.1 LAWS, RULES AND ORDERS

- (a) 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.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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324.7.2 ETHICS

- (a) Using or disclosing one's status as a member of the City of Sunnyvale Department of Public Safety in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

324.7.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

324.7.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know 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 this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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324.7.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

324.7.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
 - (a) Members of this department shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) 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.

324.7.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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324.7.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making 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.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or 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.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by City policy, the memorandum of understanding, or the Chief.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief.
- (i) Any act on- or off-duty that brings discredit to this department.

324.7.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law

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enforcement agency or that may result in criminal prosecution or discipline under this policy.

- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) When requested, failure to provide name and badge number in a courteous manner, as reasonably practicable.
- (e) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (f) Engaging in horseplay that reasonably could result in injury or property damage.
- (g) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (h) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (i) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (j) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (k) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (l) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (m) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of such action.
- (n) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

324.7.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain physical condition sufficient to adequately and safely perform public safety duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

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- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the Chief.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

324.7.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

324.7.12 SMOKING AND TOBACCO USE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in City of Sunnyvale Department of Public Safety facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

Smoking and tobacco use by members is prohibited anytime members are in public view representing the City of Sunnyvale Department of Public Safety.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles

324.8 REPORTING CRIMINAL AND OTHER OFFENSES

Employees having knowledge of violations of law, ordinance or departmental order by other employees wherein the offense might compromise services or reflect unfavorably upon the department, shall report the information to their immediate supervisor (or for cause may report directly to higher authority) without unnecessary delay.

Employees having knowledge of the commission of a crime by any City official or person employed by the City of Sunnyvale shall report the information to the Director of Public Safety without delay.

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324.9 REWARDS, GIFTS, GRATUITIES, ETC.

Employees shall not accept any gift, gratuity or reward for services rendered on-duty except salary and that authorized by the City of Sunnyvale. Rewards officially offered maybe accepted with the permission of the Chief.

Any unauthorized gift, gratuity, loan, fee, reward or other things coming into the possession of any employee shall be forwarded to the Chief together with a written explanation. Only the Chief may authorize acceptance of any items listed above.

324.10 SOLICITATION OF SPECIAL PRIVILEGES

No employee shall use his/her badge, uniform, identification card, or his/her position to solicit special privileges, gifts, loans or fees. An employee may use the badge or official credential for admission to public gatherings if pursuant to official duty.

324.11 UNSOLICITED DONATIONS TO PUBLIC SAFETY

Unsolicited donations from the public, consisting of money and/or equipment including goods, services or sponsorships for which the donor has not received any goods or service in return, shall only be accepted through the Office of the Director of Public Safety and then only after consultation with the Office of the City Manager.

All unsolicited donations shall comply with the City Administrative Policy.

Employees are prohibited from soliciting donations. Employees shall direct inquiries from the public regarding donations to the Office of the Director of Public Safety.

324.12 WITNESS FEES

Employees shall only accept compensation from the City of Sunnyvale for appearances in Civil Court arising from public safety employment.

324.13 OTHER TRANSACTIONS

Employees are prohibited from buying or selling anything from or to any person, business or agency wherein special knowledge or advantage has come to his/her attention or which arose from his/her department employment, except as authorized by the Chief.

324.14 COMPENSATION FOR PERSONAL DAMAGES

324.14.1 ON-DUTY PERSONAL DAMAGES

Employees shall not seek, nor accept money or other compensation for damages sustained or expenses incurred by them in the line of duty, without first notifying the Chief and the Risk and Insurance Manager in writing.

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324.14.2 OFF-DUTY PERSONAL DAMAGES

Employees who have received regular disability leave or disability payments from the City for illness or injury sustained off duty shall follow all policies and procedures of the City regarding compensation for damages.

324.15 FINDER'S CLAIM

When any article of value, previously lost, abandoned, hidden or given away, is discovered by an employee of the Department while on-duty or as a result of City employment, such article shall be documented and transferred into the possession of either the owner, or the Department Property Clerk. Sections 2080 through 2080.7 of the Civil Code prohibit an employee from being considered a "finder" of this property and the property will, therefore, be disposed by auction or other lawful final disposition, as authorized by City policy.

Crime Scene Investigator Responsibilities

325.1 PROGRAM OBJECTIVE

To train, equip, and deploy competent crime scene investigators. Competent crime scene investigators are able to identify, collect, and preserve physical evidence, and write detailed, accurate reports of findings.

325.2 COORDINATOR RESPONSIBILITIES

Perform administrative chores and coordinate the Crime Scene Investigators (CSI).

Train Department personnel in evidence-related areas.

Perform limited/specialized evidence collection.

- (a) Direct, coordinate and assist with evidence collection at major crime scenes as requested by Investigations Unit Supervisor.

Provide evaluations and recommendations on new equipment, processes and vendors.

Perform normal daily logistical chores of the Evidence Unit.

- (a) Supplies
- (b) Special Purchases
- (c) Pickup and Deliveries
- (d) Assign routine housekeeping details to members of the unit.
 - 1. Intoxilyzer
 - 2. Drying Cabinet
 - 3. Fingerprint Station
 - 4. Cyanoacrylate Chamber

325.3 FIELD CRIME SCENE INVESTIGATOR RESPONSIBILITIES

Respond to designated crime and collision scenes. For the purpose of:

- (a) Identifying and securing the crime scene perimeter.
- (b) Locating and collecting physical evidence in accordance with County Crime Lab guidelines.
- (c) Writing reports related to the evidence work performed.

Perform specialized processing not normally provided by the County crime Lab, but requiring special equipment or techniques.

Respond to other than designated crime scenes to assist Patrol Officers in normal Patrol functions.

Be available when not performing evidence-oriented tasks to perform normal patrol functions.

Maintain the evidence equipment in CSI and Patrol vehicles.

Crime Scene Investigator Responsibilities

Maintain a working knowledge of all equipment in the Evidence Unit.

Participate in Department mandated and authorized training as required.

325.4 RESPONSE CRITERIA

325.4.1 DESIGNATED SITUATIONS

Crime Scene Investigators will respond to the following designated situations:

- (a) Unattended Deaths and Suspicious Deaths
- (b) Rape
- (c) Robbery
- (d) Kidnapping
- (e) 243(e)(1) and 273.5 PC
- (f) 300 W&I involving abuse, neglect, and/or unfit living conditions
- (g) Elder abuse, neglect, and/or unfit living conditions
- (h) Misdemeanor assault cases involving visible injuries
- (i) Felony assault cases
- (j) Residential/Commercial/School/Church burglaries
- (k) Indecent exposure
- (l) Child molest
- (m) Major injury accidents
- (n) Collisions involving City vehicles
- (o) Injuries on City property or involving City liability
- (p) Fire injury/death, Arson, Hazmat
- (q) Child pornography and other electronic media cases to collect media
- (r) Embezzlement cases involving data systems, system manipulation to collect media
- (s) Use of force cases
- (t) Police canine apprehension with injury
- (u) When requested by a supervisor

325.4.2 UNDESIGNATED SITUATIONS

For undesignated situations or in those situations when the Crime Scene Investigator is unavailable, patrol officers are responsible for the collection and preservation of evidence.

Report Preparation

326.1 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.

326.1.1 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 taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. If a Supervisor approves the late submittal of a report, the investigating officer shall make a copy of the face sheet of the involved report and submit an Investigation Report Pending Form (PS 369). Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

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.

326.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

326.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
 - 1. Use of Force Policy
 - 2. Domestic Violence Policy
 - 3. Child Abuse Policy
 - 4. Senior and Disability Victimization Policy

Report Preparation

5. Hate Crimes Policy

6. Suspicious Activity Reporting Policy

- (e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

326.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person (ARS report or Use of Force memo)
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (ARS report)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence (ARS report)
- (f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy (ARS report)
- (h) All protective custody detentions (ARS report and a JCR)
- (i) Suspicious incidents that may place the public or others at risk (ARS report)
- (j) Service of any court order, protective order, or Emergency Protective Order (EPRO)
- (k) Mental Health Services and Evaluations (ARS Report and 72 Hour Hold)
- (l) Municipal Code Ordinance Enforcement that is handled in criminal court (ARS report)
- (m) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

326.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with Policy § 335 Death Investigation. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed.

326.2.4 INJURY OR DAMAGE INVOLVING CITY PERSONNEL OR CITY PROPERTY

Report Preparation

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 a City employee.

326.2.5 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.

326.3 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.

326.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for departmental consistency.

326.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

326.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should unapprove the report and contact the officer to make the appropriate corrections. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

Report Preparation

326.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Unit 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 Unit may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

326.6 REPORT FORMAT

All reports will be written in the appropriate format using the Department's Report Writing Manual as a guide.

All Automated Reporting System (ARS) reports will require a narrative summary.

All supplemental reports shall be labeled under the same Nature of Call as the original report, unless a status change is detailed in the narrative.

On-line Reporting

327.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures to determine when a Reporting Party should be informed of the availability of the Online Reporting System. Reporting Parties are not required to use the Online Reporting System to file a crime report. An Officer or Community Services Officer (CSO) will respond to take a crime report when a Reporting Party requests a response. Responding personnel shall not refer Reporting Parties to the Online Reporting System once they have been dispatched.

Officers or CSOs will respond to in-progress incidents and all crimes with evidence or information, which may lead to the identity of a suspect and his/her apprehension, or if the incident just occurred and there is a likelihood the suspect may still be in the area.

327.2 GENERAL GUIDELINES

The following crimes may be referred to the Online Reporting System:

- (a) All petty theft and grand thefts without suspect information, excluding firearms and materials threatening to public safety (i.e., explosives or highly toxic substances) and serialized auto parts or license plates.
- (b) Vandalism without suspect information (excluding hate crimes)
- (c) Annoying or harassing telephone calls without suspect information.
- (d) Lost property reports, excluding lost license plates and passports.
- (e) Identity theft without suspect information.
- (f) Vehicle tampering without suspect information.
- (g) Check fraud without suspect information.
- (h) Insufficient fund reports.

Credit cards and miscellaneous identification (medical cards, driver license, etc.) will not be considered "serialized property".

327.2.1 COMMUNICATIONS PERSONNEL RESPONSIBILITIES

When Communications personnel receive a call from a reporting party wishing to report an incident, the Communication personnel will determine if the call falls within the scope of an online report. If so, the Communications personnel may:

- (a) Determine if the reporting party has Internet access and provide suggestions for public access to the website via other public institutions.
- (b) Explain the online reporting process and the requirements of the party filing the report. Advise of the review process, completed by a Public Safety Officer or a Community Service Officer, and the potential for further investigation should suspect leads be developed. Ensure the reporting party is aware that there is no cost associated with the process.

On-line Reporting

- (c) If the reporting party wants to file an online report and has access to the internet, the Dispatcher will direct the caller to the City or DPS website Online Reporting link, which will guide the caller through the online reporting process.
- (d) Refer the caller to the Desk Officer for further information regarding online reporting.
- (e) If the call screener determines the report is not suitable for online reporting based on the online list criteria or the caller wants to talk to an Officer or CSO, the Dispatcher will assess and prioritize the call and either transfers the caller to the Desk Officer, or send an Officer or CSO to take a report.

327.2.2 DESK OFFICER RESPONSIBILITIES

When Desk Officer personnel receive a call from a reporting party wishing to report an incident, the Desk Officer will determine if the call falls within the scope of an online report. If so, the Desk Officer may:

- (a) Determine if the reporting party has Internet access and provide suggestions for public access to the website via other public institutions.
- (b) Explain the online reporting process and the requirements of the party filing the report. Advise of the review process, completed by a Public Safety Officer or a Community Service Officer, and the potential for further investigation should suspect leads be developed. Ensure the reporting party is aware that there is no cost associated with the process.
- (c) If the reporting party wants to file an online report and has access to the internet, the Desk Officer will direct the caller to the City or DPS website Online Reporting link, which will guide the caller through the online reporting process.
- (d) If the Desk Officer determines the report is not suitable for online reporting based on the online list criteria, the Desk Officer will either take a phone report or forward the caller to Communications so a CSO or Officer can respond.

327.2.3 ON-LINE REPORT REVIEW RESPONSIBILITIES

- (a) The Desk Officer, CSO or the assigned personnel will review the reports in the Online Reporting System queue at least once per shift. Instructions for reviewing the reports will be kept at the Desk Officer area.
- (b) After review, if the online report content is correct but the nature of call is misclassified, such as vandalism, instead of an auto burglary, the reviewer will re-classify the report according to the elements of the offense as described by the reporting party author.
- (c) Reviewers will refrain from making grammatical corrections, unless the errors are minor in nature. The reviewer shall ensure the report(s) contain adequate information, recognizing the reports may be forwarded to outside agencies or used for future prosecution.
- (d) Prior to rejecting an online report, the reviewer shall attempt to telephone the reporting party for clarification of the issue. The reviewer may issue a follow-up request to the reporting party in-lieu of approving or rejecting an online report. A follow-up request shall only be issued after first attempting to contact the reporting party, via telephone.

On-line Reporting

- (e) Anytime a reviewer rejects a report, the reason for the rejection will be selected from the drop down list and noted in the rejection box. The rejection is automatically sent via e-mail to the reporting party author and a duplicate to the Department Online Reporting storage mailbox.
- (f) The reviewer shall request an officer response when, in the reasonable judgement of the reviewer, circumstances indicate an investigation is warranted. In this circumstance, a rejection should be sent to the reporting party and the officer will select from the drop down menu notifying the reporting party an officer will respond.
- (g) A CSO or the Desk Officer shall check the general e-mail account on a daily basis for responses to follow-up requests initiated by the reviewer.

327.2.4 ARS REPORT REVIEW

- (a) Once an online report is approved in the Online Reporting System the report transfers to ARS. DO's or CSO's will be responsible for Owner Approving (OA) the ARS report.
- (b) Records staff (Data Unit) is responsible for UCR review of the reports and subsequent Supervisor Approval (SA) of the ARS report and the freezing/transferring of the report to RMS.

327.2.5 FIELD PERSONNEL RESPONSIBILITY

Field personnel dispatched to a call for service shall prepare an ARS report when appropriate. When contacted by field personnel, reporting party shall not be referred to the Online Reporting System except when it is appropriate for the reporting party to complete a future supplemental report through the Online Reporting System.

327.3 ANNUAL REVIEW

The Online Reporting System is subject to annual review at the discretion of the Chief or the Police Services Deputy Chief.

- (a) The Police Services Deputy Chief shall ensure that an annual review is conducted of the Online Reporting System to ensure its effectiveness.
- (b) Monthly audits of all reports filed in the online system shall be completed by the Police Services Administrative Lieutenant. The audit shall include reports from COPLOGIC, the vendor for the online system.

News Media Relations

328.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

328.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief, however, in situations not warranting immediate notice to the Chief and in situations where the Chief has given prior approval, Captains, Lieutenants and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

328.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative;
- (b) In situations involving multiple law enforcement agencies, 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 comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief.

It is essential that each individual involved in providing information to the news media is kept abreast and briefed on the status of the event as it occurs. The chain of command may be modified to expedite release of crucial information. In all cases, the City Communications Officer should be contacted immediately when a fast-breaking story occurs and called in to assist in responding to news media inquiries when necessary. It should be the responsibility of the appropriate Public Information Officer to keep the City Communications Officer informed of all major stories and developments which may be of interest to the news media.

Department of Public Safety designated Public Information Officers shall have the primary responsibility for disseminating incident-specific information. Depending on the scope of the incident, the Public Information Officer, an on-duty Captain, a Deputy Chief or the Chief may request the City Communications Officer's assistance in handling public information related to current incidents. In any situation in which there is, or likely will be, interest by multiple news media organizations in live coverage, the City Communications Officer shall be notified as soon

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as practical and he/she may assume responsibility for staging and handling news media relations during the incident.

328.2.2 PRESS BOARD INFORMATION REQUESTS

Requests for Press Board information will be made through the Records Unit.

328.2.3 PRESS RELEASE REQUESTS

Requests for Press Releases that have been approved and distributed will be made through the Desk Officer. When the Desk Officer is not available, the request should be forwarded to the Records Unit.

328.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities 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.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. 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 department Public Information Officer or other designated spokesperson.
 - 2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Incident 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 should be contacted (14 CFR 91.137).
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody shall not be permitted without the approval of the Chief and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a crime scene

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or tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

328.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers 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 news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief will consider, at 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.

328.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through Records. This log will generally contain the following information:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) 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
- (b) The date, time, location, case number, name, DOB, time and manner of booking, 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.
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

At no time shall identifying information pertaining to a juvenile arrestee (17 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 Command Staff (Welfare and Institutions Code § 827.5).

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

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Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department Public Information Officer or the Records Manager. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

Notwithstanding any restriction outlined in this section, the Public Information Officer, or a Command Officer, may authorize the release of the following:

- A suspect's identity prior to arrest, or a suspect's photograph or mugshot, if the release of such information:
 - aids in the investigation
 - assists in the apprehension of the suspect
 - warns the public of danger
- After an arrest has been made and the case is referred to the District Attorney, a booking photo maybe released with approval by a Command Staff member, after consultation with the District Attorney's Office.
- The photograph of a reported missing person, if the release of such photograph would aid in locating the missing person.

328.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Confidential peace officer personnel information (See Policy Manual § 1026)
 - 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.
- (b) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)
- (c) Criminal history information as allowed by law
- (d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (e) Information pertaining to pending litigation involving this department
- (f) Information obtained in confidence
- (g) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

Court Appearance And Subpoenas

329.1 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.

329.1.1 DEFINITIONS

Master Trial and Jury Trial Subpoenas - Employee must contact the District Attorney to schedule your appearance. The employee will likely not be needed the first day of trial, the District Attorney will schedule a time to appear.

Preliminary Hearing Subpoenas - The employee must appear at the date and time indicated. The employee needs to contact the DA's office prior to appearing to discuss the case.

Traffic Court Subpoenas - These are subpoenas for matters heard in traffic court. The will not have the representation of an attorney with them and will need to prepare to defend the violation themselves.

DMV Hearings - Hearings for suspension of a person's driver's license. The employee may be subpoenaed to appear for a telephone hearing or to appear in person on these matters.

Civil Subpoenas - These are subpoenas for civil matters. The department will be reimbursed for the employee's appearance on these matters.

329.2 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.

329.2.1 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 the subpoena to 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.

329.2.2 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.

Court Appearance And Subpoenas

329.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department Records clerk(s) shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide the original subpoena to the department Court Liaison. The Court Liaison shall maintain a chronological log of all department subpoenas, maintain a copy of the subpoena and route the original subpoena to the supervisor of each subpoenaed employee.
- (b) The supervisor will serve the subpoena to the employee(s). Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately serve the employee with the subpoena. If unable to do so, they shall check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) Once a subpoena has been served by a supervisor or other authorized individual, the original subpoena shall be promptly provided to the Court Liaison as well as a copy to the individually named employee.

329.2.4 REFUSAL OF SUBPOENA

It is expected that employees will make every effort to appear in court when subpoenaed. 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 Court Liaison or Record's staff of his/her absence. It shall then be the responsibility of the Court Liaison or Record's staff 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)).

329.2.5 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with the Sunnyvale Department of Public Safety shall comply with the requirements of the

Court Appearance And Subpoenas

subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

329.2.6 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.

329.3 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 employee for reasonable and necessary travel expenses.

The Department will receive reimbursement for the employee's compensation through the civil attorney of record who subpoenaed the employee.

329.3.1 PROCEDURE

To ensure that the employee is able to appear when required, that the employee is compensated for such appearance, and to protect the Department's right to reimbursement, employee shall follow the established procedures for the receipt of a civil subpoena.

329.3.2 CIVIL SUBPOENA ACCEPTANCE

Subpoenas shall not be accepted in a civil action in which the employee or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

329.3.3 PARTY MUST DEPOSIT FUNDS

The party in the civil action that seeks to subpoena an employee 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 employee make multiple appearances must make an additional deposit in advance.

329.4 OVERTIME APPEARANCES

If an employee appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

329.5 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.

329.5.1 ARRIVAL AT COURT

Locate and assist witnesses.

Review reports for witness statements.

Introduce witness/victim to District Attorney.

Court Appearance And Subpoenas

329.5.2 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed employee shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

329.5.3 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.

329.6 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.

Employee's personal conduct and physical appearance should be exemplary.

329.6.1 POST-TRIAL RESPONSIBILITIES

Upon completion of court appearance, return to Headquarters with any evidence and place in evidence lockers in property room.

329.7 REIMBURSEMENT REQUEST FOR COURT TRAVEL

A Reimbursement Request for court travel (PS 146) shall be completed by the subpoenaed officer by his/her next scheduled workday. Submit this request to the court office.

329.8 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any 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, 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.

Labor Disputes/Strikes

330.1 POLICY

Strikes and mass picketing are not violations of the law. It is the illegal acts that sometimes arise from such activities that concerns the Department. The effectiveness of the Department in labor disputes is maintained by remaining impartial regarding the parties and issues involved and by taking appropriate action whenever criminal violations are observed and reported. The objectives of the Department in responding to any labor/management dispute within the City are:

- (a) Maintain Law and Order
- (b) Protect Life and Property
- (c) Protect Civil Rights in the Public Interest

330.2 PROCEDURE

330.2.1 AUTHORITY

The police have no legal authority to establish a picket or strike zone, nor to limit the number of pickets at the scene of a dispute. However, if illegal acts occur, appropriate police action should be taken.

Pickets shall not be allowed to interfere with the free and immediate use of a sidewalk, nor with the egress and ingress of any place of business.

330.2.2 Demeanor

Frequently, Police Officers are targets of the persons involved in the dispute and are subjected to verbal abuse. It is expected that all Officers reflect in their demeanor a high degree of self-discipline and conduct themselves in a professional manner.

Enforcement must be unbiased and for the purpose of maintaining law and order.

330.2.3 RESPONSE

- (a) The first arriving Officer at the scene of a labor dispute/strike will evaluate the situation.
- (b) If the situation is such that it warrants the presence of the police to maintain law and order, a Patrol Supervisor will respond to the scene.
- (c) The Patrol Supervisor will take the action necessary to maintain law and order. If the situation is such that additional staffing and resources are required beyond the scope of that which is immediately available he/she will initiate the callback of personnel.
- (d) The supervisor shall establish a command post and institute the use of the Incident Command System.

330.2.4 ACTIVITIES

Discretionary use of enforcement powers must be applied consistent with the set of circumstances attendant to each incident. In general, however, the following guidelines should be followed:

Labor Disputes/Strikes

- (a) Do not engage in "small talk" with the pickets or company officials. Conversation should be business-like and only to the extent required.
- (b) Communication should be made whenever possible only with the picket line captains and ranking company officers.
- (c) Do not drive onto company property unless necessary for enforcement action.
- (d) Do not discuss the dispute or express personal views on the issues involved.
- (e) Do not accept coffee, food, or any articles from anyone.

330.2.5 ENFORCEMENT

When enforcement action is necessary, move quickly under discipline to resolve the problem.

No Officer is to be subjected to physical abuse.

Outside Agency Assistance

331.1 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

331.2 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

331.2.1 DAY-TO-DAY MUTUAL AID

During the course of normal law enforcement smaller incidents occur that may require immediate assistance, such as: back-up on a traffic stop, perimeter control for a fleeing suspect or crowd control at a barricaded suspect location pending the arrival of additional local resources, Code 20/Code 30, etc. Officers from nearby jurisdictions may respond to these emergency broadcasts based on department policy without formal mutual aid request.

Officers are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

331.2.2 LOCAL EMERGENCY

"Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant and animal infestation or disease or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment and facilities.

331.3 LOCAL EMERGENCY REQUESTS

331.3.1 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

Requesting assistance from an outside agency for our local emergency will follow the established county protocol.

dps/Internal/Admin/SiteAssets/CountyProtocols/10-LawEnforcementMutualAidPlan_2009.pdf

331.3.2 ASSISTING OUTSIDE AGENCIES

Local Emergency for law enforcement mutual aid from another agency is to be referred to a Patrol Bureau Captain, if not available the on-duty BC. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests. The following information will be obtained prior to administrative notification:

- (a) Requesting jurisdiction

Outside Agency Assistance

- (b) Phone number for callback
- (c) The nature of the request
- (d) Incident location
- (e) Staging location
- (f) Resources requested/numbers of officers needed
- (g) Probable assignment and specific duties that our officers will be performing
- (h) Need:
 - 1. Immediate (Code 3)
 - 2. Planned (Code 2)
- (i) Travel and command frequencies to be used

This does not apply to immediate emergency requests from adjacent agencies such as code 30's, request for canine, pursuits, etc.

The Watch Commander will monitor any mutual aid incident involving Sunnyvale officers to insure the safety of Department personnel and the timely return upon termination of the incident.

Mutual aid requests for specialized teams such as the SWAT Team or Tactical team will be referred to the Patrol Bureau Captain.

331.3.3 ARRESTEE TRANSPORTATION

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Officers may with supervisor approval provide transportation of arrestees to other facilities on behalf of an outside agency. Communications shall be notified of the outside agency transport.

331.4 REFERENCES

www.caloes.ca.gov/cal-oes-divisions/law-enforcement/mutual-aid-system

dps/Internal/Admin/SiteAssets/CountyProtocols/10-LawEnforcementMutualAidPlan_2009.pdf

Staffing Resource Allocation

332.1 PURPOSE AND SCOPE

In the event Patrol staffing is depleted due to an abundance of emergency calls, Supervisors and Command Staff should consider a range of options for allocating resources. Any Supervisor or Command Staff Officer may use their discretion and choose to utilize any Public Safety Staffing Resource to address any emergency need. The Chief of the Department of Public Safety retains the authority to allocate staffing resources as appropriate under all circumstances.

332.2 ON-DUTY FIRE PERSONNEL

When on-duty fire personnel are immediately needed to assist patrol with an emergency police incident, the Patrol lieutenant should consider the number of calls pending, the number of currently available patrol officers and the response time of patrol off duty call back. Dispatch will notify the Battalion Chief, or Team Coordinator if the Battalion Chief is not available, of the request. The Battalion Chief or Team Coordinator should consult with the Watch Commander to determine the availability of fire resources and the projected duration of the assignment. If the projected duration is lengthy, fire backfill should be considered.

332.3 SUPERVISOR AND COMMAND STAFF CONSIDERATION

Prior to utilizing Staffing Resources assigned to any Division outside of Patrol Services, Supervisors and Command Staff should consider:

- (a) Activating the Santa Clara County Mutual Aid Plan,
- (b) Initiate callbacks.

332.4 IMMEDIATE DEPLOYMENT READINESS

Personnel called upon to assist in any Division to which they are not regularly assigned should be ready for immediate deployment, and should have all required equipment when responding to any location to which they are called.

Registered Offender Information

333.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the City of Sunnyvale Department of Public Safety 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, arson and drug offenders.

333.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

333.3 REGISTRATION

The Investigations Unit supervisor shall establish a 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. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator 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.

333.3.1 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.).

333.4 MONITORING OF REGISTERED OFFENDERS

The Investigations Unit 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.

Registered Offender Information

Any discrepancies should be reported to the California DOJ.

The Investigations Unit supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to City of Sunnyvale Department of Public Safety personnel, including timely updates regarding new or relocated registrants.

333.5 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 if warranted. A determination will be made by the Chief, 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 City of Sunnyvale Department of Public Safety's website. Information on sex registrants placed on the City of Sunnyvale Department of Public Safety'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 (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

333.5.1 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).

Registered Offender Information

333.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

- (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).

Determination of Death in the Field (CRITICAL)

334.1 PURPOSE AND SCOPE

This policy lists the criteria for when Public Safety personnel need not initiate cardiopulmonary resuscitation (CPR) or provide pre-arrival instructions on a person whose life functions appear to have ceased. Unless one (1), or more, of these criteria is/are present, personnel are to initiate appropriate care and notify the appropriate Paramedic agency. (refer to Santa Clara County Prehospital Care Policy 600 www.sccgov.org/sites/ems/Documents/pcm600/Policy600New.pdf)

334.2 OBSERVED CONDITIONS

In the event that one (1) or more of the following conditions is observed/identified by Public Safety personnel, care need not be initiated, and the Coroner's Office is to be notified upon request of a Patrol Bureau supervisor.

Emergency Medical Dispatchers trained in giving Santa Clara County approved Pre-Arrival Instructions may withhold these instructions when one (1), or more of the following criteria is clearly evident during the interview of the reporting party. If any doubt exists, the Emergency Medical Dispatcher will continue to give Pre-Arrival Instructions. This in no way will alter the response of first responders and/or paramedics.

1. Decapitation
2. Total Incineration of the body
3. Decomposition of the body
4. Rigor Mortis accompanied by post mortem lividity
5. A pulseless patient with total separation or obvious destruction of the heart, brain, and/or lungs
6. A pulseless and/or apneic patient with a valid Do Not Resuscitate (DNR) directive (refer to Santa Clara County Prehospital Care Policy 604 www.sccgov.org/sites/ems/Documents/pcm600/Policy604.pdf)
7. A pulseless and/or apneic patient who has exercised his/her right to die under the End of Life Option Act (refer to Santa Clara County Prehospital Policy 619 www.sccgov.org/sites/ems/Documents/pcm600/Policy619.pdf)

Unusual Circumstances

1. If drowning, hypothermia, and/or a drug overdose are suspected, resuscitative efforts should be initiated and continued unless directed otherwise by Paramedics.
2. The Santa Clara County Multiple Patient Management Plan (including START Triage) will be used by DPS at all multi-casualty events. www.sccgov.org/sites/ems/Information%20Library/Documents/Multiple-Patient-Management-Plan-Final-April-2006.pdf

Determination of Death in the Field (CRITICAL)

334.3 INITIATION OF RESUSCITATION

Emergency responders have a moral and legal obligation to provide necessary medical care to the fullest extent of their training and ability. When any question as to death exists and none of the criteria for determining death in the field are present, appropriate care shall be initiated immediately if the patient is accessible.

The following policy will apply on CPR cases requiring Public Safety Officer response with the Paramedic Unit to the hospital:

- (a) When only one (1) officer is required, the Fire Apparatus Driver/Operator will accompany the Paramedics in the ambulance. The fire apparatus will return to quarters in an out-of-service status until a certified driver can be assigned from patrol or, if no one is available, until the regularly assigned driver returns.
- (b) When two (2) officers are requested, the second officer will be from Patrol unless extraordinary events are occurring at the time, which would prevent the assignment. A request for a second officer should be infrequent.

334.4 CANCELLATION OF PARAMEDIC PERSONNEL

On any incident where Paramedic personnel are dispatched routinely along with Public Safety personnel, the Paramedic Unit shall not be canceled unless:

- (a) The person contacted has no medical complaint and is determined to not be a patient.
- (b) The patient is conscious and is cognizant of his/her condition and has provided an informed refusal of further service by paramedics.
- (c) After examination by Public Safety personnel in the field the patient is determined to meet one of the criteria for determining death in the field.

334.5 CORONER NOTIFICATION

Any time a determination of death is made in the field, by either Patrol or Fire Division Personnel, Patrol supervisors are responsible for Coroner notification. Such notification will normally be made upon completion of reasonable investigative steps.

Death Investigation

335.1 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.

Any death case (suicide, natural causes, accidental, vehicle collision) should be treated as a homicide until determined otherwise.

In all juvenile death cases, the Severe Child Injury or Death Team (SCID) shall be contacted immediately at (408) 590-8370. Supervisors shall ensure the notification of the Investigations Unit and the Patrol Captain.

Officers shall adhere to the provisions of the Santa Clara County Child Abuse Protocol for Law Enforcement in juvenile death cases. www.sccgov.org/sites/ems/Pages/ems.aspx

335.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. A supervisor shall be notified and respond in all death investigations.

335.2.1 RESPONSIBILITY

Officer

- (a) Immediately notify a supervisor
- (b) Extensively document scene.
- (c) Separate and identify witnesses.
- (d) Notify the Coroner/Medical Examiner (408-793-1900).

Supervisor

- (a) Coordinate investigation
- (b) Notify Investigations Unit in suspicious death cases.

Investigations Unit

- (a) Coordinate the investigation of suspicious death cases.
- (b) Notify the Medical Examiner (408) 793-1900 in cases of suspicious death.

335.2.2 CORONER NOTIFICATION

The Coroner/Medical Examiner shall be called in all death cases. The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

Death Investigation

335.2.3 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 pending arrival of the Coroner or a designee. 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.

335.2.4 DEATH NOTIFICATION

When practical, and if not handled by the Coroner/Medical Examiner'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/Medical Examiner may be requested to make the notification. The Coroner/Medical Examiner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

335.2.5 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner/Medical Examiner arrives, the Coroner/Medical Examiner's office will issue a "John Doe" or "Jane Doe" number for the report.

335.2.6 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented in an ARS report.

DEATHS REQUIRING CRIME REPORT:

An ARS report will be completed detailing the circumstances surrounding the following events:

- Homicides
- Suicides
- Accidental deaths, except traffic accidents which are reported on a Traffic Collision Report (Form 200-16)
- Suspected drug overdose deaths
- Suspicious deaths

In-custody deaths

Death Investigation

- Unattended deaths where a doctor will not sign, or a doctor's involvement is unknown or unverified (e.g. coroner is contacted and responds).
- Attended deaths

SUSPICIOUS DEATHS:

When the incident involves suspicious circumstances or other indications of possible homicide, the incident will be reported immediately to the responding Lieutenant. The Lieutenant will be responsible for notifying the Investigations Unit to ascertain whether the Investigations Unit will respond. It will be the responsibility of the officer initially assigned to the case to secure the scene and prevent uninvolved persons from entering the possible crime scene.

ATTENDED DEATHS:

An ARS summary report is required to document an attended death. The report will document the decedent's name, coroner's name, release number/pending release number, supervisor that responded and general circumstances of the death.

A death is attended if it occurred under one of the following circumstances and a physician is willing to state the cause of death and sign a death certificate:

- The decedent was under a doctor's care for an existing medical condition.
- The decedent was seen by a doctor within 20 days of his or her death.
- The decedent had a valid Do Not Resuscitate (DNR) order.
- The death occurred at a hospital or licensed care facility.
- The death occurred under hospice care, was a natural death, or was a result of the End-of-Life Option Act.

NATURAL DEATHS:

Officers assigned to death cases involving circumstances which indicate death resulting from natural causes (history of illness, old age, etc.). The investigating officer will contact the Coroner's Office to explain the circumstances of the death and answer any questions the Coroner's Investigator may have.

HOSPICE DEATHS:

Hospice was designed to avoid the activity associated with emergency services at the time of death; however, there are times when police and fire are summoned. Officers shall assess each situation and determine if there is a need to enter the residence and/or conduct an

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investigation. Documents which may aid in the investigation are a Physician's Order for Life-Sustaining Treatment (POLST) or an attestation form signed by the decedent. To assist with the investigation, officers should contact the assigned Hospice care worker.

END OF LIFE OPTION ACT DEATHS:

Under the End-of-Life Option Act (HS §443 2021), the Health and Safety Code authorizes an adult who meets certain qualifications, and who has been determined by their attending physician to be suffering from a terminal disease, to make a request for a drug prescription to be self-administered for the purpose of ending their own life. Nothing in the Act authorizes a physician or any other person to end an individual's life by lethal injection, mercy killing, or active euthanasia. Patients who activate the End-of-Life-Option Act intend to pass away peacefully without the involvement of emergency services; however, there are times when police and fire are summoned. Officers assigned to End-of-Life-Option-Act cases shall assess each situation to gauge their level of involvement. During initial contact, documents which may aid in the investigation are a Physician's Order for Life-Sustaining Treatment (POLST), an Advanced Directive, and/or a final attestation form signed by the decedent, although these documents are not legally required by the Act. Officers should attempt to contact the patient's physician to confirm they will sign the death certificate. End-of-Life-Option-Act cases should not be referred to as a suicide, assisted suicide, or euthanasia as the attending physician will list the underlying disease as the cause of death.

335.2.7 SUSPECTED HOMICIDE

If the initially assigned suspects that the death involves a homicide or other suspicious circumstances, the Investigations Unit shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

335.2.8 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)).

Fraudulent Documents

336.1 PATROL RESPONSIBILITIES

Officers shall investigate all in-progress fraudulent document cases where a suspect is still at the scene of the crime and/or an immediate apprehension of the suspect can be made. The officer shall conduct a thorough investigation covering the elements of the crime involved.

- (a) All original documents must be taken as evidence.
- (b) Any additional required follow-up will be referred to the Investigations Unit.

If the crime is not in progress and/or no immediate arrest can be made, the case will be referred to the Investigations Unit.

Requests for bank records follow-up may be made through an Investigations Unit.

336.1.1 COLD CASES

Bureau of Police Services shall initiate reports and conduct follow-up on cold cases, where the crime is not in progress and no immediate arrest can be made, involving violation of Penal Code Sections:

4324 BP Unlawful Use of Prescriptions

484f PC Forging Access Card or Cardholder's Signature

484g PC Using Access Card or Card Account Information to Obtain Items of Value Without Consent of Cardholder or Issuer (Reporting Party can be referred to Coplogic, if there is not suspect information.)

530.5 PC Unauthorized Use of Personal Identification

532 PC False Pretenses - Obtaining Property, Labor, or Services

532a PC False Financial Statements and cases involving counterfeit money, which are then forwarded to the Secret Service.

336.1.2 OPTIONAL REFERRAL

Officers have the option of referring cold cases involving violations of the Penal Code Sections listed below to the Investigations Unit. The referral can be made by having the involved party call a Sr. Office Assistant in the Investigations Unit at (408) 730-7120. No report is required on the part of the officer if they choose to refer the case.

470 PC Acts Constituting Forgery, Proof of Forged Bill or Note (The Reporting Party may file the report on-line.)

475 PC Possessing, Receiving, or Uttering Forged Paper

476 PC Making, Passing, or Possessing Fictitious Note or Check

476a PC Making, Drawing, or Passing Worthless Check, Draft, or Order (The Reporting Party may file the report on-line.)

Fraudulent Documents

If an officer decides to take the initial report on cold cases involving Penal Code Sections 470, 476, 476 and 476a, they may then refer them to the Investigations Unit for follow-up.

336.1.3 REPORT PROCEDURES

The initial reports on cold cases involving 476 PC and 476a PC, non-sufficient funds, return to maker or account closed checks should adhere to the following procedure:

- (a) If the check is less than \$2500, the victim will be requested to write the subject a courtesy letter allowing 10 days for restitution to be made. If nothing is received after 10 days, the Investigations Unit will send the check and a copy of the letter to the Santa Clara County District Attorney's Bad Check Restitution Program for follow-up.
- (b) If the check is greater than \$2500, the officer has the option of writing the initial criminal report or refer the victim to the Desk Officer or a Community Service Officer (CSO).

336.2 INVESTIGATION RESPONSIBILITIES

Check cases will only be accepted and investigated by our department for criminal prosecution purposes.

336.2.1 REPORT PROCEDURES

The initial reports on cold cases involving 476 PC and 476a PC, non-sufficient funds, return to maker or account closed checks should adhere to the following procedure:

- (a) If the check is less than \$2500, the victim will be requested to write the subject a courtesy letter allowing 10 days for restitution to be made. If nothing is received after 10 days, the Investigations Unit will send the check and a copy of the letter to the Santa Clara County District Attorney's Bad Check Restitution Program for follow-up.
- (b) If the check is greater than \$2500, the officer has the option of writing the initial criminal report or refer the victim to the Desk Officer or a Community Service Officer (CSO).

336.2.2 GOVERNMENT AGENCY REFERRALS

- (a) Per Title 18 USGC, cases involving counterfeit money will be forwarded to the Secret Service Agency, 280 South First Street, Room 2050, San Jose, CA 95113, ph: 535-5288.
- (b) Cases involving forged or counterfeit IRS checks will be forwarded to the Secret Service Agency, 280 South First Street, Room 2050, San Jose, CA 95113, ph: 535-5288.
- (c) Fraudulent employment or welfare checks will be forwarded to the Employment Development Department, 1700 California, Ste. 100, San Francisco, CA 94109, ph: 415-929-5781.

336.2.3 LOST OR STOLEN BLANK CHECKS

Stolen blank check cases will be written by the Investigations Unit as 484/488 PC criminal cases. Lost blank check cases will be written by the Investigations Unit in an ARS Report.

Fraudulent Documents

336.2.4 CIVIL CASES

Checks which classify as civil will not be accepted due to the inability to prosecute (refer to the following examples).

- (a) Second-party checks, unless stolen or forged;
- (b) Contract payments;
- (c) Rental checks;
- (d) Installment payments;
- (e) Post-dated checks, written or verbal.

Victims of civil check fraud with amounts less than \$5,000 will be referred to Small Claims Court, 270 Grant Avenue, Palo Alto, CA 94306, ph: 650-324-0391.

If the amount is greater than \$5,000, the case should be referred to Civil Court at 191 N. 1st Street, San Jose, CA 95113, Ph: 299-2964.

336.3 CHECK INVESTIGATION GUIDELINES

Check cases will be accepted and investigated by our Department for criminal prosecution purposes only.

Valid check cases will be handled on a priority basis with in#custody cases taking precedence over non#custody.

Checks with an issue date of 45 days or more or issued for less than \$25 will not be accepted.

True name (non#civil, NSF, Return to Maker, Account Closed checks will be accepted; however, the merchant is expected to have made a reasonable effort to contact the responsible party for collection).

Checks relating to the employee's wages should be referred to the Labor Commission, State of California, 888 N. First Street, San Jose, California (408#277#1265).

336.4 NON-SUFFICIENT FUNDS CHECKS - MERCHANTS

If a merchant obtains certain information from an individual at the time a check is accepted, it shall constitute prima facie evidence of the identity of the person passing the check. The following is required:

- (a) The prosecution must involve two or more checks to constitute prima facie evidence.
 - 1. The checks can be from different stores, so even if you only get one check, it is possible to invoke the prima facie evidence section when the check is used in conjunction with another check by the same suspect.
- (b) Name of person passing Check Identification Card Number.
- (c) Residence of person passing check.
- (d) Business or mailing address of person passing check.
- (e) Valid Driver's License Number or Department of Motor Vehicles

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- (f) Home or work phone number, or place of employment of person passing check.
- (g) At the time of receipt of the check, the person receiving the check must:
 - 1. witness the signature
 - 2. initial the check

Private Persons Arrests

337.1 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.

337.2 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.

337.3 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.

337.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person 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.

Private Persons Arrests

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 report.
 - (a) If the arrest is determined to be unlawful and the private person made a physical arrest the officer shall fill out an 849(b) release form and promptly release the arrested individual.
 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

337.5 REPORTING REQUIREMENTS

Officers shall complete a narrative report regarding the circumstances and disposition of the incident.

Anti-Reproductive Rights Crimes Reporting

338.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

338.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant
- (b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant
- (c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

338.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Data and Statistics Unit .
- (c) By the tenth day of each month, it shall be the responsibility of the Data and Statistics Unit to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center using ECARS.
 - 1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported using ECARS.

Anti-Reproductive Rights Crimes Reporting

2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s) using ECARS.

338.4 POST GUIDELINES

The following link contains the guidelines and forms for reporting ARRC data:

lib.post.ca.gov/Publications/Anti-ReproductiveRights.pdf

Limited English Proficiency Services

339.1 PURPOSE AND SCOPE

Santa Clara County and the City of Sunnyvale have a very diverse population made of people from various cultures, nationalities, and racial groups. Members of these communities may not speak English as their primary language and have a limited ability to read, write, speak, or understand English. They are limited English proficient (LEP). Effective communication with victims, witnesses, and suspects allows officers to investigate and solve crimes, therefore increasing the safety of our community. This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

339.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person or contract vendor who has been screened and authorized by the City 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 designated member, 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).

339.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

Limited English Proficiency Services

339.3 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:

- (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.

339.4 TYPES OF LEP ASSISTANCE AVAILABLE

City of Sunnyvale Department of Public Safety 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.

339.5 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The Patrol Administrative Staff Lieutenant will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

339.6 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.

Limited English Proficiency Services

339.7 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established city 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.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the City as having the requisite skills and competence, may be requested.

339.8 AUTHORIZED INTERPRETERS

Any person designated by the City 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 Department of Human Resources 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.

339.8.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.

Limited English Proficiency 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.

339.8.2 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.

Officers should avoid using children, family members, neighbors, friends, or bystanders for interpretation, except in exigent circumstances. Once the exigency has passed, the officer will utilize a qualified interpreter.

339.9 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.

339.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The City of Sunnyvale Department of Public Safety will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

339.10.1 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

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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.

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.

339.11 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 reasonable, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

339.12 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

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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.

339.13 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.

339.14 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.

339.15 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 Internal Affairs Lieutenant.

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.

339.16 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 City Human Resource Department 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 Patrol Training Lieutenant 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.

339.16.1 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 City Human Resource Department 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

340.1 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.

340.1.1 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.

340.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

340.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Assistant City Manager is designated as the ADA Coordinator for the City.

340.4 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:

Communications with Persons with Disabilities

- (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.

340.5 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.

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.

Communications with Persons with Disabilities

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the City of Sunnyvale Department of Public Safety, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

340.6 TYPES OF ASSISTANCE AVAILABLE

City of Sunnyvale Department of Public Safety 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.

340.7 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.

340.8 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.

Communications with Persons with Disabilities

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).

340.9 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.

340.10 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.

340.11 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.

Communications with Persons with Disabilities

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

340.12 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 individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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.

340.12.1 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.

Communications with Persons with Disabilities

340.13 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.

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.

340.14 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.

340.15 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 department ADA Coordinator.

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.

Communications with Persons with Disabilities

340.16 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.

Violent Mass Casualty Incident

341.1 INTRODUCTION

The frequency and severity of Violent Mass Casualty Incidents (aka Active Shooter incidents) has continued to increase throughout the world. Public safety agencies across the country have had to transition to rapid response models in order to lessen the impact of these incidents to their communities. Violent Mass Casualty Incidents are complex in nature and require a comprehensive and coordinated public safety response in order to stop the threat and minimize casualties.

341.2 PURPOSE

The purpose of this document is to establish policies and procedures for Public Safety personnel when responding to, and operating at, the scene of a violent mass casualty incident. This policy contains principles and guidelines regarding various situations law enforcement and fire service personnel may encounter when faced with, and when resolving violent mass casualty incidents.

341.3 POLICY

The Sunnyvale Department of Public Safety is implementing the Violent Mass-Casualty Incident Response concept as a standard practice for all emergency incidents that are on-going and the suspect(s) is either actively engaged in causing death/great bodily injury or there is an imminent threat to death/great bodily injury. The standard of practice is based upon the County Active Shooter/Criminal Mass Casualty Protocol. dps/Internal/Admin/SiteAssets/CountyProtocols/01-ActiveShooterCriminalMassCasualtyProtocol_2015.pdf

All personnel should direct their actions towards mitigating the threat to civilians and/or officers as soon as possible, and rescuing those who have become, or may become, victims of the felonious attack. The composition of Contact Teams, Rescue Teams, and Rescue Task Forces (RTF) will be flexible based on the type of incident and the size and complexity of operations.

341.3.1 OBJECTIVE

The overall objective in these scenarios is to prevent serious injury and loss of life by taking the suspect(s) into custody as quickly as possible. Patrol officers must be able and willing to deploy on an active incident without the usual "contain and wait for SWAT".

- (a) Patrol must recognize an active shooter and act while SWAT is responding to the scene.
- (b) Field supervisors must implement the Incident Command System and deploy personnel as appropriate.

341.4 RESPONSE

341.4.1 COMMUNICATION RESPONSE

When the Communication center receives a call that may fit the parameters of a violent mass casualty incident primary channels will be utilized until the Incident Commander decides otherwise.

Violent Mass Casualty Incident

- (a) **Call taking** - During the call taking, dispatchers will follow established protocol, which guides them through providing for early Pre-Arrival Instructions for callers in these dangerous situations by providing crucial evacuation or lock-down instructions based on a caller's ability to leave the area undetected by an assailant. The protocol further aids in the collection of information pertaining to the actions of the assailant.
- (a) **Emergency Rule Enacted** - When the Emergency Rule is enacted, the address, telephone number and nature of the emergency shall be obtained and verified. The caller shall be advised to call back if the situation changes. Beyond that, no further Police, Fire, and/or Medical assessments and instructions are provided. A call for service will be created with the information provided and responders sent as soon as practical. (Refer to P801.7.1 Communication Operations)
- (b) **Police dispatch** - Dispatch initiates a maximal patrol response with immediate supervisory notification.
- (c) **Fire dispatch** - Dispatch initiates a first alarm response (without 180 page) and requests ambulance task force.

The Incident Commander has discretion to request additional resources as needed. Command notifications are completed as soon as practical.

341.4.2 DPS RESPONSE

The public safety model allows the Department of Public Safety to respond to violent mass casualty incidents with personnel, who are capable of assuming police, fire and ems positions. DPS sworn personnel may be armed pursuant to department policy, however all personnel shall perform the responsibilities of their assigned role as outlined in the County protocol procedures.

341.4.3 SUPERVISOR PROCEDURES LIST

See attachment: [P342 VMCI Procedures.pdf](#)

Mandatory Employer Notification

342.1 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.

342.2 POLICY

The City of Sunnyvale Department of Public Safety will meet the reporting requirements of California law to minimize the risks to children and others.

342.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief or his/her designee is required to report the arrest as follows.

342.3.1 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 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).

342.3.2 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 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).

342.3.3 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 or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give

Mandatory Employer Notification

written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

342.3.4 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 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).

342.4 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

343.1 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.

343.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

343.3 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.

343.3.1 RESPONSIBILITIES

The responsibility for ensuring the collection of DNA samples from qualifying arrestees shall be with the arresting agency. Arresting/Investigating Officers shall be responsible for indicating that DNA was collected by completing the appropriate section on the Case Flow Tracking Form.

The Santa Clara County Department of Corrections shall be responsible for collecting all DNA samples from qualifying adult felony arrestees subsequently transferred from SDPS to the Santa Clara County Main Jail.

SDPS shall be responsible for collecting all DNA samples from qualifying adult felony arrestees not transferred/booked at the Santa Clara County Main Jail.

343.3.2 ADULT FELONY ARRESTEE TRANSFER TO COUNTY JAIL

Indicate DNA collection status on Case Flow Tracking Form. No other action required.

343.3.3 ADULT FELONY ARRESTEE BOOKED AND RELEASE FROM DPS

The procedures also apply to arrestee's requiring hospitalization.

- (a) Process adult arrestee pursuant to P902.3.1.

Biological Samples

- (b) Determine DNA collection eligibility (PC 296(a)(2)(C)) by checking the arrestee's criminal history for a DNA collection flag. Arrestees who currently have a DNA sample of file may not need to provide a sample.
- (c) If indicated, collect DNA sample by utilizing one of the Department of Justice collection kits currently being stored in the Desk Officer office area.
- (d) Place the DNA buccal swap, along with the supporting documentation, in the mailing envelope and ensure that it is processed for mailing through records.
- (e) Indicate "DNA collected" in the appropriate section on the Case Flow Tracking Form. If DNA cannot be collected (i.e. incapable due to injury, refusal) also indicate this in the appropriate section on the Case Flow Tracking Form and refer to PC 298.1 (a), (b) and (c).

343.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

343.4.1 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.

343.5 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

343.5.1 LITIGATION

The Chief 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.

Report of Violent Injury Pursuant to 11160 & 11161 PC

344.1 POLICY

Pursuant to Penal Code Sections 11160 and 11161, hospitals and physicians are required to immediately report to the police any person suffering from a wound or injury inflicted by a knife, gun, or other deadly weapon; or inflicted in violation of any law. This notification must be by telephone and in writing to the police department having jurisdiction where the injury occurred.

344.2 RESPONSIBILITIES

344.2.1 DESK OFFICER

All reports of violent injury from a hospital or physician will be received by the on-duty Desk Officer.

Upon receiving the call, the Desk Officer shall do the following:

- (a) Obtain victim's name, address, telephone number and date of birth.
- (b) Type of Injury
- (c) Location of where the incident occurred, if known.
- (d) Name, position of person reporting the injury.
- (e) Assign a case number and give that case number to the reporting party, telling them to write it at the top of the written report of violent injury.
- (f) Notify the on-duty supervisor.

344.2.2 SUPERVISOR

The on-duty Patrol Lieutenant shall evaluate the need to send an Officer to the hospital/doctor's office to investigate the circumstances, or to have the victim respond to Headquarters for a report.

If the victim has been released by the hospital or physician, an Officer shall be assigned to investigate the circumstances by contacting the hospital or physician to determine the nature of the injuries and to contact the victim for follow-up investigation, if possible.

344.3 REQUIRED REPORTS

An offense report is required for all felony law violations or any injuries sustained as a result of domestic violence.

Misdemeanor violations, not including domestic violence, will be evaluated for a report based on the circumstances, prior history of the case, possibility of further violence, etc.

Chaplains

345.1 PURPOSE AND SCOPE

This policy establishes the guidelines for City of Sunnyvale Department of Public Safety chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

345.2 POLICY

The City of Sunnyvale Department of Public Safety shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

345.3 ELIGIBILITY

Requirements for participation as a chaplain for the Department may include, but are not limited to:

- (a) Being above reproach, temperate, prudent, respectable, hospitable, able to teach, be free from addiction to alcohol or other drugs, and excessive debt.
- (b) Having a good reputation in the community.
- (c) Successful completion of an appropriate-level background investigation.
- (d) Possess an Ecclesiastical Endorsement from a recognized religious body and have a minimum of five (5) years of experience in ministry.
- (e) Possession of a valid driver license.
- (f) Willingness to serve on a 24-hour-on-call basis.
- (g) Willingness to attend training programs that are identified by the department as necessary to fulfill the role of Department Chaplain.

The Chief may apply exceptions for eligibility based on organizational needs and the qualifications of the individual.

345.4 RECRUITMENT, SELECTION AND APPOINTMENT

The City of Sunnyvale Department of Public Safety shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as department personnel before appointment.

345.4.1 SELECTION AND APPOINTMENT

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.

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- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief.

Chaplains are volunteers and serve at the discretion of the Chief. Chaplains shall have no property interest in continued appointment.

345.5 IDENTIFICATION AND UNIFORMS

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform and not reflect any religious affiliation.

Chaplains will be issued City of Sunnyvale Department of Public Safety identification cards, which must be carried at all times while on-duty. The identification cards will be the standard City of Sunnyvale Department of Public Safety identification cards, with the exception that "Chaplain" will be indicated on the cards. Chaplains shall be required to return any issued uniforms or department property at the termination of service.

Chaplains shall conform to all uniform regulations and appearance standards of this department.

345.6 CHAPLAIN COORDINATOR

The Chief shall appoint and delegate certain responsibilities to the Chaplain Coordinator. The coordinator shall be directly responsible to a Captain or the authorized designee.

The chaplain coordinator shall serve as the liaison between the chaplains and the Chief. The function of the coordinator is to provide a central coordinating point for effective chaplain management within the Department, and to direct and assist efforts to jointly provide more productive chaplain services. Under the general direction of the Chief or the authorized designee, chaplains shall report to the Chaplain Coordinator.

The chaplain coordinator may appoint a senior chaplain or other designee to assist in the coordination of chaplains and their activities.

The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Recruiting, selecting and training qualified chaplains.
- (b) Conducting chaplain meetings.
- (c) Establishing and maintaining a chaplain call-out roster.
- (d) Maintaining records for each chaplain.
- (e) Tracking and evaluating the contribution of chaplains.
- (f) Maintaining a record of chaplain schedules and work hours.

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- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining liaison with other agency chaplain coordinators.

An evaluation of the overall use of chaplains will be conducted on an annual basis by the coordinator.

345.7 DUTIES AND RESPONSIBILITIES

Chaplains assist the Department, its members and the community, as needed.

All chaplains will be assigned to duties by the chaplain coordinator or the authorized designee.

Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while representing themselves as chaplains with this department. 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 any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the City of Sunnyvale Department of Public Safety.

345.7.1 COMPLIANCE

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

345.7.2 OPERATIONAL GUIDELINES

- (a) Chaplains will be scheduled to be on-call for a period of seven consecutive days during each month, beginning on Monday and ending on the following Sunday.
- (b) Generally, each chaplain will serve with City of Sunnyvale Department of Public Safety personnel a minimum of eight hours per month.
- (c) Chaplains shall be permitted to ride with officers during any shift and observe City of Sunnyvale Department of Public Safety operations, provided the Lieutenant has been notified and has approved the activity.
- (d) Chaplains shall not be evaluators of members of the Department.
- (e) In responding to incidents, a chaplain shall never function as an officer.
- (f) 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.
- (g) Chaplains shall serve only within the jurisdiction of the City of Sunnyvale Department of Public Safety unless otherwise authorized by the Chief or the authorized designee.

345.7.3 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

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- (a) Assisting members in the diffusion of a conflict or incident, when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Lieutenant or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (e) Participating in in-service training classes.
- (f) Willingness to train others to enhance the effectiveness of the Department.

345.7.4 ASSISTING THE COMMUNITY

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of public safety in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.
- (c) Providing liaison with various civic, business and religious organizations.
- (d) Promptly facilitating requests for representatives or leaders of various denominations.
- (e) Assisting the community in any other function as needed or requested.
- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

345.7.5 CHAPLAIN MEETINGS

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

345.7.6 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

Chaplains

345.8 PRIVILEGED COMMUNICATIONS

No person who provides chaplain services to members of the Department may work or volunteer for the City of Sunnyvale Department of Public Safety in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent, psychotherapist-patient and other potentially applicable privileges and shall inform members when it appears reasonably likely that the member is discussing matters that are not subject to privileged communications. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any City of Sunnyvale Department of Public Safety member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

345.9 TRAINING

The Department will establish a minimum number of training hours and standards for department chaplains. The training, as approved by the Training Lieutenant, may include:

- POST Chaplain course
- International Association of Police Chaplains
- International Critical Incident Stress Foundation (ICISF)
- Stress management
- Death notifications
- Symptoms of post-traumatic stress
- Burnout for members of law enforcement and chaplains
- Legal liability and confidentiality
- Ethics
- Responding to crisis situations
- The law enforcement family
- Substance abuse
- Suicide
- Officer injury or death
- Sensitivity and diversity

Public Safety Video Surveillance System

346.1 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.

346.2 POLICY

The City of Sunnyvale Department of Public Safety operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter 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.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

346.3 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 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.

346.3.1 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 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.

Public Safety Video Surveillance System

- (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.
- (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 Department's Operation Center (DOC) 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 Lieutenant 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 may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than headquarters 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.

346.3.2 CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under headquarters surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

346.3.3 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.

346.4 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.

Public Safety Video Surveillance System

346.4.1 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on 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.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

346.5 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule and for a minimum of one year. Prior to destruction, written consent shall be obtained from the City Attorney. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

346.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

346.6 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the City of Sunnyvale Department of Public Safety.

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 Lieutenant for release in accordance with a specific and legitimate law enforcement purpose.

Public Safety Video Surveillance System

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

346.7 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

Child and Dependent Adult Safety

347.1 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 Adult Abuse policies.

347.2 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 City of Sunnyvale Department of Public Safety 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.

347.3 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.

Child and Dependent Adult Safety

347.3.1 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, before any decision is made a consultation with Joint Response should occur. A care solution should be in the best interest of the child or dependent adult. 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. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) 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.
 - 1. 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.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the field supervisor or Lieutenant 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.

347.3.2 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.

Child and Dependent Adult Safety

347.3.3 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

347.3.4 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.

347.4 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 headquarters 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.

Child and Dependent Adult Safety

347.5 TRAINING

The Training Lieutenant is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Service Animals

348.1 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).

348.1.1 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)).

348.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

348.3 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.

Service Animals

- 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.

348.4 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 City of Sunnyvale Department of Public Safety affords to all members of the public (28 CFR 35.136).

348.4.1 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.

348.4.2 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.

348.4.3 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.

Service Animals

348.4.4 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).

Volunteer Program

349.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of volunteers to help improve service to the community, increase department responsiveness, enhance the delivery of services and information input, provide new program opportunities, bring new skills and expertise to the Department and prompt new enthusiasm. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel.

349.1.1 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 staff support and youth involved in Explorer Post 417.

349.2 VOLUNTEER MANAGEMENT

349.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Chief or the authorized designee. 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 shall 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.

349.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity, non-discriminatory 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.

- (a) Be at least 18 years of age for all positions other than Explorer
- (b) Be at least 14 years of age for an Explorer position
- (c) Possess a valid California driver license if the position requires vehicle operation
- (d) Be able to deal effectively and courteously with the general public
- (e) Be willing to commit to approximately 8-10 hours per week
- (f) Complete mandatory training as determined to be appropriate by the Department
- (g) Possess any other qualifications specific to the volunteer assignment
- (h) Willing to submit to a background check.

Internal 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 timeframe 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.

349.2.3 SCREENING

All prospective volunteers shall complete the volunteer application form. The Volunteer Coordinator or designee shall conduct an 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, an abbreviated Personal History Questionnaire, fingerprint identification check, driver's license check and credit history check.

349.2.4 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.

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At the time of final acceptance, each volunteer shall complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the City of Sunnyvale. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers shall be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

349.2.5 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 shall receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and shall receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training shall 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.

349.2.6 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.

349.2.7 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

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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.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

349.3 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 to 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.

349.4 CONFIDENTIALITY

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.

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349.5 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.

349.5.1 VEHICLE USE

Volunteers assigned to duties that require the use of a vehicle must first complete the following:

- (a) Verification that the volunteer possesses a valid California Driver License.
- (b) All volunteers that may drive on City business must be enrolled in the DMV Employee Pull Notice Program

When operating a City vehicle, volunteers shall obey all rules of the road, including seat belt, cell phone requirements. Smoking is prohibited in all City 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.

349.5.2 RADIO AND MDC USAGE

Volunteers shall successfully complete radio procedures training prior to using the police radio or MDCCAD and comply with all related provisions. The Volunteer Coordinator shall ensure that radio training is provided for volunteers whenever necessary.

349.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief 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 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.

349.6.1 EXIT INTERVIEWS

The Volunteer Coordinator should conduct exit interviews 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.

Contractual Services

350.1 DEFINITION

Contractual Services are defined as services provided to private entities over and above normal public safety response based upon special arrangements made with the private entities. Examples include, Levi Stadium security, school security activities (dances, football games, graduations, etc.), footrace traffic control, Art/Wine Festivals, traffic control (major intersections), etc.

350.2 RESPONSIBILITY

Officers/CSO's who are assigned to Contractual Services, either in plain clothes or in uniform, are subordinate to and under the command of the Shift supervisor unless a supervisor is assigned to the contractual services event. All manner of conduct and regulations apply as to any regular duty assignment.

350.3 REPORTING FOR DUTY

Members assigned to Contractual Services are to report to the on duty Patrol Supervisor prior to assuming such duties for briefing, inspection and assignment of equipment. Officers/CSO's shall ensure that they are logged on to CAD prior to deployment and throughout the duration of the contractual event. Employees shall complete required reimbursement forms at the completion of the event.

Off-Duty Law Enforcement Actions

351.1 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 City of Sunnyvale Department of Public Safety with respect to taking law enforcement action while off-duty.

351.2 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.

351.3 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 Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge, personally owned flat 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 or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

351.4 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.

Off-Duty Law Enforcement Actions

- (c) The lack of equipment, such as handcuffs, OC or baton.
- (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.

351.4.1 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 a law enforcement officer until acknowledged. Official identification should also be displayed, if practicable.

351.4.2 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.

351.4.3 PROFESSIONAL RESPONSIBILITIES

Professional 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.

351.4.4 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.

351.5 REPORTING

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the on-duty supervisor as soon as practicable. The on-duty supervisor shall notify a Captain. The Lieutenant 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.

Critical Incident Stress Management (CISM) Team Policy

352.1 PURPOSE AND SCOPE

Police and Fire agency employees are often exposed to incidents which are outside the realm of usual human experience. These mentally painful and highly stressful incidents may not always be resolved through normal stress-coping mechanisms. In recognition of this and in attempt to mitigate the potential psychological trauma associated with exposure to traumatic incidents, Sunnyvale Department of Public Safety has created the Critical Incident Stress Management Team (CISM).

It is the policy of the Sunnyvale Department of Public Safety to assist and support employees who have been involved in traumatic critical incidents. This support may include, but is not limited to, pre-incident education, use of the CISM Team, debriefing activities, and referral to appropriate resources.

Department members who have been involved in a traumatic incident and wish assistance in coping with the after effects of the incident are encouraged to utilize the following resources:

- Their immediate supervisor
- Any CISM Team member
- The Department chaplain
- Managed Health Network

352.2 DEFINITIONS

Traumatic Incident - A traumatic incident is an event that is generally outside the range of usual human experience which results in an emotional shock that may cause lasting psychological damage. Traumatic incidents include, but are not limited to the following:

- Disaster response
- Violent or sudden death of a Department employee or serious injury to same
- Serious injury or death as a result of a employee's actions
- Death or severe injury of a child
- Mass-casualty incidents
- Loss of life to a patient following extraordinary and prolonged expenditure of physical and emotional energy during rescue efforts
- Suicide of a co-worker
- An officer-involved shooting
- Victims of violent crimes or serious injuries who are known to the employee

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- Death of a person in police custody
- When the safety of an employee is unusually jeopardized
- Death of a canine partner
- An incident to which employees witness the exposure of an employee to severe discipline, termination or criminal arrest
- Any incident in which the circumstances are so unusual or the sights and sounds so distressing as to provide a high level of immediate or delayed emotional reaction
- Any event that disrupts beliefs, values, and assumptions about the world in which we live, the people in it, and the work that we do.

Critical Incident Stress Management (CISM) Team - A team comprised of Public Safety Members who have specialized ongoing training in assisting other Members and their families in dealing with the immediate adverse psychological reactions to traumatic critical incidents. Membership will be voluntary and will include members from a diverse cross section of departmental assignments. The Team will work in conjunction with and under general and specific supervision with department contracted mental health professionals. The Team will maintain a current knowledge of related resources and make this information available to all Department Members. The Team will maintain liaison with the department-contracted psychologists and facilitate any necessary defusing, peer counseling, debriefings, etc.

Program Coordinator - The Program Coordinator is responsible for administrating the activities of the Team, implementing decisions and enforcing the guidelines for the Team as outlined in this policy. He/ she is appointed by the Director of Public Safety.

352.3 ACTIVATION PROCEDURES

When a traumatic critical incident is perceived by any Department Member, he/she should attempt to locate an on-duty CISM Team member who is not a participant in the event. That team member will then consult with the On-Duty Watch Commander who is responsible for the incident. He/she will obtain as much information about the event as possible and contact the Program Coordinator or his/her designee. A determination will be made by the Team Members concerning response of appropriate additional resources. CISM Team members will avoid any interference with an active event or a department investigation.

The assigned CISM Team members will proceed to the location advised at time of contact, usually to the location of the involved Department Member(s). Upon arrival, the Team member should contact the incident commander or investigative personnel and ensure their contacting the involved member will not jeopardize operations. Their immediate responsibilities will be to care for the members' immediate personal needs, assess the need for additional resources and liaison as necessary with the member's family. The Team member will then assess the need for on-scene and after-care stress diffusing.

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The reviewing CISM Team coordinator or designee will then determine the need for a formal, mandatory debriefing with the department-contracted psychologist. Any need for administrative leave time will be determined with concurrence of the department-contracted psychologist, CISM Team members and DPS Management personnel.

352.4 SUPERVISOR RESPONSIBILITY

Supervisors have a responsibility to maintain the welfare of their subordinates. In this respect, it is imperative that Supervisors and Administrators be constantly vigilant and responsive to the needs of our Department members. Supervisors are to immediately contact a CISM Team member following any traumatic incident to assist in determining a proper CISM response.

352.5 CONFIDENTIALITY

The Sunnyvale Department of Public Safety recognizes that Team success depends on the promotion of trust, confidentiality and when necessary, anonymity. Communications between members of the Critical Incident Stress Management Team called to an incident and those members involved in a traumatic event are considered confidential except for matters involving violations of the law or serious misconduct (for example: when a person is a threat to himself or another; when there is evidence of child or elder abuse). No notes will be taken of CISM activity and no names will be recorded.

Department Use of Social Media

353.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

353.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services

353.2 POLICY

The City of Sunnyvale Department of Public Safety may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

353.3 AUTHORIZED USERS

Only members authorized by the Chief or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

353.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

Department Use of Social Media

Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

353.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

353.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the City of Sunnyvale Department of Public Safety or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

353.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

Department Use of Social Media

The Department may provide a method for members of the public to contact department members directly.

353.6 MONITORING CONTENT

The Chief will appoint a designee to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

353.7 RETENTION OF RECORDS

The Administration Captain should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

353.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

Native American Graves Protection and Repatriation

354.1 PURPOSE AND SCOPE

This policy is intended 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.).

354.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects and associated funerary objects - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

Native American human remains - The physical remains of the body of a person of Native American ancestry.

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.

354.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that the protection of Native American human remains, funerary objects, associated funerary objects, 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.

354.3 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, 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 10.4).

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

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- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Medical Examiner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

354.4 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 10.6).

Gun Violence Restraining Orders

355.1 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.

355.1.1 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).

355.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to petition 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.

355.3 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her 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 orally request an order, and then prepare and sign a declaration under penalty of perjury that recites the oral statements provided to the judicial officer and memorialize the order of the court on the appropriate Judicial Council form (Penal Code § 18140).

355.4 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).

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- (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.

355.4.1 SERVICE OF ORAL GUN VIOLENCE RESTRAINING ORDERS

If a gun violence restraining order is obtained orally, the officer shall (Penal Code § 18140):

- (a) Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.
- (b) File a copy of the order with the court as soon as practicable after issuance.
- (c) Ensure the order is provided to the Records Unit for entry into the computer database system for protective and restraining orders maintained by the Department of Justice.

355.5 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 requires:

- (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.

Gun Violence Restraining Orders

- (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.

355.6 RECORDS UNIT RESPONSIBILITIES

The Records Unit is responsible for ensuring:

- (a) Proof of service of any emergency gun violence restraining order served by an officer and verifying that those 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) Oral orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).
- (c) Copies of receipts of surrendered firearms or ammunition are properly maintained (Penal Code § 18120).

355.7 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.

355.8 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.

Opium Medical Aid and Response

356.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the Sunnyvale Department of Public Safety for the utilization of nasal naloxone hydrochloride for proper prehospital administration. This program is managed through the Santa Clara County EMS (SCCEMS) Agency and the prehospital care policies <https://www.sccgov.org/sites/ems/docs/Pages/manual.aspx>.

356.2 POLICY

It is the policy of the Sunnyvale Department of Public Safety that officers will provide emergency medical care to persons experiencing signs and symptoms of suspected opioid overdose consistent with their training as Emergency Medical Technicians.

356.3 OPIOID OVERDOSE MEDICATION TRAINING

The Sunnyvale Department of Public Safety EMS Unit will provide initial and refresher training in compliance with Title 22 guidelines for EMT Certification/Recertification. Training should be coordinated with the SCCEMS and comply with the requirements in Title 22 and SCCEMS Policy 700-X03.

Successful completion of training is required prior to the authorization of personnel to administer naloxone.

356.4 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Members may administer opioid overdose medication in accordance with the protocols specified by the SCCEMS Agency Medical Director including but not limited to Routine Medical Care Adult and Pediatric and Altered Mental Status BLS Optional Scope

Naloxone shall only be administered by trained personnel utilizing the intranasal method only as approved by the SCCEMS Agency and in accordance with training guidelines. Officers should use caution after administering naloxone as the subject may become agitated or combative.

356.5 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

As soon as practical, DPS personnel shall notify Public Safety Communications to confirm response by SCCEMS and the Division of Fire Operations, if not already dispatched. DPS personnel shall also notify their supervisor as soon as practical. The EMS Coordinator shall be notified via email by the administering personnel when naloxone has been utilized. The notification shall be completed as soon as practical but no later than the end of the administering employees work shift.

356.6 OPIOID OVERDOSE MEDICATION REPORTING

Any use of opioid overdose medication requires a written report.

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- Public Safety Officer – Any member administering opioid overdose medication shall ensure it is documented in an appropriate patient care report pursuant to SCCEMS policies.
- Lieutenant – The supervisor will ensure that the report contains the needed information to meet applicable state/local reporting requirements. A copy of the report will be sent to the appropriate Captain and the EMS Coordinator by end of shift via email.
- EMS Coordinator – will complete the SCCEMS Naloxone Use Report and submit it to SCCEMS within 96 hours.

356.7 STORAGE OF NALOXONE

Two units of Naloxone shall be stored in the designated location in the Fire and Patrol EMS bags.

Additional locations for storage or distribution of naloxone will be determined by the department.

Two kits of naloxone will be stored for resupply at each fire station. Additional stock will be maintained by the EMS Coordinator.

Unmanned Aerial System (UAS) Operations

357.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

357.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

Certificate of Authorization (COA) – Authorization issued by the FAA which grants permission to fly within specific provisions and limitations. Training flights cannot take place without a valid T&E (training and evaluation) COA. Missions cannot take place without a valid operational/emergency COA.

357.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Safety, above all else, is the primary concern in each and every operation, regardless of the nature of the mission.

357.3 PRIVACY

The department recognizes that use of a UAS involves potential privacy considerations and is committed to using UAS in a manner that respects privacy rights. UAS operators and observers will consider citizens' civil rights and reasonable expectations of privacy as key components of any decision made to deploy the vehicle.

UAS operators and observers will ensure, and will be held accountable for ensuring, that operations of the UAS appropriately balance operational needs with maintaining public privacy and freedom from intrusion. To ensure that legitimate privacy considerations are observed, UAS operators and observers will:

- (a) Absent a warrant or exigent circumstances, 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 (e.g., residence, yard, enclosure).
- (b) Take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

Unmanned Aerial System (UAS) Operations

- (c) During flight, direct onboard cameras so as to face away from occupied structures not related to the mission, to minimize the inadvertent capture of video or still images of uninvolved persons.
- (d) Maintain all video and still images in strict compliance with State law and Sunnyvale DPS policies and procedures.
- (e) Operate strictly within the law and regulations pertaining to UAS. Whenever required by policy or law, operators will ensure that warrants are obtained prior to deploying the UAS.

357.4 PROGRAM MANAGER

The Chief will appoint a Program Manager who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

- Ensuring that policies and procedures conform to current laws, regulations and best practices.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief.

357.5 PROGRAM COORDINATOR

The Director of Public Safety will appoint a Program Coordinator who will be responsible for direct supervision of the UAS Program and its personnel. The Program Coordinator will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Maintaining contact with the FAA and familiarity with pertinent FAA regulations.
- Ensuring that all authorized operators and required observers have completed all required FAA and Department approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that all training, flight and maintenance records for each operator and airframe are maintained.

357.6 TRAINING NEEDS ASSESSMENT

The UAS Program Manager and Program Coordinator shall conduct an annual needs assessment to ensure that training is conducted within unit capabilities, department policy, and training guidelines as established by the FAA.

Unmanned Aerial System (UAS) Operations

357.7 INITIAL TRAINING

- (a) Upon selection to the collateral assignment of UAS Operator, new members shall acquire an FAA Remote Pilot Certificate, or higher.
- (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, 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) Before a member can be authorized to conduct flight operations as a UAS pilot, they must complete at least eight hours of flight training with UAS instructors to show proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.

357.8 RECURRENT TRAINING

- (a) To maintain a level of proficiency with the UAS, operators shall be required to attend regular training. Training will be coordinated through the Program Coordinator.
- (b) All members in the assignment shall maintain proficiency in their pilot/observer abilities. Members who do not have any documented training or flight time within a span of 6 months will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.
- (c) Recurrent training is not limited to actual piloting/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- (d) Failure to demonstrate proficiency can result in removal from UAS responsibilities.

357.9 TRAINING RECORDS

- (a) All members will have a training file on record that details training history. This training file will be held in conjunction with the member's normal training file per Department policy.
- (b) All deployments or exercises will be documented and count towards a member's training.
- (c) It is the member's responsibility to verify their training file contains all pertinent information.

357.10 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS. All use shall be authorized by the Program Coordinator.

The authorized missions for UAS use are:

Unmanned Aerial System (UAS) Operations

- (a) Search and Rescue Missions
- (b) Response to Fires or Post-Fire Investigations
- (c) HAZMAT response
- (d) Barricaded Suspects, Hostage Situations and other high-risk Tactical Operations to reduce risk to department personnel, suspects and community members.
- (e) Disaster Response (i.e. flood, earthquake)
- (f) Video/Photograph documentation of Crime Scenes
- (g) Training Flights as required to meet FAA and Department certification standards
- (h) Used in accordance with a court order or search warrant

357.11 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on 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.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

357.12 FLIGHT BOUNDARIES

- (a) Although there may be requests for UAS support outside of Sunnyvale, the COA for our UAS restricts UAS deployment outside the County of Santa Clara and further restricts the proximity of flight to other locations.
- (b) At no time shall UAS support be granted outside the County of Santa Clara without first obtaining an emergency FAA COA and approval by the UAS Program Coordinator.
- (c) Information regarding flight boundaries can be found in the FAA COA and the use of a San Francisco VFR Terminal Area Chart.
- (d) Maximum altitude shall not be set more than 400 feet AGL, per the FAA COA.

357.13 WEATHER

- (a) Before each deployment, the pilot/observer will ensure that he/she gathers enough information to make themselves familiar with the weather situation existing throughout the area of deployment. The operator shall utilize FAA approved weather resources to obtain the latest and most current weather conditions.
- (b) An anemometer should be utilized in order to better estimate wind speed and determine if it is within the capabilities of the airframe being flown.

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- (c) Operators/Observers should use the Beaufort Scale when making deployment decisions in regards to wind conditions. This scale can be located in the manufacture's user manual.
- (d) The weather conditions reported for the operation shall be recorded in the flight log.
- (e) The operator shall ensure that the flight will occur within FAA VFR weather requirements.

357.14 MINIMUM PERSONNEL REQUIREMENTS

- (a) Due to the nature of the law enforcement mission, the minimum personnel required on ALL missions will be two, a pilot and observer. Under no circumstances will a pilot attempt to complete a deployment alone.
- (b) Although training is not considered a mission, an observer shall be used.

357.15 FLIGHT TIME LIMITATIONS

- (a) During any 24 consecutive hours, the total flight time of any pilot may not exceed 10 hours, which shall include any other unmanned flying by that pilot. A pilot's flight time may exceed the flight time limits if the assigned flight time occurs during a regularly assigned duty period of no more than 14 hours and:
 - 1. If this duty period is immediately preceded by and followed by a required rest period of at least 10 consecutive hours of rest.
 - 2. If the flight time is assigned during this period, which total flight time when added to any other unmanned flying by the pilot may not exceed 10 hours.
 - 3. If the combined duty and rest periods equal 24 hours.
- (b) Each flight assignment must provide for at least 10 consecutive hours of rest during the 24-hour period that precedes the planned end of the agency flight.
- (c) When a pilot has exceeded the daily UAS flight time limitations in this section, because of circumstances beyond control of the agency or pilot, the pilot must have a rest period before being assigned or accepting an assignment for flight time, of at least:
 - 1. Twelve (12) consecutive hours of rest if the flight time limitation is exceeded by more than 30 minutes.
- (d) No member shall act as a pilot or observer within eight hours after consumption of any alcoholic beverage (FAR 91.17).

357.16 PERSONAL EQUIPMENT

- (a) Pilots/Observers shall wear eye protection at all times while the UAS is in flight.
- (b) Pilots/Observers will take into consideration current weather conditions when planning to deploy, and wear appropriate clothing.
- (c) There are no documented issues with the use of a radio or cellular phones during the deployment of the UAS, but the operator/observer should, at all times, take into

Unmanned Aerial System (UAS) Operations

consideration safe operation of the UAS when using the radio or another device. (Use of the radio or other device is strictly prohibited by the pilot during flight per the COA.)

- (d) Pilots/Observers shall wear clothing that easily identifies them as Sunnyvale DPS personnel.

357.17 OUTSIDE AGENCY REQUEST

- (a) Pilots/Observers shall wear eye protection at all times while the UAS is in flight.
- (b) Pilots/Observers will take into consideration current weather conditions when planning to deploy, and wear appropriate clothing.
- (c) There are no documented issues with the use of a radio or cellular phones during the deployment of the UAS, but the operator/observer should, at all times, take into consideration safe operation of the UAS when using the radio or another device. (Use of the radio or other device is strictly prohibited by the pilot during flight per the COA.)
- (d) Pilots/Observers shall wear clothing that easily identifies them as Sunnyvale DPS personnel.

357.18 UAS DEPLOYMENT PROCEDURES

- (a) Initial requests to use the UAS will be screened by a Lieutenant. A Lieutenant may authorize, within policy, the use of the UAS if immediate deployment reduces risk to department personnel, suspects, and community members. Otherwise, an on-duty captain or B/C shall be notified. A Captain or B/C shall be notified for all pre-planned events. The request will be screened by both the Lieutenant and UAS personnel based on the following:
 - 1. Is the proposed use of the UAS within the capabilities of the UAS equipment and personnel?
 - 2. Does the proposed use of the UAS fall within FAA and Department policies and regulations for UAS deployment?
 - 3. Can the UAS be deployed safely given current weather conditions?
 - 4. If the UAS deployment requires a warrant, has one been requested and approved?
 - 5. Are sufficient trained and qualified personnel available to safely operate the UAS?
- (b) If the request is denied, the reason will be shared with the requestor. If the Lieutenant or on-duty Captain approves the deployment, a UAS pilot will be assigned who will be provided all available mission information. If authorized by a Lieutenant, they shall notify the on-duty Captain or B/C of the deployment in a reasonable time frame.
- (c) The UAS pilot will contact a certified observer from the list of available trained observers and arrange for the observer to meet the pilot at the scene. The UAS pilot is responsible for transporting the UAS and all required equipment.

Unmanned Aerial System (UAS) Operations

- (d) Upon arriving at the requested location, the UAS pilot will contact the on-scene Incident Commander, check in, and receive a briefing on the mission requested. The UAS operators will make an on-scene determination of the ability of the UAS to perform the requested mission safely and within department and FAA policies and procedures.
- (e) If the UAS operators determine that the use of the UAS would violate department policy or directives, they will inform the Incident Commander of the potential conflict along with recommendations for modifying the requested mission to conform with department policies and procedures. As this is a change from the original approved mission, the UAS pilot will contact the UAS unit chain of command for direction on how to proceed. As soon as possible after the completion of the mission, the UAS pilot will make a full report of the circumstances and their concern through the chain of command.
- (f) UAS operators will have discretion for declaring safety or violation of FAA rules. If UAS operators determine that a requested mission would violate FAA rules or endanger civilians, the UAS pilot will respectfully inform the Incident Commander of the reason(s) for refusing to operate the UAS and contact the UAS chain of command immediately. The UAS will not be flown in this circumstance, and the authority of the UAS pilot is absolute.
- (g) If the UAS pilot determines that the requested mission will potentially damage the UAS or its associated equipment, the UAS pilot will inform the Incident Commander of their concern and suggest mission parameter changes. The UAS pilot is the final authority regarding UAS operations.

357.19 DOCUMENTATION AND EVIDENCE

- (a) Prior to every flight, a flight log shall be initiated for documentation.
- (b) Inspection and weather will be documented prior to flight within the log book.
- (c) After each flight, the operator will complete a statement documenting the UAS operations.
- (d) After each deployment, video obtained by the UAS Operation will be submitted to evidence in accordance with Department policies and procedures.
- (e) Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.
- (f) The pilot of the UAS is responsible for evidence handling as well as writing any supporting documentation for the incident.

357.20 OPERATIONAL HAZARD AND OCCURRENCE REPORT (OHOR) AND INVESTIGATION

- (a) Occurrences are unplanned safety related events, including accidents and incidents that could impact safety. A hazard is something that has the potential to cause harm. The systematic identification and control of all major hazards is foundational to safety.
- (b) The OHOR concept provides a mechanism to report hazards and occurrences, real and perceived, to those responsible for UAS operations.

Unmanned Aerial System (UAS) Operations

- (c) There is no specific format for the OHOR as the information provided is what is important, not the format. The OHOR should be used without hesitation to report any anticipated, current, or experienced safety hazard, or occurrence. Further, the OHOR can be submitted anonymously and to whatever level in the chain of command, to get the matter proper attention, without fear of reprisal.
- (d) Written memorandums fully explaining the problem will be given to the Program Manager.
- (e) Every hazard and/or occurrence will be investigated, with the results and corrective action taken communicated to all members of the unit. The investigation will be conducted by a supervisor, under the direction of the Program Manager, or any other member of the department who has the technical skill necessary to thoroughly conduct the investigation. The services of an independent subject matter expert may be necessary in some cases to assure a thorough and complete investigation.
- (f) Hazards requiring immediate attention will be brought to the attention of the Program Manager or Program Coordinator, verbally, without delay.
- (g) All members are authorized to take action to correct a hazard if, in that member's opinion, delay will result in accident or injury. The UAS unit chain of command will be notified immediately in such situations.

357.21 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established City of Sunnyvale Records Retention Schedule (series PS097) similar to Body Worn Camera or MVAR video. If data is submitted as evidence in a criminal or other case, it will fall under the associated records retention schedule (series PS073) and be retained in accordance with City Administrative Policy for Records Management (Chapter 5, Article 5).

Tire Deflation System (TDS)

358.1 DEFINITION

The Tire Deflation System, also known as "TDS" is a portable device that extends across the roadway and is designed to puncture and deflate the tires of the target vehicle. TDS also includes stationary tire deflation systems that are covertly placed directly under the target vehicle when it is stationary.

358.2 PURPOSE

The Purpose of TDS is to limit a suspect's ability to flee in a vehicle and help reduce the risk to innocent bystanders by deflating the vehicle's tires.

358.3 AUTHORIZED USE

TDS are authorized in situations where their use would be advantageous to limit a suspect's movement or prevent escape, thereby reducing the potential hazard to the public associated with fleeing vehicles. The TDS shall only be used by department members who are trained in the techniques and use of department approved TDS devices. Some potential uses for TDS may include warrant services, SWAT situations, surveillance of stolen vehicles, or to restrict a vehicle's path of ingress or egress. TDS devices shall only be deployed on stationary vehicles in advance of their potential movement.

Supervisor approval shall be sought and granted prior to any use of the TDS.

358.4 TDS RESTRICTIONS

TDS shall not be used to stop:

- (a) Motorcycles, mopeds, or similar types of vehicles.
- (b) Trucks or similar type vehicles carrying passengers in an open bed.

TDS shall not be used during an active police vehicle pursuit.

358.5 SAFETY CONSIDERATIONS

When considering the deployment of TDS:

- (a) Restrict pedestrians from the area.
- (b) Only deploy TDS when you have a safe location to observe the suspect vehicle and a safe approach to the vehicle.
- (c) Consider that the driver may attempt to continue operating the target vehicle after deployment of TDS

Chapter 4 - Patrol Operations

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.2 POLICY

The City of Sunnyvale Department of Public Safety 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 Sunnyvale. 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 PROCEDURE

400.4.1 PREPARATION FOR PATROL

Officers are expected to report for patrol briefing at the time specified, properly uniformed and equipped.

City of Sunnyvale Department of Public Safety

Department Policies

Patrol Function

Department members are responsible for noting information supplied which pertains to suspects and/or probable events which may impact on the public's welfare and safety and remain familiar with the following:

- (a) Special conditions existing in their assigned area, such as patterns of criminal incidents, location of known criminals, and location of possible targets for criminal conduct.
- (b) Descriptions of wanted and missing persons.
- (c) Descriptions of stolen property.
- (d) Hazardous conditions that exist.

Officers are expected to be available for service immediately following briefing.

- (a) Follow#up or other activities will not be conducted until an Officer is in service, available for response, and no calls for service are pending on the Officer's beat, unless authorized by the shift supervisor.

400.4.2 DUTIES AT SHIFT CHANGE

Officers who are remaining on duty at the time of a shift change are to be available for calls for service.

- (a) Non#emergency activities, such as follow#up or field training, are not to be conducted one half hour before a shift change or one half hour after shift change, except on the authorization of the shift supervisor.
- (b) Officers who are on Code 7 or break may be required to handle calls for service at any time.

400.4.3 FREQUENCY OF PATROL

Officers will patrol their assigned beats as often as possible. Officers will use the time available between radio assignments to observe conditions on the beat and take appropriate police action to correct and report any hazardous condition coming to their attention.

Officers will vary the sequence and schedule of their patrol so that potential criminals cannot anticipate the Officer being in a given place at a given time.

Officers shall make every effort during routine patrol to maintain a high level of visibility.

400.4.4 LEAVING THE BEAT

Officers may leave an assigned beat whenever any of the following conditions are met:

- (a) When assigned or authorized by competent authority.
- (b) To aid and assist.
- (c) When performing a follow#up process or pursuing a suspect.
- (d) When going Code 7 or BR.
- (e) When ending a tour of duty.

Patrol Function

400.4.5 LEAVING THE CITY

Officers shall not leave the City without the authorization of a shift supervisor.

400.4.6 DUTIES AT COMPLETION OF SHIFT

Department members assigned to a patrol function will adhere to the following procedures when a tour of duty nears completion:

- (a) At an appropriate time, notify Communications of the intent to respond to Headquarters for the purpose of going off duty.
- (b) When notified by Communications that off duty status is not authorized, remain on the assigned beat until notified otherwise by Communications or other competent authority.
- (c) Upon arrival at Headquarters, complete and submit all reports and process all evidence or other property, prior to leaving Headquarters to attend to non#police business. Obtain prior approval for overtime from the shift supervisor.
- (d) When appropriate, inform the relieving Officer of incidents or circumstances which may affect, hinder, or assist such relieving Officer in the performance of assigned duties.
- (e) Turn in all reports to the on#duty supervisor for review and approval, and physically check out with the shift supervisor.
- (f) Officers shall not be out of uniform without supervisor approval.

400.4.7 CHILD LOCKED IN A VEHICLE

When a child is locked in a vehicle and there is a confirmed life-threatening situation, both Patrol and Fire personnel will respond. When there is no indication of a life-threatening situation a CSO or an officer will respond for a welfare check. If it is determined there is no life-threatening situation or no crime the parent/guardian will be advised of available resources and options (i.e. tow service, locksmith, etc.).

400.5 SUPERVISORS' RESPONSIBILITY

Supervisors' responsibilities encompass and reinforce the subordinates' duties with additional supervision, direction and control, along with other tasks specified elsewhere in this manual or assigned by superiors.

Supervisors will meet with officers as often as necessary and practical to ensure that police services and the officers' tasks are properly and efficiently performed.

At shift end, each supervisor will ensure that all reports, evidence, property and equipment are appropriately processed by those Officers assigned, and shall verify the status of each of his/her assigned Officers.

400.6 INABILITY TO LOCATE AN OFFICER

When a supervisor is personally unable to locate an officer, such supervisor will initiate a thorough search utilizing other officers assigned to the supervisor's area. If the missing officer cannot be located within a reasonable time, the supervisor will then notify the Patrol Operations Captain.

Patrol Function

Once the missing officer is located, the supervisor will inquire as to the reason for the officer not being available and report the findings either orally or in writing to the Patrol Operations Captain.

The Patrol Operations Captain may take immediate action which is appropriate and authorized or may forward the report to the Police Services Bureau Deputy Chief if the incident requires such action.

400.7 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all bureaus 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 bureaus or specialized units. All training information shall be approved by the appropriate Training Coordinator before being shared.

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 bureaus.

400.7.1 PATROL BRIEFINGS

Patrol briefings should be productive and meaningful. As a general rule briefings should last no longer than thirty (30) minutes.

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol Briefings as time permits.

400.8 CRIMINAL INVESTIGATIONS

The purpose of this section is to ensure comprehensive criminal investigations are completed.

400.8.1 PRELIMINARY INVESTIGATION

The Police Services Bureau is responsible for the preliminary investigation of all reported crimes that come under the jurisdiction of the City of Sunnyvale, with the exception of those investigations that are specifically assigned to or originated by the Investigations Unit.

The Investigations Unit is responsible for the preliminary investigation of crimes that are specifically assigned.

400.8.2 NOTIFICATION/CALLBACK OF INVESTIGATIONS UNIT PERSONNEL

The appropriate Investigations Bureau Lieutenant is to be notified under any of the following circumstances, to determine if an investigator is to be called in for assistance. If unable to contact an Investigations Bureau Lieutenant, contact should be made with the Special Operations Captain then the investigator assigned to that area of responsibility.

- (a) Homicide or attempted homicide
- (b) Suspicious death(s)

Patrol Function

- (c) Rape
- (d) Attempted rape, suspect known or in custody
- (e) Assaults resulting in serious injury or imminent death
- (f) Serious cases of child abuse or neglect
- (g) Child abduction
- (h) Kidnapping
- (i) Suspicious activity that leads one to believe an abduction may have occurred or been attempted
- (j) Dependent adult/elder abuse resulting in serious injury
- (k) Robbery - home invasion or commercial takeover
- (l) Robbery - suspect known or in custody
- (m) Residential or commercial burglary - suspect in custody
- (n) Controlled substance violation with suspect in custody willing to provide information to narcotics officers
- (o) Possible or actual drug labs
- (p) Controlled substance seizure cases involving \$1000 or more in currency
- (q) Major controlled substance seizure (i.e. pounds or kilos)

400.8.5 FRAUDULENT DOCUMENT CASES

Fraudulent document cases are the responsibility of the Bureau of Police Services. For all other cases, refer to the Fraudulens Documents policy..

400.8.6 NARCOTIC OR VICE ENFORCEMENT

Prior to planning any Patrol narcotics or vice enforcement, an Investigations Supervisor and a Patrol Captain shall be notified. This policy is only for pre-planned events or operations.

Burglary Alarm Response

401.1 COMMERCIAL BURGLARY ALARMS

While officers establish a perimeter and check the building security, the Sunnyvale Department of Public Safety Communications personnel shall confirm with the responsible alarm company employee that a responsible party for the building has been notified and is responding to the scene. If the alarm company employee verifies that a responsible has been notified or shall be notified, the alarm company employee will be instructed to provide the communications personnel with the name of the responsible, estimated time of arrival of the responsible, and what type and color of automobile the responsible will be driving. Once this information is obtained, it shall immediately be relayed to the patrol units at the alarm scene.

. If the alarm company refuses to contact a responsible or is unable to contact a responsible, communications personnel shall make every effort to get a responsible's name and phone number from the alarm company. If communications personnel are successful in obtaining a responsible's name and phone number, an attempt to contact the responsible by communications personnel shall be made only if information is needed by responding officers to manage the response.

If communications personnel or the alarm company employee are unable to locate a responsible, or the responsible refuses to respond to the alarm scene, then patrol units shall clear the call after the perimeter has been checked.

If communications personnel report that a responsible party is enroute to the alarm scene with an estimated time of arrival of thirty minutes or less, then patrol units should wait for the responsible to arrive. When the responsible party arrives, he/she will be contacted by the closest officer. The contacting officer shall gather any needed intelligence and prepare for a search of the interior of the building.

If communications personnel report the responsible party is requesting additional time beyond thirty minutes, then the primary unit at the scene, or the supervisor, will evaluate the situation to determine if public safety officers should remain at the scene until the arrival of the responsible. If units remain at the scene, there shall be a minimum of two units to conduct the building search once the responsible arrives.

If public safety officers are not to remain at the scene, communications personnel will inform the responsible party that upon arrival in the City, the responsible shall telephone Public Safety and two patrol units shall be reassigned to the call to conduct a building search.

Whenever a responsible party makes a request to enter a building, he/she should be advised that while public safety officers have searched the building as thoroughly as possible, public safety can make no guarantees of safety. Should the responsible still wish to make entry to check the building or reset the alarm, public safety officers will accompany the responsible and provide for his/her safety.

At no time are ride-alongs or guests to enter a building during this type of assignment.

Burglary Alarm Response

401.1.1 RESPONSE BY RESPONSIBLE PARTY

The Commercial Burglary Alarm Policy deals with responses by the alarm user to all alarm activations. The Department of Public Safety is dependent on the alarm companies to maintain a list of telephone numbers for responsible parties for each alarm location. After notification by the alarm company of the alarm, communications personnel shall verify that the alarm company employee will contact a responsible party. The alarm company employee will be told to call Communications back whether the alarm company employee is able to make contact with a responsible party or not. If contact was made with a responsible, the alarm company shall provide public safety communications personnel with the following information:

- (a) The name of the responsible party.
- (b) The estimated time of arrival.
- (c) The type and color of car the responsible will be driving.

If the alarm company advises that a responsible has been contacted and is requesting DPS to not respond to the alarm, Communications personnel will notify responding officers that they can cancel their response. The responsible party does not need to be on the scene to make the request to DPS to not respond. If facts known to the responding officer(s) lead them to believe that a continued response is warranted, the responding officer(s) retain the option to respond and investigate as appropriate.

Citizen Contacts

402.1 POLICY

The nature of the Police Services Bureau's goals and objectives requires that Officers contact community members whenever the circumstances indicate that such action would enhance the public's welfare or safety. In this regard, Officers will remain alert for situations where citizen contacts would be appropriate and are authorized to initiate such contacts when necessary to achieve the goals and objectives of the Bureau.

402.2 PROCEDURE

402.2.1 DEFINITION

A citizen contact is a face to face communication between an Officer and a community member under circumstances where there is a lack of reasonable cause to detain or arrest. Contacts differ from detentions or arrests in that contacts do not involve the seizure of persons within the meaning of the fourth amendment and, therefore, the person contacted has a legal right to leave at any time.

402.2.2 JUSTIFICATION AND AUTHORITY

Whenever the training, experience, or knowledge of an Officer indicates to such Officer that a particular person's conduct or presence warrants clarification, the Officer may initiate a contact with such person in any place that the Officer has a right to be.

402.2.3 CONDUCT DURING CITIZEN CONTACTS

When initiating citizen contacts, Officers will remember that the individual contacted is under no legal obligation to cooperate. This lack of legal obligation to cooperate results from the absence of probable cause, or the legal justification to detain or arrest the individual being contacted. Officers lack the authority under these circumstances to require the individual to answer questions or to cooperate in any way.

If the person contacted refuses to cooperate, the Officer must allow the person to proceed with whatever activity the person is engaged in. However, an Officer may continue to observe such a person and, when additional facts warrant, conduct a stop and field interview or arrest.

Bias-Based Policing

403.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the City of Sunnyvale Department of Public Safety'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).

403.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on 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 affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

403.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

403.3 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Chief .

- (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 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)).

403.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs Unit Lieutenant shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided

Bias-Based Policing

to the Records Manager for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Unit 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).

403.5 RACIAL AND IDENTITY PROFILING ACT (RIPA) COMPLIANCE

All sworn members of this department shall collect and report data to the California Department of Justice (DOJ), in accordance with RIPA, which requires officers to complete an entry for each individual detained or searched during a call for service or self-initiated activity.

This data shall be collected through the DOJ Stop Data Collection System.

Responsibilities:

- (a) Officers shall:
 - 1. Complete a RIPA entry for every individual detained and /or searched. Only one RIPA entry is required for each detainee.
 - 2. Complete the RIPA entry by end of every shift.
- (b) Supervisors shall:
 - 1. Ensure officers complete RIPA entries.
 - 2. Review RIPA entries to ensure no personal identifying information (PII) or unique identifying information (UII) regarding the person stopped is entered into the narrative field prior to submission to DOJ.

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 Interim Directives or policies or changes in Interim Directives or policies.
- (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.

Patrol Fire Response

405.1 ASSIGNMENT

A broadcast preceded by a long alert tone provides notice that either six or nine Officers are being assigned to a Structure Alarm. Dispatchers are instructed to designate each patrol Officer assigned to any fire emergency. Officers who are not assigned should maintain radio silence, however if there exists an indication that insufficient Officers were assigned, unassigned units should proceed toward the fire scene, and shall, when radio traffic permits, so inform the dispatcher.

405.2 APPROACH TO FIRE SCENE

Police cars being driven to fire emergencies shall not proceed into courts, dead#end streets, single lane accesses, etc. unless it is pre#determined that parking space exists which will not impede fire apparatus or ambulance maneuvers or parking.

Patrol vehicles should not be parked closer than 150' to fire apparatus.

405.3 REPORT ON ARRIVAL (952)

Officers who arrive at a fire emergency prior to Fire companies shall broadcast a report of conditions on the fire channel, using standards phrases, whenever such had not already been accurately reported by another unit.

(a) Standard Phrases

1. Nothing showing
2. Smoke showing
3. Flames showing
4. Working fire (requires laying hose lines)
5. Fully involved

(b) Additional pertinent information should be reported such as:

1. Specific route to follow if not obvious
2. Rescues/Invalids/Trapped - Missing persons
3. Presence of hazards
4. Hydrant location

Any Officer arriving at the fire scene prior to arrival of fire equipment should accomplish all that is possible consistent with good judgment and training such as rescue, extinguishment, locating hydrant, preparing for equipment arrival, reporting to supervisor on scene, or directing traffic at the immediate scene.

Patrol Fire Response

405.4 PERSONAL PROTECTIVE EQUIPMENT (PPE)

Turnouts are to be donned at the responder's vehicle and Officers will report to RESTAT in full turnouts until released by the Officer in charge.

- (a) Footwear: The only footwear permitted shall be Departmental issue turnout boots.
- (b) Clothing: The only clothing permitted shall be Departmental issue turnout coat and pants with liners attached.
- (c) Helmet: Departmental issue fire helmet.
- (d) Fire Hood: Departmental issued Nomex fire hood.
- (e) Self-contained Breathing Apparatus (SCBA): Members shall wear protective breathing apparatus when entering any area or space containing harmful dusts, fumes, vapors or gases, or other toxic materials and where it is not practical to provide ventilation to abate the hazard, unless, the Officer in command has determined that breathing apparatus is not required for personal safety.

405.5 AVAILABILITY OF WORK DETAILS

Officers shall accept tasks or duties as assigned by fire scene supervision, and shall upon completion of those duties, return to RESTAT.

While in RESTAT, Officers are to stay alert to the event and away from apparatus unless on assignment.

405.6 RELEASE FROM DUTY

All employees are to remain at their assignments and on-duty until properly relieved by another employee or dismissed by a supervisor.

Officers are to be relieved of duty to return to patrol service at the earliest opportunity after fires are controlled.

Officers are not to solicit relief from duty except when it appears that others have been relieved, and one has been overlooked, an inquiry is in order.

405.6.1 RESUMPTION OF PATROL SERVICE

Officers shall accomplish personal clean up at a fire station/headquarters or place on or near their beat and return to available patrol status without unnecessary delay thereafter.

405.7 SUPERVISOR RESPONSIBILITIES

One Patrol Supervisor should respond to all working fires to ensure:

- (a) Assigned patrol units respond and arrive at the fire scene.
- (b) Patrol Officers don their appropriate personal protective equipment.
- (c) Monitor police calls for service, communicate needs to the Fire IC, and provide assistance as needed.
- (d) Ensure timely release of patrol personnel for return to the field.

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Patrol Fire Response

- (e) Account for all patrol once released.

SWAT/CNT/TMT Unit

406.1 PURPOSE AND SCOPE

The SWAT/CNT/TMT Unit is comprised of three specialized teams: the Special Weapons and Tactics Team (SWAT), the Crisis Negotiation Team (CNT) and the Tactical Medicine Team (TMT). 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).

406.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the SWAT/CNT/TMT 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.

406.1.2 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.

406.2 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 that 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 human life is paramount.

SWAT/CNT/TMT Unit

406.2.1 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.

406.2.2 OPERATIONAL PROCEDURES

Operational procedures should be generally patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SWAT/CNT/TMT members and will outline tactical and officer safety issues, they are not included within this policy. 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).
 - (a) All SWAT team members should have an understanding of operational planning.
 - (b) SWAT team training should consider planning for both spontaneous and planned events.
 - (c) SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
- (b) Designated personnel responsible for developing an operational / medical plan prior to, and/or during TMT operations (time permitting).
 - (a) All TMT members should have an understanding of operational/medical planning.
 - (b) TMT training should consider planning for both spontaneous and planned events.
- (c) Mission briefings conducted prior to an operation, unless circumstances require immediate deployment. On scene mission briefs should be conducted as soon as practical in immediate deployment situations.
 - (a) When possible, briefings should include the specialized units and supporting resources.
- (d) Protocols for a sustained operation which may include relief, rotation of personnel and augmentation of resources.
- (e) A generic checklist, to be worked through during pre planned events, 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.
- (f) The appropriate role for a trained negotiator.
- (g) A standard method of determining whether a warrant should be regarded as high-risk.
- (h) 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.

SWAT/CNT/TMT Unit

- (i) Post incident scene management including:
 - (a) Documentation of the incident.
 - (b) Transition to investigations and/or other units.
 - (c) Debriefing after deployment of the SWAT team.
 - (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) When appropriate, debriefing should include specialized units and resources.
 - (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
 - (d) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
- (j) Standardization of equipment deployed.

406.3 TRAINING NEEDS ASSESSMENT

The SWAT Commander or designee 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).

406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors 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.

406.3.2 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 should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

406.3.3 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.

SWAT/CNT/TMT Unit

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.

406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- (a) Each SWAT member shall pass a physical fitness test twice each year.
- (b) Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- (c) Those members who are on PTO or are on a protected leave status, 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 the test for that test period.
- (d) Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun 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 SWAT 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.
- (e) Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

406.3.5 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training. A designated range safety officer is required for all live fire SWAT team training. POST Safety Guidelines should be followed.

SWAT/CNT/TMT Unit

406.3.6 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.

406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

406.4 UNIFORMS, EQUIPMENT, AND FIREARMS

406.4.1 UNIFORMS

SWAT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. Tactical Medicine Teams from this agency should wear the same uniforms as the SWAT team which clearly identifies 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.

406.4.2 EQUIPMENT

SWAT teams, Crisis Negotiation teams, and Tactical Medicine teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency. SWAT operators, Tactical Medics and Crisis Negotiators shall be equipped with body worn cameras and used in accordance with department policy.

406.4.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

406.4.4 OPERATIONAL READINESS INSPECTIONS

The SWAT Commander shall appoint a SWAT, CNT, and TMT supervisor to perform operational readiness inspections of all unit equipment annually. The inspection will include personal equipment issued to members of the unit, operational equipment maintained in the SWAT/CNT/TMT facility and equipment maintained or used in SWAT/CNT/TMT vehicles.

406.5 MANAGEMENT/SUPERVISION OF SWAT/CNT/TMT RESPONSE UNIT

The SWAT Commander is responsible for managing the SWAT/CNT/TMT Unit and shall be selected by the Chief upon recommendation of staff.

SWAT/CNT/TMT Unit

406.5.1 TEAM SUPERVISORS

The Special Weapons and Tactics Team will be supervised by three (3) lieutenants. The Crisis Negotiation Team will be supervised by two (2) lieutenants. The Tactical Medicine Team will be supervised by (1) lieutenant.

The team supervisors shall be selected by the Chief upon specific recommendation by staff and the SWAT Commander.

The following represent the supervisor responsibilities for the SWAT/CNT/TMT Unit.

- (a) The Special Weapons and Tactics Team supervisors' primary responsibility is to supervise the operations of the SWAT Team, which includes deployment, training, first line participation and other duties as directed by the SWAT Commander.
- (b) The Crisis Negotiation Team supervisors' 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 SWAT Commander.
- (c) The Tactical Medicine Team supervisors' primary responsibility is to supervise the operations of the Tactical Medicine Team, which includes deployment, training, first line participation and other duties as directed by the SWAT Commander.

406.6 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES

The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Team.

406.6.1 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 CNT Lieutenant.

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 SWAT Commander and/or CNT Lieutenant. 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.

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406.7 TACTICAL MEDICINE TEAM ADMINISTRATIVE PROCEDURES

The Tactical Medicine Team has been established to provide prompt, reliable, and expert medical care to Public Safety Units while they are engaged in hazardous investigative or crisis response activities. These units include, but are not limited to SWAT, Investigations Bureau and Patrol Operations Bureau. All TMT members should be able to function safely in conjunction with the SWAT team while providing medical support. If available, tactically trained medical personnel should be deployed during SWAT operations. Other tactical medic team deployments may consist of, but are not limited to:

- (a) Provide advice and assistance to Incident Commanders during pre-planned operations where tactical medical support may be relevant.
- (b) Provide tactical medical support to outside agencies with the approval of a Deputy Chief or his/her designee.
- (c) Provide tactical medical support to patrol personnel during pre-planned operations or when requested by a patrol Captain or designee.

Tactical Medic Team members and Lieutenants should not be deployed until successful completion of the POST-certified Basic TMT Course or its equivalent. Tactical Medic Team members and supervisors should complete update or refresher POST certified Training as needed or as mandated to remain proficient in current standards.

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 SWAT Commander and/or TMT Lieutenant. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all Tactical Medic Team members. Any member of the TMT who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

406.8 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. Other SWAT team deployments may consist of, but not limited to:

- (a) Provide advice and assistance to Incident Commanders in the conduct of tactical operations and/or the deployment of special techniques and/or weapons.
- (b) Provide advice and assistance to Special Operations in apprehending armed suspect(s) and executing search warrants in high hazard situations.
- (c) Deployment of chemical agents.
- (d) Provide VIP security.
- (e) High risk area search.

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 SWAT Commander. The performance and

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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.

406.9 OPERATION GUIDELINES FOR SWAT/CNT/TMT UNIT

The following procedures serve as guidelines for the operational deployment of the SWAT/CNT/TMT Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team, and Tactical Medicine Team will be activated together. It is recognized, however, that a tactical team may be used in a situations not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the SWAT Commander.

406.9.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the SWAT/CNT/TMT Unit is to respond to the scene. Upon final determination by the Lieutenant, he/she will notify the SWAT Commander or respective Captain.

406.9.2 APPROPRIATE SITUATIONS FOR USE OF SWAT/CNT/TMT UNIT

The following are examples of incidents which may result in the activation of the SWAT/CNT/TMT Unit:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages are 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.

406.9.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency SWAT teams must be approved by a Captain or his/her designee. Deployment of the City of Sunnyvale Department of Public Safety SWAT/CNT/TMT Response Unit in response to requests by other agencies must be authorized by a Captain or his/her designee.

406.9.4 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 City of Sunnyvale Department of Public Safety SWAT team shall operate under the policies, procedures and command of the City of Sunnyvale Department of Public Safety when working in a multi-agency situation.

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406.9.5 MOBILIZATION OF SWAT/CNT/TMT UNIT

The On-Scene supervisor shall make a request to a Lieutenant for the SWAT/CNT Unit. The Lieutenant shall then notify the SWAT/CNT Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained by Communications Unit staff. The Lieutenant will then notify the Police Services Captain as soon as practical.

The Lieutenant or designee should provide the SWAT Commander with as much of the following information as 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 SWAT Commander, Captain or supervisor shall then initiate the SWAT call-out procedures. A current mobilization list shall be maintained by Communications Unit staff. An immediate need request for the SWAT team will trigger a call out of the SWAT/CNT/TMT Unit.

406.9.6 FIELD UNIT RESPONSIBILITIES

While waiting for the SWAT/CNT/TMT 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 SWAT/CNT Unit has arrived, all negotiations should generally be halted to allow the negotiators and SWAT team to set up.
- (f) Be prepared to brief the SWAT Commander or designee on the situation.
- (g) Plan for, and stage, anticipated resources.

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406.9.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the SWAT/CNT/TMT Unit at the scene, the Incident Commander shall brief the SWAT Commander, Captain and/or team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the SWAT Commander, whether to deploy the SWAT/CNT/TMT Unit. Once the Incident Commander authorizes deployment, the SWAT Commander or SWAT 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 support for the SWAT/CNT/TMT Unit. The Incident Commander and the SWAT Commander (or his or her designee) shall maintain communications at all times.

Mobile Field Force

407.1 ORGANIZATION

407.1.1 MISSION STATEMENT

The Mobile Field Force Team (MFF Team) has been created within the Sunnyvale Department of Public Safety as a specialized unit of service. The MFF Team's mission is to systematically and safely manage or control, as necessary, mass assemblies and demonstrations. In this regard, the function of the MFF Team is the same as the entire Department: The protection of life and property.

407.1.2 CONCEPT

Experience has shown that the best way to accomplish the safe management of crowds is by employing a specially trained, equipped, and highly disciplined unit of Public Safety Officers, acting as a well-coordinated team.

- (a) Needs which must be anticipated and planned for include:
 - (a) The safe, efficient movement of larger groups of people.
 - (b) The coordination of a large variety of public and private agencies and resources.
 - (c) Dealing with complex legal issues (both civil and criminal).
 - (d) To passively endure provocative, insulting, but legal behavior from people.
 - (e) To prioritize and quickly and efficiently deal with a large number of concurrently occurring incidents.
 - (f) To safely deal with extremely violent and dangerous operational scenes.
 - (g) To exercise discipline and use the least amount of force necessary to carry out the mission.
- (b) In accomplishing these missions, the MFF team must be guided by four inter-related goals:
 - 1. Protection of life and property.
 - 2. Guarantee the rights of free speech and assembly as expressed in the U.S. Constitution.
 - 3. Enforcement of laws.
 - 4. Inspire confidence in the community that public order and safety shall be maintained.

407.1.3 TYPICAL MISSIONS

The MFF Team will generally be used in situations that require a disciplined team trained in dealing with large groups of people. Examples of typical missions are:

- (a) Riot control
- (b) Managing large groups of people lawfully assembled.

Mobile Field Force

- (a) labor disputes
- (b) entertainment and sports events
- (c) political events
- (d) demonstrations
- (e) parades
- (c) Control Unlawful Assemblies
- (d) Any of the above that become violent or unruly and where a proper admonishment has been given.

407.1.4 CHAIN OF COMMAND

- (a) Director of Public Safety
- (b) Deputy Chief of Police Services
- (c) MFF Command Officer (Police Services Captain)
- (d) MFF Platoon Leaders (2 Lieutenants)
- (e) MFF Squad Leaders (4 Public Safety Officers)
- (f) Assistant Squad Leaders (4 Public Safety Officers)

407.2 DUTIES OF PERSONNEL

The MFF Team shall consist of two Platoons, each led by a Lieutenant. Each Platoon shall consist of two Squads. Each Squad shall consist of eight Public Safety Officers, including a Squad Leader and Assistant Squad Leader. Each Squad may be divided into two Fire Teams.

407.2.1 PLATOON LEADER (LIEUTENANT)

- (a) Responsible for completion of Platoon's mission.
- (b) Plans, organizes and implements specific tactics used for each assignment.
- (c) Controls, directs, and leads the Platoon.
- (d) Communicates relevant information to the Field Commander.

407.2.2 SQUAD LEADER (PSO)

- (a) Assumes duties of Platoon Leader in his/hers absence.
- (b) Leads Squad and is responsible for carrying out the orders of the Platoon Leader.
- (c) Communicates relevant information to the Platoon Leader.

407.2.3 ASSISTANT SQUAD LEADER (PSO)

- (a) Assumes duties of Squad Leader in his/hers absence.
- (b) Leads Fire Team and is responsible for carrying out the orders of the Squad and Platoon Leader.

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- (c) When leading a Fire Team, communicates relevant information to the Squad or Platoon Leader.

407.3 POLICY

Policy with respect to the MFF Team is a necessary element in the decision-making process regarding the circumstances in which the Team operates.

407.3.1 DEPARTMENT POLICY

It is the policy of the Department of Public Safety to maintain a trained, highly disciplined Tactical Team capable of providing crowd control and crowd management using the least amount of force necessary.

- (a) The Mobile Field Force team shall be trained to perform functions while working as a full team or as sub-units of the team; augmented by other Public Safety officers; in conjunction with other Department units and in conjunction with Tactical Teams from other agencies.
- (b) Sufficient training will be given to all sworn personnel to allow them to effectively augment the team.

407.3.2 COMMAND AND CONTROL

The basis for an effective Mobile Field Force Team is a trained group of Officers, operating as a disciplined unit, under strict command and control. It is necessary, therefore, that Officers take no independent action, but only carry out the orders of their unit leader. Nothing in this policy shall preclude the immediate self-defense actions necessary to protect an Officer from death or serious injury.

407.3.3 USE OF LESS LETHAL

Use of less lethal methods will be in accordance with this manual.

407.3.4 CHEMICAL AGENTS

The use of chemical agents is a serious escalation of force. The decision to use chemical agents must take into consideration the potential discomfort or injury to innocent bystanders, residents, motorists, and workers in the area of dispersal by the wind. This consideration must be weighed against the damage and injury that might be caused by not employing chemical agents.

407.4 PROCEDURES FOR ACTIVATING THE MFF

The effectiveness of the MFF Team lies in its disciplined and controlled teamwork. The best way to accomplish the Team's mission is to provide as much planning and preparation as possible. Assembling a large number of Officers from assignments throughout the Department takes time and coordination to insure the least amount of disruption in service delivery.

407.4.1 ROUTINE

In most cases, sufficient time will be available for written notice to the MFF Team outlining the date, time, and uniform for a pending mission. In these cases, the call-up will be by authority of the Police Services Deputy Chief.

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407.4.2 EMERGENCY

Should a sudden development require the immediate use of the MFF Team, the call#up may be initiated by a Command Officer.

When there is no Command Officer on duty, the on-duty Patrol supervisor shall request authorization for a call#up by calling the following list until a Command Officer is contacted (call in the following order):

- (a) Police Services Captain
- (b) Fire Services Captain
- (c) Police Service Deputy Chief
- (d) Special Operations Deputy Chief
- (e) Fire Services Deputy Chief
- (f) Director of Public Safety

407.4.3 NOTIFICATION (EMERGENCY)

When a MFF Team call#up has been authorized, Dispatch will make notification of the call#up by contacting the MFF Team Commander (Platoon Leaders in his absence). The Commander will determine the number of Squads or Platoons to activate and will evaluate the need for calling out the SWAT Team.

Dispatch will telephone the designated Platoon(s) and notify them of the time and location to assemble, along with the designated uniform.

407.4.4 MUTUAL AID

Mutual aid request shall comply with the mutual aid policy contained within this manual.

407.4.5 STANDY-BY PAY

Stand-by pay will be paid to team members at the current MOU overtime rate when authorized by Command Staff.

407.5 UNIFORMS

The MFF Team will wear uniforms appropriate to their mission. The uniform designated for a particular incident will try to anticipate the activities required to complete the mission. The uniform will usually be either Class A or Tactical.

- (a) Class A uniform will specify long sleeved shirt. The call#out order will specify soft hat, helmet, or no hat. The order will also specify tie or no tie, and will include any required accessories such as jacket, rain gear, flashlights, etc. Baton shall be specified as duty or tactical.
- (b) Tactical uniform shall be Department jumpsuit with bloused boots, worn with duty ballistic vest. Baton will be specified as either duty or tactical. Black leather gloves are optional.

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- (c) Insignia are authorized to identify Squad Leaders and Assistant Squad Leaders. These are subdued collar insignia of three and two stripe chevrons, respectively. These insignia are to be worn only during TAC Team training and operations.
- (d) Gas masks are part of the uniform and expected to be worn as standard issued equipment.

407.6 REPORTS

- A. An Operations Plan should be prepared to describe each mission the MFF Team is assigned. This order will usually be completed by the Tactical Team Commander. This order shall include:
 - (a) Situation
 - (b) Mission
 - (c) Execution
 - (d) Uniform and Equipment
 - (e) Command/Control/Communication
- B. A Post-Incident Report shall be completed as soon as possible after the incident. The report will contain a chronological list of relevant events, along with a summary of arrests and injuries. The report will be submitted to the MFF Commander for review.
- C. After review by the MFF Commander and the Police Services Deputy Chief, the Operations Order and Post-Incident Report will be sent to the Chief. The reports will be used for critique and training.

Ride-Along/Dispatch Sit-Along Policy

408.1 PURPOSE AND SCOPE

The Program provides an opportunity for citizens and applicants to experience the operations of the Department. This policy provides the requirements, approval process, and hours of operation for the Program.

408.1.1 AVAILABILITY

The Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief, Captain, Lieutenant or on-duty supervisor.

408.2 PROCEDURE TO REQUEST A RIDE-ALONG/SIT-ALONG

Generally, ride-along/sit-along requests will be scheduled by the Recruitment Lieutenant.

Persons expressing interest in the program:

- (a) Will be provided a copy of the explanation letter and a ride-along application.
- (b) Will be instructed to read the letter, complete the ride-along application, and return the application at least two weeks prior to the date the person wishes to ride.
- (c) If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form.

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.

408.2.1 PROGRAM REQUIREMENTS

The Program is offered to residents, applicants, students and those employed within the city. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

Persons expressing interest in the program shall meet the following general requirements :

- (a) No current wants/warrants or restraining orders.
- (b) No felonious criminal history, history of violence, or psychiatric disorder (past or present)
- (c) Shall be a Sunnyvale resident at least 18 years of age.
- (d) May participate in no more than one ride-along every two (2) years.

PSO/PSOIT Applicants

- (a) Must currently be entered into at least Phase II (qualifying testing) of the hiring process.
- (b) May participate in no more than one ride-along per year.

Administration of Justice Students

- (a) Shall be a Sunnyvale resident.

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- (b) Shall be currently enrolled in an Administration of Justice class(es).
- (c) Shall be at least 18 years of age.
- (d) May participate in no more than one ride-along per semester/quarter.

Non-sworn Employees or Explorers

- (a) Shall be at least 18 years of age, unless currently involved in the Explorer Program and participation is acknowledged and approved by a parent/guardian.
- (b) May ride up to 11 hours monthly.

Persons Interested in a Public Safety Career

- (a) Shall be at least 18 years of age.
- (b) May participate in no more than one ride-along per year.

Officer's spouse, acquaintance, or family member

- (a) May ride one shift per year.

Elected and Appointed Officials

- (a) Must contact Chief to arrange approval and scheduling.

Any Department administrator may grant exceptions to the above requirements.

408.2.2 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 City of Sunnyvale Department of Public Safety) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

408.2.3 APPROVAL PROCESS

- (a) Signed and dated ride-along/sit-along application is required and submitted at least two weeks preceding the date the applicant wishes to ride. Explorers under the age of 18 must also submit a parental permission slip in order to participate in the ride-along program.
- (b) Records personnel will conduct a records check to ensure the applicant has no criminal history and/or active warrants.
- (c) Completed application packets will be forwarded to the Recruitment Lieutenant. The Recruitment Lieutenant will review the application packet and grant approval only in accordance with this policy.
- (d) The Recruitment Lieutenant will assign approved applicants a ride-along/sit-along date and time.
- (e) The Recruitment Lieutenant or assigned staff will contact the applicant and advise them of the assigned ride-along date/time or the reason for denial.

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- (f) Ride-alongs should generally not be scheduled on City holidays.

408.2.4 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. The Lieutenant or field supervisor may refuse a ride along to anyone not properly dressed.

408.2.5 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 Lieutenant. In the event that such a ride-along is permitted, the off-duty employee shall be allowed to carry their service firearm and badge in a concealed manner, but are not 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.

408.3 RESPONSIBILITIES

408.3.1 ASSIGNED OFFICER

- (a) Notify assigned supervisor of ride-along participant.
- (b) Complete the field participation block on the ride-along application.
- (c) Notify Communications of the ride-along at the beginning of the shift.
- (d) Officers patrolling with a ride-along is expected to exercise good judgement in controlling the ride-along's observance of Department activities.

408.3.2 SUPERVISOR

- (a) Ensure receipt of ride-along application, waiver of liability, and parental permission slip (if required) prior to field participation.
- (b) Assign officer for ride-along.

408.3.3 RECRUITMENT LIEUTENANT

- (a) Review and approve or deny applications on a timely basis.
- (b) Ensure notification is made to ride-along/sit-along applicants regarding approval/denial as soon after receipt of application as practical.
- (c) Ensure maintenance of approved ride-along/sit-along schedule, as well as filing completed ride-along forms in the annual ride-along binder.

408.4 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

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- (b) Officers will not show the ride-along how to operate the AR-15 releases or emergency equipment.
- (c) Ride-alongs should not be taken to calls involving a high personal risk, except in extraordinary circumstances.
- (d) Ride-alongs should be advised they may be left in a lighted area until an officer returns to pick them up.
- (e) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any headquarters equipment
- (f) 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
- (g) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety. Only ride-alongs who are sworn law enforcement officers may enter the secure jail area while booking is in process.
- (h) 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
- (i) 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

Hostage and Barricade Incidents

409.1 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.

409.1.1 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.

409.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

409.3 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, the department-authorized Crisis Negotiations Team (CNT) 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.

409.3.1 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.

409.4 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.

409.4.1 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.

Hostage and Barricade Incidents

- (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.

409.4.2 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.

Hostage and Barricade Incidents

- (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.

409.5 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.

Hostage and Barricade Incidents

- (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.

409.6 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.

409.7 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

410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the City of Sunnyvale Department of Public Safety 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.

410.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

410.3 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 an on-duty supervisor is immediately advised and informed of the details. This will enable the supervisor to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

410.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

410.4.1 CITY OF SUNNYVALE DEPARTMENT OF PUBLIC SAFETY FACILITY

If the bomb threat is against the City of Sunnyvale Department of Public Safety facility, the supervisor will direct and assign officers as required for coordinating a general building search or evacuation of headquarters, as he/she deems appropriate. The supervisor will also notify the Patrol Captain.

410.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the City of Sunnyvale Department of Public Safety 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 Lieutenant deems appropriate.

Response to Bomb Calls

410.4.3 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.

410.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Sunnyvale, 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 headquarters 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 an on-duty supervisor is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

410.5.1 ASSISTANCE

The supervisor should be notified when headquarters assistance is requested. The supervisor 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 headquarters control over the facility.

Should the supervisor determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.

Response to Bomb Calls

- (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.
 - 2. Qualified bomb squad.

Even though a facility does not request headquarters 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.

410.6 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 Lieutenant including:

Response to Bomb Calls

1. The time of discovery.
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.

410.7 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.

410.7.1 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.

410.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Bomb squad
- Field supervisor
- Lieutenant
- 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

Response to Bomb Calls

410.7.3 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.

410.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Lieutenant 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

411.1 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).

411.2 AUTHORITY

An officer having probable cause may take a person into custody and shall take that person to a facility designated by the County of Santa Clara 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

Persons who do not meet the criteria set forth in 5150 W&I or 5150.05 W&I, but who desire mental health treatment, shall be provided assistance, which may include acting as an informational resource, as a liaison for contacts/referrals, and/or making arrangements for voluntary treatment or out-patient treatment, including transportation.

If in-field psychological evaluation of an individual in crisis is indicated, Officers may request a response from either:

1. Mobile Mental Health Unit (MMHU) – Adults (when implemented)
2. UpLift – Juvenile

411.3 TRANSPORTATION

Patrol vehicles may be used to transport involuntary patients not requiring immediate medical attention. Officers shall use only department-approved restraints.

Patrol vehicles may be used to transport voluntary patients who have no other mode of transportation and do not require immediate medical attention.

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.

Mental Illness Commitments

411.4 DOCUMENTATION

When it is determined the person meets the criteria for 5150 W&I a 72-hour hold shall be completed. The incident shall be documented in ARS using the ARS 5150 narrative. A copy of the 72-hour hold shall be attached as an E-file.

Upon completion of a CIT-related event, when no other documentation is required (ie: 72 Hr Hold, Offense Report), the Officer shall complete a CIT Contact Card and submit the card to Records for entry into RMS. In addition to clearing the event through dispatch with the appropriate alpha code (eg: A-dam, R-obert, N-ora, etc), officers shall advise dispatch, whenever a CIT card is indicated, to attach the ghost unit "RED" to the response group (ie: "14J 10-8 Robert, RED")

If an event requires response from fire personnel only, and the subject contacted is believed to suffer impairment related to a mental illness, a CIT Contact Card shall be completed by fire personnel and submitted to Records for entry into RMS.

If an event involves a joint patrol and fire response (ie: an EMS incident), the primary responsibility for completing and submitting a CIT Contact Card rests with on scene patrol officers.

411.4.1 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 officer should also ask if the person needs assistance turning off any appliance or water.

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).

411.4.2 PRESERVATION AND SAFEGUARDING OF PERSONAL PROPERTY (5150(E) W&I)

Officers shall document the final disposition of the person's property (e.g. residence released to relative, residence secured, vehicle locked and secured, etc.) on the APPLICATION FOR 72-HOUR DETENTION EVALUATION AND TREATMENT (PS363). When physical property is actually taken from a person, a notation of "Property booked for safekeeping/evidence" on the form is required.

Mental Illness Commitments

411.5 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.

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) Facilitate the individual's transfer to jail.
- (c) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

411.6 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 Notice of Rights and Receipt form 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).

411.7 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with mentally disabled persons, 5150 commitments and crisis intervention.

Cite and Release Policy

412.1 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.

412.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

412.3 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 persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

An arrested person, who would be eligible for release upon written promise to appear, pending a Court appearance, shall not be denied release because of personal animosity of any Officer or employee having authority in the matter.

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 he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

412.3.1 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.

412.3.2 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.

Cite and Release Policy

412.4 NON-RELEASE

412.4.1 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) Rape of a spouse (Penal Code § 262)
- (f) 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)
- (g) Stalking (Penal Code § 646.9)
- (h) 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)

412.4.2 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 Lieutenant 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 he/she could be a danger to him/herself 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 his/her own safety
 1. The City of Sunnyvale Department of Public Safety shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305 (Pursuant to 40500(a)VC a misdemeanor DUI may be released on a promise to appear)..

Cite and Release Policy

- (d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).
- (e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).
- (f) The person could not provide satisfactory evidence of personal identification.
 - 1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (g) 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.
- (h) 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.
- (i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (j) 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. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons may include:
 - (a) Previous failure to appear is on record
 - (b) The person lacks ties to the area, such as a residence, job, or family
 - (c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

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 Lieutenant for approval and included with the case file in the Records Unit.

412.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to a Patrol supervisor 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

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- (e) The person arrested is a danger to him/herself 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 his/her own safety
- (g) The person has other ineligible charges pending against him/her
- (h) If an arrestee has three or more warrants with bails totaling \$15000 or more
- (i) The warrant dollar amount is \$15,000 or more
- (j) 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
- (k) The person refuses to sign the notice to appear
- (l) The person cannot provide satisfactory evidence of personal identification
- (m) 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.

412.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- All other infraction traffic violations of the Vehicle Code
 - Movers and equipment violations are filed with the traffic court.
 - Juvenile bicycle and pedestrian violations are filed with the Department's Traffic Diversion program.
- Violations of the Sunnyvale City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Crime Prevention Unit for further action including diversion.

Foreign Diplomatic and Consular Representatives

413.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the City of Sunnyvale Department of Public Safety extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

413.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

413.3 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.

Foreign Diplomatic and Consular Representatives

413.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (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.

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413.5 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.

413.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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 & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & 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

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Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & 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:

- (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.

Reporting Police Activity Outside of Jurisdiction

414.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the City of Sunnyvale Department of Public Safety.

414.1.1 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 an on-duty Lieutenant. If the request is of an emergency nature, the officer shall notify Dispatch before responding and thereafter notify a supervisor as soon as practical.

414.1.2 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 Sunnyvale shall notify his or her supervisor or an on-duty Lieutenant at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the an on-duty Lieutenant 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 Captain.

Immigration Violations

415.1 PURPOSE AND SCOPE

In accordance with the intent of the March 9, 2017 statement by the Santa Clara County Police Chiefs' Association, this Department recognizes that mutual trust and respect is the cornerstone in building a solid foundation for success in protecting and serving the entire community, and in seeking justice for all victims of crime.

Law-abiding, undocumented immigrants should not fear arrest or deportation for coming forward to members of the Department to report a crime as a victim or a witness. As such, it is incumbent upon all members of this department to make a personal commitment to organizational values, equal enforcement of the law and equal service to the public, regardless of immigration status.

415.2 POLICY

The responsibility for enforcement of civil immigration laws rests with the U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO).

The Department will continue to cooperate with ICE in matters involving serious crimes, the protection of public safety, and as required by statute, federal regulation, or court decisions, other than the isolated immigration violations enumerated in Title 8 USC § 1304; 8 USC § 1324; 8 USC § 1325 and 8 USC § 1326.

415.3 DEFINITIONS

Administrative Warrants - Administrative warrants, also called hold requests or detainers, are issued by a government agency, typically by Immigration and Custom Enforcement officials' findings that a person is removable from the United States.

Alien - An individual who is not a U.S. citizen or U.S. national.

Illegal Alien - Also known as an "Undocumented Alien," or "Undocumented Immigrant," is an alien who has entered the United States illegally and is deportable if apprehended, or an alien who entered the United States legally but who has fallen "out of status" and is deportable.

Immigrant - An alien who has been granted the right to reside permanently in the United States and to work without restrictions in the United States. Also known as a Lawful Permanent Resident, all immigrants are eventually issued a "green card."

Judicial Warrants – Judicial warrants are criminal warrants issued by a judicial officer, typically a magistrate judge.

Nonimmigrant - An alien who has been granted the right to reside temporarily in the United States based on a status that corresponds to the class of visa. Each nonimmigrant status has rules that must be followed in order for the nonimmigrant to remain "in status." A nonimmigrant who violates applicable rules will fall "out of status" and is considered deportable.

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U.S. National - An individual who owes his/her sole allegiance to the United States, including all U.S. citizens, and including some individuals who are not U.S. citizens.

415.4 BASIS FOR CONTACT

This Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to detain or arrest shall be based upon those factors which establish reasonable suspicion and probable cause respectively, and not on arbitrary aspects. Race, nationality, ethnicity, country of origin, inability to speak English, “foreign” appearance, dress, mannerisms, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to contact, detain, or arrest.

Officers will not detain or question a person for the purpose of discovering either the person’s citizenship or status under civil immigration laws.

Officers will not detain or arrest any person on the basis of the person’s citizenship or status under civil immigration laws.

Members of the Department will not initiate police action where the primary objective is to discover that the person is an undocumented immigrant or to discover the status of the person under civil immigration laws.

415.5 ASSISTING ICE

The Department does not conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

If a specific request is made by ICE or any other federal agency, this department may provide available support services, such as traffic control or peacekeeping efforts, during the federal operation.

Members of this department shall not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity, or where there is a valid judicial warrant.

ICE personnel shall not be allowed access to individuals detained or held at the Department, unless their access is required in the course of a criminal investigation, pursuant to a judicial warrant, or while providing services unrelated to the enforcement of civil immigration law.

415.5.1 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT

Members of this department shall not ask the immigration status of individuals taken into custody. The United States Department of State Consular Notification policy requires law enforcement to notify certain consular offices when a Foreign National is in custody. (Refer to U.S. Department of State website for complete details. <https://travel.state.gov/content/travel/en/consularnotification.html>). In these instances, the officer shall gather information to determine if consular notification applies. In compliance with state law, whenever an officer has reason to

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believe that any person arrested for any offense listed in Health & Safety Code §11369 or any other felony may not be a citizen of the United States and the individual is not going to be booked into county jail, the arresting officer shall cause ICE to be notified for consideration of an immigration hold. Generally, ICE notification of booked arrestees will be handled according to jail operations procedures.

415.5.2 CONSIDERATIONS PRIOR TO REPORTING TO ICE

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws. In making the determination whether to notify ICE in such circumstances, the officer, in consultation with a supervisor and approval from a command staff member, shall consider the seriousness of the offense and the potential impact to community safety.

Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state or local government entity (8 USC § 1373; 8 USC § 1644).

415.6 NOTICE TO INDIVIDUALS

Individuals shall be given a copy of documentation received from Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the City of Sunnyvale Department of Public Safety intends to comply with the request (Government Code § 7283.1).

If the City of Sunnyvale Department of Public Safety provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

415.7 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 Investigations Unit supervisor assigned to oversee the handling of any related case. The Investigations Unit supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

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- (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). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (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.
- (e) Inform the victim liaison of any requests and their status.

415.7.1 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 (as defined in Penal Code § 679.10 and Penal Code § 679.11) 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.

415.7.2 REPORTING TO LEGISLATURE

The Investigations Unit supervisor or the authorized designee should 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).

415.7.3 POLICE REPORTS

Upon request, the records unit 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).

415.8 TRAINING

The Training Lieutenant should ensure that all appropriate members receive training on immigration issues.

Training should include:

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- (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.).

Aircraft Accidents

416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

416.1.1 DEFINITIONS

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

416.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

416.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

416.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) and Medical Examiner before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

Aircraft Accidents

416.5 NOTIFICATIONS

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made 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. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Appropriate airport tower
- (b) Emergency medical services (EMS)

416.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) County EMS or other assisting law enforcement agencies.
- (c) Medical Examiner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

416.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.

Aircraft Accidents

- (d) Evacuation chutes, ballistic parachute systems and composite materials.

416.8 DOCUMENTATION

All aircraft accidents occurring within the City of Sunnyvale shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of DPS members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

416.8.1 WRECKAGE

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
 - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

416.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

416.9 MEDIA RELATIONS

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

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Department Policies

Aircraft Accidents

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

Field Training Officer Program

417.1 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 City of Sunnyvale Department of Public Safety.

It is the policy of this department to assign all new headquarters 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.

417.1.1 OBJECTIVES

The objectives of the program are:

- (a) To teach new officers to perform their duties and responsibilities in a safe, skillful, productive, and professional manner.
- (b) To provide standardized training to all newly assigned public safety officers in the practical application of learned information.
- (c) To provide clear rating and evaluation which give all trainees every reasonable opportunity to succeed.
- (d) To enhance the professionalism, job skills, and ethical standards of Public Safety Officers.
- (e) To produce officers who can provide responsible, community-focused police services and promote the practice of using community members as partners in problem solving.

417.2 ROLES AND RESPONSIBILITIES

417.2.1 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.

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.

417.2.2 POLICE TRAINING SUPERVISOR (PTS)

- (a) The Police Training Supervisor is a supervisor who has preferably attended the FTO Basic course and is the supervisor of a patrol squad in the patrol division.
- (b) The PTS will keep the Patrol Captain and FTO Coordinator informed of any problems related to the FTO/trainee team.

Field Training Officer Program

- (c) The PTS is responsible for reviewing the Daily Observation Reports for trainees assigned to his/her patrol squad.
- (d) The PTS will meet regularly (weekly is recommended) with the FTO and trainee. The PTS will provide daily supervision and coaching to the FTO/trainee team and ensure the needs of the team are met.

417.2.3 FIELD TRAINING PROGRAM COORDINATOR

The FTP Coordinator is responsible for managing and facilitating the program on a daily basis. The FTP Coordinator should attend the 40 hour FTO Basic course and must attend the SAC course within twelve months of assignment. The FTP Coordinator maintains all program records and reports, coordinates regular FTO meetings, and facilitates and schedules all training and evaluation phases.

417.2.4 FIELD TRAINING PROGRAM ADMINISTRATOR (FTA)

The FTP Administrator is the agency liaison with POST. The FTP Administrator should attend the 40 hour FTO Basic course and must attend the SAC course within twelve months of assignment. The FTP Administrator is responsible for ensuring compliance with all POST guidelines related to the implementation and operation of the FTP.

417.2.5 FIELD TRAINING PROGRAM MANAGER

The FTP Manager is the Patrol Captain responsible for the overall management of the FTP. The Program Manager works closely with the FTO Coordinator/Administrator to ensure that members of the agency follow the policies and procedures of the program.

417.2.6 BOARD OF EVALUATORS (BOE)

- (a) The Board of Evaluators should consist of the PTM, Patrol Team Captain (if not the already the PTM), PTA, PTC, Recruiting/Initial Training Lieutenant and assigned PTO's and/or PTE's.
- (b) The BOE will review all trainee and PTO performance as directed by the Program Manager or Program Coordinator.
- (c) The BOE will evaluate the trainee's and PTO's performance. Evaluations may include a review of PTE reports, Daily Journal and Training Progress Notes, and other written material relative to the program. The BOE may also conduct interviews of trainees and PTOs before making any written recommendation to the Program Manager.
- (d) The BOE will provide a written recommendation to the Program Coordinator and Manager on what action to consider regarding training, prescriptive training, or termination of a trainee or PTO from the PTP.

417.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor or a designee should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

Field Training Officer Program

- (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)).

Obtaining Air Support

418.1 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.

418.2 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.

418.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, a supervisor, or his/her designee, will request the closest agency having helicopter support available. The notification will apprise that agency of the specific details of the incident prompting the request. Command notifications will be made.

418.2.2 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

Contacts and Temporary Detentions

419.1 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.

419.1.1 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.

419.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

Contacts and Temporary Detentions

419.3 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 City of Sunnyvale Department of Public Safety to strengthen community involvement, community awareness, and problem identification.

419.3.1 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

419.4 ARS FIELD CONTACT SYSTEM (FCS)

The Field Contact System (FCS) is accessed through ARS. The system is a module designed for inputting FIs that are immediately transferred to RMS for search and retrieval. The Field Contact System (FCS) allows officers to document all information currently captured via the FI card as well as to include e-files (such as photos of individuals, tattoos, etc). The system is designed to allow for in-field inputs from mobile laptops or desktop computers.

All FI information shall be input into FCS as soon as practical after completing the contact.

419.5 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.

Contacts and Temporary Detentions

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.
- (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.

419.6 FIELD PHOTOGRAPHS

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

419.6.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

419.6.2 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.

419.6.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Lieutenant 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.

Contacts and Temporary Detentions

If a photograph is not associated with an investigation where a case number has been issued, the Lieutenant 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 Lieutenant 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 Unit.

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.

419.6.4 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.

419.7 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 City of Sunnyvale Department of Public Safety 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.

Field Interviews

420.1 POLICY

The field interview is a very useful and effective means of maintaining the safety and welfare of the community. By remaining alert, perceiving circumstances that may indicate crime, stopping suspicious individuals and conducting field interviews, Officers serve the community by preventing, discovering, or solving crimes. However, the courts have indicated that certain elements must be present before an Officer initiates a field interview. In this regard, the Department maintains procedures which detail these elements and Department members will abide by them when conducting a field interview.

420.2 PROCEDURE

420.2.1 DEFINITION

A field interview is a temporary detention of a person for purposes of investigating an unusual activity which reasonably infers criminal activity. A field interview occurs when an Officer uses police authority either to compel an individual to halt, to remain in a certain place, or to perform some act. If the individual being stopped reasonably believes that he or she is not free to leave the Officers presence, a field interview is occurring.

420.2.2 AUTHORITY AND REQUIRED ELEMENTS

If an Officer has reasonable suspicion that an individual has committed, is committing, or is about to commit any crime, such Officer has the authority to stop that individual and conduct a field interview. The Officer may exercise this authority in any place that the Officer has a right to be. Both pedestrians and individuals in vehicles may be stopped.

All of the following elements must be present before a field interview is authorized:

- (a) The Officer has reasonable suspicion that some unusual or out of the ordinary activity is or has taken place.
- (b) There is some indication that the individual under suspicion is connected to the unusual activity.
- (c) There is some suggestion that the activity is related to crime.

420.2.3 REASONABLE SUSPICION

The term reasonable suspicion is not capable of precise definition; it is more than a hunch or mere speculation on the part of an Officer, but less than the probable cause necessary for arrest.

It may arise out of a contact, or it may exist prior to or independently of a contact. Reasonable suspicion may be based on factors such as appearance, actions, prior knowledge, area, time and experience.

Officers will strive to utilize factors which can be documented later. Mere hunches or guesses are not adequate.

Field Interviews

420.2.4 INITIAL APPROACH

Once the required elements have been established, the person may be stopped. However, provided that the public is not endangered and the chance of losing the suspect is not significant, it may be better for the Officer to wait if it is thought that by doing so, such Officer will be able to develop additional information to establish probable cause for arrest.

420.2.5 USE OF FORCE TO DETAIN

Officers may use that force which is necessary based on the circumstances to effect the stop of a person. The means may be a verbal request, an order, or the use of physical force. However, absent probable cause for arrest, or physical attack on the Officer, the use of force which could cause serious bodily harm or death to the person is prohibited for the purpose of a detention.

- (a) If a person refuses to be detained and the elements for a legal detention are present, the Officer may arrest the person for 148 PC, delaying and/or obstructing an Officer.

If the Officer is attacked, or circumstances exist that create probable cause to arrest, the Officer may use the amount of force necessary to defend himself/herself or effect a full custody arrest pursuant to the guidelines in P300.

420.2.6 REFUSAL TO COOPERATE

Refusal to answer questions or cooperate in other ways does not, by itself, establish probable cause to arrest. However, such refusal may be considered along with other facts as an element which may establish reasonable cause if, under the circumstances, it would be reasonable for an innocent individual to cooperate.

If a person refuses to identify himself/herself and the elements for a legal detention are present, the Officer may arrest for 148 PC if he/she is able to articulate facts that show that the public safety demands such identification and that the person is delaying/obstructing the Officer in the performance of his/her duties.

420.2.7 TREATMENT OF DETAINED INDIVIDUALS

Officers will act with as much restraint and courtesy towards individuals being stopped as is possible under the circumstances and will identify themselves as Law Enforcement Officers as soon as practical.

At some point during the interview, the Officer initiating the stop will advise the stopped individual of the reason and purpose of the field interview.

420.2.8 DURATION OF STOP

A person may be detained only at or near the scene of the stop for a reasonable time. Officers should detain a person only as long as is reasonably necessary to conclude the investigation.

Should further suspicious circumstances arise during the detention, then the Officer may detain the person until the further suspicious circumstances can be investigated.

A reasonable guideline is that the stop should be terminated within 20 minutes unless more time is required to verify a person's identity, and the reliability of the answers given.

Field Interviews

420.3 FIELD INTERVIEW CARD/DATA

FI Card/Data will be collected when:

- (a) An officer wants to retain the information for future reference and/or investigation.
- (b) Requested by another officer (any agency).
- (c) Requested by the Investigations Unit.
- (d) Directed by a supervisor.

Since a field interview (FI) is based on suspicious activity that relates to crime, ideally, all FI data collected by officers should be directly entered into RMS utilizing the Field Contact System (FCS) interface as soon as practical after completing the contact. This guarantees the entered information is readily available for search and retrieval and ensures the most detailed and accurate description of the circumstances regarding the contact is captured.

In any situation where an Officer runs a records check on the stopped person, and no other reports are completed which require a case number, the ARS field interview data will be completed.

All reasonable efforts should be made by the officer to enter the FI data during their shift using the FCS interface. If circumstances arise during an officer's shift wherein it is not possible for him/her to directly enter the FI data using the FCS interface, the officer may submit an FI card(s) to their supervisor.

420.4 FIELD CONTACT SYSTEM (FCS)

The Record Management System (RMS) has a module designed for inputting FIs that can immediately be transferred to RMS for ready search and retrieval. The Field Contact System (FCS) allows officers to document all information currently captured via the FI card. Refer to the Report Writing manual for FCS procedures.

420.5 FI CARDS

Refer to the Report Writing manual on how to properly fill-out an FI card.

420.5.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall review all FI cards to confirm it is accurate, complete and legible. Upon approval, the supervisor shall write their employee ID number in the upper right hand corner of the front of the FI card(s), indicating it has been reviewed, then place the FI card(s) in the FI card box located in the Squad 3 Lieutenant's office.

Criminal Organizations

421.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the City of Sunnyvale Department of Public Safety appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

421.1.1 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.

421.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

421.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief 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.

421.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, 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 as master source records. Any supporting

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documentation for an entry shall be retained in accordance 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 as source files are appropriately marked as intelligence information. Employees may not purge such documents without submission and subsequent approval of a Records Destruction Request form.

421.3.2 GANG DATABASES

The Chief 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 Unit 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 Unit 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).

421.4 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.

421.4.1 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 Unit 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.

421.4.2 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.

421.5 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 Training Lieutenant to train members to identify information that may be particularly relevant for inclusion.

421.6 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.

421.7 CRIMINAL STREET GANGS

The Investigations Unit supervisor 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.

Criminal Organizations

421.8 TRAINING

The Training Lieutenant 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:

- (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.

421.8.1 SHARED GANG DATABASE TRAINING

The Training Lieutenant 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).

Mobile Video & Audio Recorder (MVAR) (CRITICAL)

422.1 PURPOSE AND SCOPE

The City of Sunnyvale Department of Public Safety has equipped marked patrol cars with Mobile Video & Audio (MVAR) recording systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

422.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MVAR system to transmit or store video or audio data in an active mode.

In-car camera system and Mobile Video & Audio (MVAR) system - Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

MVAR technician - Personnel certified or trained in the operational use and repair of MVARs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

422.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to use mobile audio and video technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

422.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will remove the audio transmitter from the vehicle's charging cradle and ensure it is in the "on" position and carry it on their person. At the end of the shift, each officer return the audio transmitter back to the charging cradle.

At the start of each shift, officers should test the MVAR system's operation in accordance with manufacturer specifications and department operating procedures and training.

officer shall immediately report equipment loss, breakage or malfunctions to a supervisor. The vehicle should be taken out of service unless a supervisor requests the vehicle remain in service.

If an MVAR transmitter is missing from their patrol vehicle the officer will immediately advise their supervisor.

DO NOT remove a transmitter from another patrol vehicle to replace the missing one. A spare transmitter is kept in the Patrol Staff Lieutenant office. The spare must be signed out.

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422.4 SUPERVISOR RESPONSIBILITIES

To determine whether MVAR equipment is working properly, supervisors should periodically review recordings.

Supervisors shall ensure that:

- (a) Officers follow established procedures for the use and maintenance of MVAR equipment.
- (b) Notify Information Technology for repairs of non-functional MVAR equipment.
- (c) Repairs and/or replacement of damaged or non-functional MVAR equipment are performed.

422.4.1 MISSING MVAR TRANSMITTER

Upon report of a missing MVAR transmitter supervisors shall:

- (a) Attempt to locate the missing transmitter by contacting the last officer(s) to use the transmitter or by reviewing MVAR recordings.
- (b) If the transmitter cannot be located an IT request shall be submitted for the missing transmitter.
- (c) A memo shall be submitted to the appropriate Patrol Captain explaining the circumstances contributing to the missing transmitter.

A spare MVAR transmitter is in the Patrol Staff Lieutenant office. The spare must be signed out.

422.5 ACTIVATION OF THE MVAR

- (a) The MVAR system automatically powers up thirty (30) seconds after the vehicle's ignition is turned on and powers off after the vehicle's ignition is turned off.
- (b) Recording will start when the vehicle's ambers, front red emergency light or rotators are activated. Recording will also activate when the vehicle reaches a speed of 80 mph or in the event of a crash.
- (c) The audio transmitter shall remain in the "on" position during the shift and will record audio when the system is activated.
 - 1. Audio and video may also be manually activated by either using the audio transmitter, or by pushing the "Record" button on the unit.
- (d) The MVAR is capable of recording audio when out of view of the video camera at a distance up to 900 feet.
- (e) Each system in operation at a scene will automatically record on a separate channel allowing multiple officers to record one incident.
- (f) The system automatically captures events that occur up to thirty (30) seconds before and after recording is started and stopped.

Intentional covert recording of anyone, except in the performance of official duties, is prohibited.

Mobile Video & Audio Recorder (MVAR) (CRITICAL)

422.5.1 REQUIRED ACTIVATION OF MVAR

This policy is not intended to describe every possible situation in which the MVAR system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MVAR. The MVAR system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
 - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - 2. Emergency Mode (Code 3) responses
 - 3. Vehicle pursuits
 - 4. Suspicious vehicles
 - 5. Detentions and/or Arrests
 - 6. Vehicle searches
 - 7. Physical or verbal confrontations or use of force
 - 8. Pedestrian contacts
 - 9. DUI investigations including field sobriety tests
 - 10. Consensual encounters
 - 11. Crimes in progress
 - 12. Responding to an in-progress call
 - 13. Crime and accident scenes
 - 14. When directed by a supervisor
- (b) All self-initiated activity in which an officer would normally notify Dispatch
- (c) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (d) Any other circumstance where the officer believes that a recording of an incident would be appropriate or beneficial to judicial or internal proceedings.

422.5.2 CESSATION OF RECORDING

Once activated, the MVAR system should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made,

Mobile Video & Audio Recorder (MVAR) (CRITICAL)

arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

422.5.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVAR system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief or the authorized designee for the purpose of conducting a criminal or administrative investigation.

422.6 REVIEW OF MVAR RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MVAR systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (g) By court personnel through proper process or with permission of the Chief or the authorized designee
- (h) By the media through proper process or with permission of the Chief or the authorized designee
- (i) To assess possible training value
- (j) Recordings will be submitted to the Captain to determine if the training is of value.

Employees desiring to obtain a copy of an MVAR recording should submit an evidence request form to a Patrol supervisor for approval. Approved requests should be forwarded to the Property Unit for processing.

Mobile Video & Audio Recorder (MVAR) (CRITICAL)

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

422.7 DOCUMENTING MVAR USE

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded.

The reason for non-activation of an MVAR shall be documented in the officer's report.

422.8 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

422.8.1 CONTROL OF RECORDING MEDIA

Recorded segments will automatically download to the server when the vehicle pulls into the back parking lot at DPS Headquarters. After the segments are downloaded, they are erased from the in-car flash card and the segments are no longer accessible inside the vehicle.

Officers shall not alter or in any way tamper with MVAR recordings.

A recorded segment may be located by searching by vehicle number, date and time of the event.

422.8.2 MVAR RECORDINGS AS EVIDENCE

Officers should inform their supervisor whenever they become aware of any recorded sequences that may be of value for training purposes.

Officers shall notify a supervisor when sequences have been recorded that may represent evidence.

In the event an officer deems a recorded segment has evidentiary value, that officer shall document the existence of the recorded segment in the report narrative. Officers shall also document the vehicle number.

422.8.3 CLASSIFYING VIDEO

Video files will be classified by "Priority Level" described below. The classification differentiates video files maintained on the server. The classification can also be used as a search field or with the "auto tagging" and backup options.

Video files Priority Levels will be classified as follows:

- (a) "No Citation" - used during the pre-shift vehicle inspection, citizen contacts, or other administrative use.
- (b) "Citation" – used during traffic and pedestrian stops where a citation or a field interview card is issued.

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- (c) “Search” – used anytime a vehicle or person is searched.
- (d) “Arrest” – used during any type of arrest aside from cite and release.
- (e) “Critical Incident” – used during vehicle pursuits, officer involved shootings, use of force incidents, checkpoints, and other high priority incidents that do not meet the other priorities.

422.9 TRAINING

All members who are authorized to use the MVAR system shall successfully complete a course of instruction prior to its use.

Mobile Digital Computer Use

423.1 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.

423.2 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).

423.3 POLICY

City of Sunnyvale Department of Public Safety 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.

423.4 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 Lieutenants.

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.

423.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

Mobile Digital Computer Use

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.

423.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the supervisor or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the headquarters 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.

423.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the headquarters 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 when the vehicle is not in motion.

423.6 EQUIPMENT CONSIDERATIONS

423.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. When an MDC is found to be malfunctioning members will send an IT Service Request to IT at this link:

dps/Internal/Police/SitePages/PatrolITEquipmentRepair.aspx

Members will remove the malfunctioning MDC from the dock and place the laptop in the Patrol Administrative Lieutenant's desk. Attach a copy of the service request to the laptop. There are usually three (3) replacement laptops located on the wire shelf in the Patrol Administrative Lieutenant's office. If there is not replacement laptops available change vehicles to a pool car.

423.6.2 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 Cameras (BWC) (CRITICAL)

424.1 PURPOSE

Body-worn cameras (BWC) are an effective law enforcement tool that can reduce violent confrontations and complaints against officers. Body-worn cameras provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.

The Department has adopted the use of body-worn cameras to accomplish several objectives, including:

- (a) Body-worn cameras allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony.
- (b) Audio and video recordings enhance the Department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.

Body-worn cameras may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

Personnel shall utilize this device in accordance with the provisions in this policy to maximize the effectiveness of the audio/video documentation to achieve operational objectives and to ensure evidence integrity.

The department is mindful that audio-video recordings have limitations and may depict events differently than recalled by the involved officer.

424.2 POLICY

It is the policy of this department that officers shall activate the BWC when such use is appropriate during the proper performance of his or her official duties, and where the recordings are consistent with this policy and law.

424.3 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.

424.4 PROCEDURE

Unauthorized use, duplication, and/or distribution of BWC files is prohibited. Personnel shall not make copies of any BWC file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record BWC files.

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Body-Worn Cameras (BWC) (CRITICAL)

All recorded media, images and audio from the BWC are property of the Sunnyvale Department of Public Safety and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the express consent of the Chief.

424.4.1 TRAINING

Prior to issuance of a BWC, officers shall receive:

- (a) Training on operation, maintenance, and care;
- (b) Additional training shall be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment;
- (c) Training on mandatory, discretionary, and non-permissible uses of the BWC;
- (d) Periodic training on significant changes in the law pertaining to legal developments.

424.4.2 PERSONNEL RESPONSIBILITIES

Personnel will use only the BWC system issued and approved by the Department for official police duties.

Personnel shall not deliberately remove, dismantle or tamper with any hardware and/or software component or part of the BWC.

There are many situations where the use of the BWC is appropriate. This policy is not intended to describe every possible circumstance. In addition to the required conditions of operation, personnel should activate the system any time they feel its use would be appropriate and/or valuable to document an incident.

The BWC shall be powered on at all times allowing for the pre-event buffering to be active. Exceptions to this requirement are when personnel are in city facilities engaged in non-enforcement activities (i.e. headquarters, city hall, a fire station, or another jurisdiction's facility or restrooms).

Members shall activate the BWC during all enforcement stops and field contact situations and any other time the member reasonably believes that a recording of an on-duty contact may be useful or required by County protocol. Once started, recordings shall continue without interruption until the contact ends, if feasible. At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media.

During the shift, officers shall make every reasonable effort to activate the BWC prior to initiating, or as soon as practical after initiating, the follow police actions:

- (a) All enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing or may be involved in criminal activity. This includes, but not limited to:
 - 1. Detentions, vehicle stops, pedestrian stops and consensual encounters
 - 2. Probation, parole, post-release community supervision, mandatory supervision or consent searches, "knock and talks."

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- (b) Take or attempting to take a person into custody (e.g. arrests, protective custody of mentally disturbed person, etc.)
- (c) Enforcement encounters where there is a reason to believe that the individual is committing a violation for which a citation may be issued.
- (d) All incidents involving a use of force.
- (e) All public interaction, regardless of context, that escalates and becomes adversarial.
- (f) Service of search or arrest warrants.
- (g) Suspect statements.
- (h) Witness/Victim statements (when practical).
- (i) Pursuits (when practical).
- (j) Response to complaints or calls for service.

424.4.3 SUPERVISOR RESPONSIBILITIES

- (a) Supervisors will ensure that officers utilize the BWC per these policy guidelines.
- (b) Supervisors shall ensure videos related to Officer-Involved incidents are uploaded/downloaded as soon as possible following the event or as requested by a supervisor.
- (c) Supervisors completing a Use of Force investigation where a BWC was used should review the video.
- (d) Supervisors may immediately resolve citizen complaints by viewing video captured by the officer's BWC prior to contacting the citizen. At no time shall the supervisor allow the citizen to view the file footage. In those circumstances where a complaint is resolved with no further action needed, supervisors shall make notes on the citizen inquiry form.

424.5 USE OF BODY WORN CAMERA

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential. However, Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

424.6 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.

Body-Worn Cameras (BWC) (CRITICAL)

Members are prohibited from using personally owned recording devices while on-duty without the express consent of a Captain, Deputy Chief or the Chief. 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.

In general, Officers should not activate the BWC or use caution when entering a public locker room, changing room, restroom, doctor's or lawyer's office or other place where individuals unrelated to the investigation are present and would have a heightened expectation of privacy.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

424.7 DOCUMENTING USE OF THE BODY WORN CAMERA

Officers will document in a report when a BWC is used by checking the box in the Supplement tab in ARS. If no report is filed, the officer will ensure the use of the BWC is noted on the citation or CAD event.

424.8 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and download the file in accordance with the Digital Evidence Policy and document the existence of the recording in the related case report.

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.

Members shall upload the file, in accordance with current procedure for storing digital files, no later than at the end of their shift. Personnel should download the files if there is an indication that the device is reaching capacity prior to the end of a shift.

424.8.1 RETENTION REQUIREMENTS

BWC recordings relating to incidents where criminal charges are filed shall be retained for at least one year after whichever of these events occurs last:

- (a) the matter is resolved; or,
- (b) the defendant has been released from custody; or,
- (c) the appeal is final.
- (d) The BWC recording may be destroyed earlier than this if the district attorney or other prosecuting agency, all defendants and the City Attorney are notified and given time to object prior to any destruction of a BWC recording related to a criminal incident.

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BWC recordings relating to potential criminal charges that are not filed shall be retained for at least one year after the statute of limitations has expired.

BWC recordings relating to Internal Affairs Complaints (whether externally or internally generated) shall be retained in accordance with Penal Code §832.5, or until the matter has been resolved, whichever is later;

BWC recordings of routine events that are not associated with either a criminal investigation or an Internal Affairs Complaint shall be retained for at least one year;

- (a) After this time, such BWC recordings may be destroyed after notice is given to the City Attorney.

424.8.2 ACCIDENTAL RECORDINGS

In the event of an activation of a BWC where the resulting recording contains personal and/or private conversations of an officer unrelated to any ongoing criminal or internal affairs investigation, or otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, an officer may request for the deletion of the accidentally recorded BWC file by submitting a written request to their Bureau Captain. If the Chief, or his or her designee, determines that a BWC recording contains personal and/or private conversations of an officer unrelated to an ongoing criminal or internal affairs investigation, or otherwise has no valid official purpose, and which has no apparent evidentiary or investigatory value, it may be deleted after thirty days.

424.9 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.

424.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, members shall 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 of personnel they supervise any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

In addition to the above, files may also be reviewed:

- (a) Upon approval by the Chief or designee, by any member of the Department who is participating in a departmental internal administrative investigation, criminal investigation, or civil investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

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- (c) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.
 - 1. Notification to department personnel that were recorded will be made as soon as reasonably possible prior to such release.
- (d) If recordings are intended for use as training, coordinated by the Training Unit, personnel who made the recording, or who's image or voice were captured in the recording, will be notified as soon as reasonably possible prior to such release.
- (e) The department will follow the Santa Clara County Protocol on Officer-Involved Incident Guidelines. However, an officer may request an exception to the guidelines to view their own video recording prior to an administrative or criminal interview. Such request will be determined at the sole discretion of the Chief or his/her designee.

424.11 SYSTEM ADMINISTRATOR

The System Administrators are designated by the Chief and have oversight responsibilities, including, but not limited to, the following:

- (a) Operation and user administration of the system.
- (b) System evaluation.
- (c) Training whether on-going or initial.
- (d) Policy and procedure review, evaluation and updates.
- (e) Coordination with IT regarding system related issues.

Portable Audio/Video Recorders

425.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio recording devices by members of this department while in the performance of their duties. Portable audio recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio recordings, interviews or interrogations conducted at any City of Sunnyvale Department of Public Safety facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

425.2 POLICY

The City of Sunnyvale Department of Public Safety may provide members with access to portable audio recorders 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.

It is the purpose of this policy to provide officers with guidelines for the use of the digital recorders and the procedure on how to upload recorded statements/information. A recorded statement can be deemed evidence in which case the rules of discovery would apply. To ensure proper documentation of statements, citizens contacts, etc. the following policy/procedures are in effect.

425.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

425.4 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. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to the Property Unit or his/her supervisor and obtain a functioning device as soon as practicable. The non-working portable audio recorder shall be turned into the Property Unit. A new portable audio recorder can be obtained from the Property Unit. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable..

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. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable..

Portable Audio/Video Recorders

When using a portable recorder, the assigned member shall record his/her name, DPS identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Officers **shall** document in their written report that recorded statements were taken and who gave them (suspect, victim, witness, etc.). A separate heading, **DIGITAL RECORDINGS**, **shall** be at the end of the report. A list of who was recorded will be listed under this heading

425.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

425.5 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) when directed by a supervisor.
- (b) Felony investigations involving violence or the crime is sexual in nature.
- (c) All juvenile victims where the crime was sexual in nature.

The recording of suspects (juvenile and adult) should include the recitation of Miranda rights when practical. There is no requirement that suspects be informed they are being recorded.

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.

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.

425.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief or the authorized designee.

Portable Audio/Video Recorders

425.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

425.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

425.6 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 Chief. 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, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

425.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

425.7 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Portable Audio/Video Recorders

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.

425.8 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. 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 or 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 or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

425.9 COORDINATOR

The Chief or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.

Portable Audio/Video Recorders

- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

425.10 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the City of Sunnyvale Department of Public Safety

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should 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.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

425.10.1 RELEASE OF AUDIO RECORDINGS

Requests for the release of audio recordings shall be processed in accordance with the Records Maintenance and Release Policy.

Medical Marijuana

426.1 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.

426.1.1 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).

Medical Marijuana

426.2 POLICY

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. In addition, the laws preserve the rights of local agencies to regulate through zoning and police powers marijuana activities and land uses associated with marijuana. Sunnyvale has chosen to regulate medical marijuana cultivation, delivery and commercial activities in the Sunnyvale Municipal Code.

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 City of Sunnyvale Department of Public Safety will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

426.3 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.

426.3.1 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.

426.3.2 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.

Medical Marijuana

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.

426.3.3 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).

426.3.4 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 or the City Attorney, in cases involving violations of the Sunnyvale Municipal Code 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.

Medical Marijuana

3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
 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, the climate, etc.
- (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 the City Attorney (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 are provided a defense under MMP (Health & Safety Code § 11362.775; Business and Professions Code § 19320 et seq.).
- (d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

426.3.5 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.

Medical Marijuana

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.
- (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).

426.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

426.4 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.

426.5 PROPERTY UNIT RESPONSIBILITIES

The Property Unit 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 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 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 may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigations Unit Supervisor.

Bicycle Patrol Unit

427.1 PURPOSE AND SCOPE

The City of Sunnyvale Department of Public Safety has established the Bicycle Patrol Unit (BPU) 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.

427.2 POLICY

Patrol bicycles may be used for regular patrol duty, pedestrian and bicycle 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.

427.3 BICYCLE PATROL STAFFING

No more than two (2) officers per squad will have the patrol bicycle on their patrol vehicle and wear the patrol bicycle uniform during the squad's shift. Exceptions may be authorized for special events and/or with supervisor approval.

No more than three (3) officers working patrol will conduct bicycle patrol at the same time throughout the day or night. Exceptions may be authorized for special events and/or with supervisor approval.

427.3.1 OFFICER RESPONSIBILITIES

- (a) Officers will follow the bicycle patrol staffing guidelines.
- (b) Officers are responsible for wearing the appropriate patrol bicycle uniform, duty equipment, and safety equipment while conducting bicycle patrol.
- (c) Officers wearing the bicycle patrol uniform will make every effort to conduct bicycle patrol at least one time throughout the shift.
- (d) Officers are responsible for ensuring the trunk-mounted carrier or hitch-mount carrier and the patrol bicycle are properly secured before and during vehicle movement.
- (e) Officers are to monitor staffing levels and calls for service before and while conducting bicycle patrol. Consideration should be given to the response delay of officers conducting bicycle patrol.
- (f) 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.

Bicycle Patrol Unit

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.
- (d) This subdivision does not relieve a peace officer from the duty to operate a bicycle with due regard for the safety of all persons using the highway (Vehicle Code § 21200(b)(2)).

427.3.2 SUPERVISOR RESPONSIBILITIES

- (a) Supervisors are to ensure that officers performing bicycle patrol duties are properly outfitted as described below.
- (b) Supervisors will ensure officers are following the bicycle patrol staffing guidelines.
- (c) Supervisors are to monitor staffing levels and calls for service when officers are conducting bicycle patrol. Consideration should be given to the delayed response of a bicycle officer.

427.4 TRAINING

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program.

427.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, and approved footwear.

The bicycle patrol unit uniform consists of the department-approved bicycle shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes the department approved jacket in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment 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.

427.6 PROCEDURES

Officers are to obtain permission from their immediate supervisor prior to utilizing a patrol bicycle. Request for usage should normally be made in advance to eliminate conflicts.

City of Sunnyvale Department of Public Safety

Department Policies

Bicycle Patrol Unit

Patrol bicycles are to be stored and checked out from the shed at the City Hall pumps. Only bicycles marked "POLICE" are to be used. Exceptions may be granted by the Patrol Captain or above. The following procedures shall be followed by all officers:

- (a) Complete all pre-ride maintenance checks to ensure safe operation. Each bicycle will have a trunk mounted carrier and bike lock attached.
- (b) Complete the check in/out binder.
- (c) Properly attach either the trunk-mounted or hitch-mounted carrier and bicycle. No carrier/rack that is damaged is to be used at any time.
- (d) Officer will advise Communications when patrolling on a bicycle with the status "Bike". The RD or geographic designator shall also be included.
- (e) When returning the patrol bicycle all post-ride maintenance checks will be completed. Any discrepancies or damage will be noted in the Patrol Bicycle damage/discrepancies binder.
- (f) All patrol bicycles and carriers will be properly stored after use.

427.7 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle with an attached gear bag.

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. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

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 insure 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, the bicycle shall be taken to the department approved repair shop/technician for repair work. The completed repair work order will be forwarded to the program supervisor along with an email.

Each bicycle will have scheduled maintenance performed once yearly by a department approved repair shop/technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

City of Sunnyvale Department of Public Safety

Department Policies

Bicycle Patrol Unit

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.

Bicycles shall be properly secured when not in the officer's immediate presence.

Municipal Code Ordinance Enforcement

428.1 POLICY

The Department of Public Safety has a responsibility and an obligation to the public to respond, when appropriate, to all calls for service involving possible violations of the City of Sunnyvale Municipal Code. The Department of Public Safety is not responsible for the enforcement of every title of the municipal code. Certain situations will require that Public Safety merely document the incident and refer the investigation to another city department.

When code violations occur and compliance is not voluntarily met, property owners will be notified as appropriate or necessary, in addition to tenants or businesses, in an effort to achieve compliance. A record of that contact will be maintained.

428.2 PROCEDURAL GUIDELINES

Although the Municipal Code gives certain designated officers and employees the authority to issue citations without a warrant to any person whenever the officer or employee has reasonable cause to believe that the person to be cited has committed an act in his or her presence which is a violation of the provisions of the code, enforcement action is not in all circumstances recommended or desired. In an effort to educate the public while at the same time providing quality service delivery, it is sometimes preferable to complete a thorough investigation and forward the report to the department within the city that has direct responsibility for that specific title.

428.2.1 REFERRAL AND ENFORCEMENT SECTIONS

During normal business hours, a violation of the listed provisions **shall be referred** to the appropriate city department. During other than normal business hours an officer shall refer the violation by documenting the incident on an Offense Report. The offense report shall list the related municipal code section number, the crime name and the classification box shall contain "Refer to ..." (list the referral department from section B above). A case number for the offense report is mandatory and the case status shall be inactive. A complete and thorough investigation into the alleged violation(s) shall be conducted so that further investigation can be completed at a later date by the appropriate City Department. Officers should note that while certain sections are enforced by the Department of Public Safety, other specified sections shall be referred to another city department.

Title 1 - General Provisions Only - Refer to City Attorney.

Title 2 - Administration and Personnel - Refer to City Attorney.

Title 3 - Revenue and Finance - Refer to Department of Finance.

Title 4 - (Reserved).

City of Sunnyvale Department of Public Safety

Department Policies

Municipal Code Ordinance Enforcement

Title 5 - Business Licenses and Regulations - Chapters 5.28 -Peddlers and Chapter 5.36 - Taxicabs shall be enforced by the Department of Public Safety. All other sections shall be referred to the Department of Community Development, One Stop Permit Section.

Title 6 - Animals - Chapter 6.30 - Beekeeping Standards shall be referred to Department of Community Development. All other sections shall be enforced by the Department of Public Safety.

Title 7 - (Reserved).

Title 8 - Health and Sanitation - Sections 8.04.060 - Dumping or accumulating debris prohibited and 8.16.130 - Collection stations – Number and location shall be enforced by the Department of Public Safety. All other sections shall be referred to the City Attorney.

Title 9 - Public Peace, Safety or Welfare - Chapters 9.28 - Regulation of Smoking and 9.60 - Advertising and Printed Matter shall be referred to the Department of Community Development. Chapters 9.72 - Discrimination Against Families with Minor Children in Housing and 9.76 - Prohibition Against Discrimination Based on Acquired Immune Deficiency Syndrome (AIDS) shall be referred to the City Attorney. All other sections shall be enforced by the Department of Public Safety.

Title 10 - Vehicles and Traffic - Shall be enforced by the Department of Public Safety.

Title 11 - (Reserved).

Title 12 - Water and Sewers - Refer to Department of Public Works, Water Pollution Control Plant.

Title 13 - Streets and Sidewalks - Refer to the Department of Public Works, Engineering Division.

Title 14 - Improvement Procedure Code - Refer to City Attorney.

Title 15 - Underground Utilities - Refer to City Attorney.

Title 16 - Building and Construction - Chapters 16.52 - Fire Code, 16.53 - Toxic Gas and 16.54 - Building Standards for Buildings Exceeding Seventy-Five Feet In Height shall be enforced by the Department of Public Safety, Fire Prevention Unit. All other Chapters shall be referred to the Department of Community Development, Building Division.

Title 17 - (Reserved).

Title 18 - Subdivisions - Refer to Department of Public Works, Engineering Division.

Title 19 - Zoning - Refer to Department of Community Development, Planning Division.

Title 20 - Hazardous Materials - Refer to Department of Public Safety, Fire Prevention Unit.

428.2.2 DEPARTMENT OF PUBLIC SAFETY ENFORCEMENT SECTIONS

A Public Safety Officer **shall** take appropriate enforcement action whenever he/she has reasonable cause to believe a violation of any of the following Municipal Code provisions have occurred:

City of Sunnyvale Department of Public Safety

Department Policies

Municipal Code Ordinance Enforcement

Title 5 - Business Licenses and Regulations - Chapters 5.28 - Peddlers and Chapter 5.36 - Taxicabs shall be enforced by the Department of Public Safety. All other sections shall be referred to the Department of Community Development, One Stop Permit Section.

Title 6 - Animals - Chapter 6.30 - Beekeeping Standards shall be referred to Department of Community Development. All other sections shall be enforced by the Department of Public Safety.

Title 8 - Health and Sanitation - Sections 8.04.060 - Dumping or Accumulating Debris Prohibited and 8.16.130 – Collection stations – Number and location - shall be enforced by the Department of Public Safety. All other sections shall be referred to the City Attorney.

Title 9 - Public Peace, Safety or Welfare - Chapters 9.28 - Regulation of Smoking and 9.60 - Advertising and Printed Matter shall be referred to the Department of Community Development. Chapters 9.72 - Discrimination Against Families with Minor Children in Housing and 9.76 - Prohibition Against Discrimination Based on Acquired Immune Deficiency Syndrome (AIDS) shall be referred to the City Attorney. All other sections shall be enforced by the Department of Public Safety.

Title 10 - Vehicles and Traffic - Shall be enforced by the Department of Public Safety.

428.3 DOCUMENTATION

Sections of the Municipal Code are classified as either civil, infractions or misdemeanors. SMC Chapter 1.04.010 enumerates the sections of the code and classifies each of these sections.

The following are the documentation guidelines for municipal code violations.

428.3.1 REFERRAL REPORTS

An Offense Report is required for a possible violation of any Municipal Code provision that is to be referred to another city department during other than normal business hours. A complete and thorough investigation into the alleged violation(s) shall be conducted so that further investigation can be completed at a later date by the appropriate City Department. The offense report shall list the related municipal code section number, the crime name and the classification box shall contain "Refer to ..." (list the referral department from above). A case number for the offense report is mandatory and the case status shall be inactive.

428.3.2 MISDEMEANOR MUNICIPAL CODE VIOLATIONS

Generally, individuals arrested for misdemeanor violations of the Municipal Code **should not** be physically arrested and brought to headquarters for processing. Instead, the individual shall be processed as follows:

- (a) An Offense Report is required for any misdemeanor violation of a Municipal Code provision. The offense report shall list the related Municipal Code section, the crime name, and the classification shall contain the words "Municipal Code Violation". A case number for the offense report is mandatory.
- (b) A Notice to Appear/Complaint Citation shall then be completed. Under the "Booking Required" section of the citation, the check box shall be left BLANK since misdemeanor Municipal Code violations **do not** require booking. Additionally, there

Municipal Code Ordinance Enforcement

shall be no arrest number obtained from records and the violation **shall not** be entered into the CJIC system. In the Court box area of the citation the officer shall check the "To be Notified by the City Attorney" box.

- (c) Records shall make copies of all Misdemeanor Municipal Code Offense Reports and associated Notice to Appear/Complaint Citations and forward these copies to the Court Liaison Office. The Court Liaison person shall prepare a case file and forward the file to the City Attorney's office.
- (d) Individuals who refuse to sign the citation for misdemeanor violations shall generally not be arrested. Instead, write "personally served" on the signature line and leave the defendant's copy of the citation with the individual.

428.3.3 INFRACTION MUNICIPAL CODE VIOLATIONS

1. All infraction violations of the Municipal Code require the completion of a Notice to Appear/Complaint Citation for adult defendants. The officer need not generate a case number unless there will be a report accompanying the citation. Offense reports for infraction violations are optional. The officer shall completely fill out the citation and in the Court Box, the officer shall check the "Appear at Traffic Court" box. All infraction violations of the code shall be cited into the traffic court only.

2. If the individual cited is a juvenile, a Juvenile Contact Report is required in lieu of a Notice to Appear/Complaint Citation.

3. Individuals who refuse to sign the citation for infraction violations shall not be arrested. Instead, write "personally served" on the signature line and leave the defendant's copy of the citation with the individual.

428.3.4 CIVIL MUNICIPAL CODE VIOLATIONS

All civil violations of the municipal code (parking violations) shall be written on a Parking Citation (PS 802 form).

428.4 BARKING DOG ENFORCEMENT

In order to ensure maximum effectiveness of the dog barking abatement procedures, while at the same time allowing sufficient flexibility to deal with various aspects of the problem, the Department of Public Safety is now primarily responsible for all policy and procedural decisions associated with this program. Single department control of the program will allow DPS personnel to respond to the problem with greater effectiveness, permit DPS supervisors to monitor the procedures and make appropriate adjustments, and greatly improve the quality of public service provided.

Although there will invariably be other types of nuisance animal complaints in the City of Sunnyvale, the dog barking complaint is the only one that a Public Safety Officer will normally have to address. During their normal tour of duty, all other nuisance animal complaints shall be forwarded to the Animal Control Unit personnel within the Department of Public Safety. During the Animal Control Unit's off-duty hours, Public Safety Officers will continue to respond to all animal nuisance complaints.

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428.4.1 ABATEMENT WARNING NOTICE

1. All barking dog complaints will be screened by the Desk Officer prior to patrol assignment in order to ascertain if a prior warning notice or citation(s) was issued to the owner of the dog(s) creating the problem.

- (a) The case will then be sent via CAD with comments describing prior history.
- (b) Upon receipt of a barking dog complaint, the officer shall contact the reporting party/victim and verify the existence of a nuisance. The dog need not be barking while the officer is present. However, in such cases, a reporting party/victim must be listed on the case as a witness to the nuisance complaint. The reporting party/victim shall be told that he/she is required to monitor the dog's activity and keep a written log documenting at least five occurrences in a 15-day period for which the animal violates subsection (c) of this provision.
 - 1. The reporting party/victim shall be told that a private person may initiate an action under Civil Code Section 3493 in lieu of involving the Department of Public Safety in the nuisance complaint (6.16.015 (c)(2)).
- (c) When there is a reporting party/victim who is willing to be a witness to the barking dog complaint, and who is willing to keep a written log documenting at least five occurrences in a 15-day period for which the animal violates subsection (c) of this provision, the officer shall then attempt to contact the dog owner and issue a notice of warning (PS 182), which provides the owner with a 15#day time frame to abate the nuisance. Additionally, if the owner is contacted and a warning notice issued, the officer shall add the animal owners name and date of birth to the case. This may assist an officer at a later time if a citation needs to be issued but contact with the owner is not convenient.
- (d) If no one is home, the notice is mailed by the investigating officer, via registered mail, to the address.
- (e) Only **one (1)** warning notice shall be issued to a dog owner per year. Documented in CAD shall be the name and brief description of the animal causing the nuisance. After the first warning notice is issued, no other warning notices shall be issued. Each and every time an officer responds to a complaint the reporting party/victim will be told that he/she is required to keep a written log documenting at least five occurrences in a 15-day period for which the animal violates subsection (c) of this provision.
- (f) Complaints that are received between 2200 hours and 0600 hours shall be investigated as soon as possible. If, due to lateness of the hour, it is not convenient to contact the complaining party/witness at the time of the response, the officer shall still respond to the area in order to investigate and/or witness the complaint himself/herself. It is acceptable and advisable to contact the complainant/witness prior to 2200 hours or after 0600 hours to fully investigate the violation(s). One exception to this procedure shall be when the complainant/witness is insisting on police contact as soon as possible.

2. A copy of the warning notice is forwarded to the Desk Officer, who files it as a record of warning to that owner.

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3. An Animal Complaint Log shall be maintained by the Desk Officer and kept in a location in the Desk Officer's office that allows for quick and easy access. Patrol officers are responsible for updating the log at the completion of each animal complaint investigation. This shall be done by either advising the Desk Officer of the disposition or filling the log out personally.

428.4.2 ABATEMENT - INFRACTION CITATION

1. Copies of the warning notices will be kept on file by the Desk Officers for a period of one year and then purged.

2. The warning notice with the 15#day grace period is designed to provide dog owners sufficient time to implement remedial action.

3. If after the 15#day warning period the animal is still creating a nuisance and the reporting party/victim has written documentation which indicates the animal is in violation of 6.16.015 (c), an officer shall respond to the scene and conduct a thorough investigation. This investigation need not be documented on a Crime Report, but should include contact with other neighbors who live in close proximity to the dog owner's residence. Once the investigation is complete, the officer may either issue a Notice to Appear/Complaint Citation or refer the individual to Civil Code Section 3493. If a citation is issued, the following guidelines shall be utilized:

- (a) A citation shall be issued to the animal owner by the investigating officer while at the scene if the dog owner is present. If the dog owner is not present, the necessary follow-up shall be done to obtain the necessary information in order to thoroughly complete a Notice to Appear/Complaint Citation (a Notice to Appear/Complaint Citation shall be issued with each and every response where there is a complainant/witness who is willing to appear to prosecute the case).
 - 1. Issue a citation directly to the owner of the dog(s) for violation of Municipal Code Section 6.16.015 (c), or;
 - 2. When no one is home, conduct the necessary follow-up investigation to obtain the dog owner's personal information in order to thoroughly complete the Notice to Appear/Complaint Citation. The citation may be sent by registered mail to the dog owner. The dog owner shall be given a "traffic court" date with no time listed. A violation of this section is an infraction.
 - 3. An offense report is not mandatory, but one may be written at the discretion of the investigating officer. If an offense is not completed, the officer shall document the victim/witness information in the "Remarks" section on the officer's green copy of the Notice to Appear/Complaint citation or on CAD. If an Offense Report is written, the following shall apply:
 - (a) Include case history on the nuisance in the narrative section of the report.
 - (b) One copy of the report and citation will be retained on file by the Desk Officer.

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428.5 JUVENILE ALCOHOL PARTY ENFORCEMENT

It is the policy of this Department to enforce Sunnyvale Municipal Code , Juvenile Alcohol Parties, to control large unsupervised juvenile drinking parties. The Municipal Code deals with possession or consumption of alcohol by minors in a non-public place when not supervised by their parent or legal guardian. The Public Safety Department will become involved in the enforcement of this ordinance when someone hosts a gathering of ten (10) or more juveniles and one or more of them is in possession, or is consuming, an alcoholic beverage. In order to discourage and minimize the frequency of repeated responses to these types of calls, a service fee will be charged to the responsible host upon a second response after a First Response Notice has been issued.

This policy does not apply to small family gatherings where wine and/or beer may be consumed.

428.5.1 FIRST RESPONSE

- (a) Assess staffing needs based on the size of the group.
- (b) Identify the Host
 - 1. Obtain full name
 - 2. Date of birth
 - 3. Address
 - 4. Telephone number
- (c) Obtain the name of the person who is the property owner or the person in control of the property. In most cases, this will be the suspect's parent(s). This will be for the purpose of cost recovery (in some cases, this may be the suspect).
- (d) Identify at least ten (10) persons present who are under 21 years of age.
 - 1. Obtain full names
 - 2. Dates of birth
 - 3. Addresses
 - 4. Telephone numbers
 - 5. Where they attend school
- (e) Identify at least one person who is under the age of 21 who was observed to be in possession of, or consuming, an alcoholic beverage.
 - 1. Obtain full name(s)
 - 2. Date(s) of birth
 - 3. Address(es)
 - 4. Telephone number(s)
 - 5. Where they attend school
 - 6. Take note of what was possessed or consumed
 - 7. Parents of persons identified (may be contacted by NROs later)

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- (f) Confiscate and dispose of any remaining alcoholic beverages. This should be documented in the report. Alcoholic beverages are rarely required for evidence in misdemeanor cases involving alcoholic offenses, and custody should be avoided whenever possible and when it is not required for evidence. Only two (2) ounces of liquid will be kept for a sample. The remainder of the liquid will be disposed of in a safe and lawful manner.
- (g) Officers may photograph evidence of alcoholic beverage consumption (i.e. empty alcoholic beverage containers).
- (h) Cite/arrest for appropriate violations of the Municipal Code, Penal Code, Business and Professions Code, and the Vehicle Code. **Formal enforcement action is required.** Exceptions must be cleared by a supervisor (e.g. when a juvenile called for assistance to remove party crashers).
- (i) Evaluate the circumstances to determine if the suspect should be issued a citation and released at the scene (to a responsible adult if the suspect is a juvenile), or be taken into custody. Note that if a suspect is taken into custody, the gathering should be dispersed and the residence should be secured.
- (j) It shall be the Officer's discretion to determine how the remaining guests should be dispersed.
- (k) First Response Notice - In all cases, whether the host is cited or not, a First Response Notice will be issued to the responsible host. A copy will be given to the host and the other copy will be placed in the Department's General File as part of an Offense Report.
- (l) Complete an ARS Report for all parties found to be in violation. The report must be completed prior to going off-duty and passed on to the next supervisor for reference, if a second response is necessary.

428.5.2 SECOND RESPONSE NOTICE

After a first response warning notice has been issued to the responsible host, and a second response to a violation of the Municipal Code is necessary to preserve the public peace, safety or general welfare, the person responsible shall be held liable for the costs of the second response. The investigating officer will complete a Second Response Notice. A copy will be given to the person responsible and the other copy will be placed in the Department's General File. In addition, the investigating officer will complete a Supplemental Report detailing the events of the second visit.

428.5.3 COST RECOVERY

The investigating officer shall initiate a memo to the Patrol Staff Lieutenant indicating a Second Response Notice was issued and the case number. The Staff Lieutenant will then be responsible for determining which personnel and equipment were used and for what period of time. The Staff Lieutenant will determine the cost for the time spent and equipment used and prepare an Invoice Requisition for submission to the Finance Department for billing. If the offender is under 21 years of age, his/her parent(s) will be responsible for the cost.

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428.5.4 COMMUNITY SERVICES DIVISION RESPONSIBILITIES

All Juvenile Contact Reports will be reviewed by the Juvenile Probation Officer.

In cases where the juvenile is under 18 years of age and was arrested or cited for an offense, the juvenile may be placed into the Public Safety Diversion Program.

The Neighborhood Resource Officers will be responsible for providing yearly training to Middle and High School students on the Sunnyvale Municipal Code Sections dealing with juvenile alcohol parties.

428.6 UNLAWFUL FIREWORKS

Unlawful fireworks are to be seized by officers and stored for destruction or used as evidence in prosecutions.

In less serious cases, seizure for disposal and a WARNING is appropriate.

In more serious cases where individuals are willing to release fireworks for destruction and in incidents involving gross misconduct or possession of fireworks for sale, officers are to make arrests and include the elements relative to the crime.

Violators will normally be charged with violation of SMC Unlawful Possession of Fireworks. However, when subsequent review by Fire Prevention personnel results in the determination that the uncharged person should be prosecuted, or that an arrested person should also be charged with possession of unregistered fireworks (12671 H&S), a complaint will be requested.

428.6.1 DOCUMENTATION

Arrests - In cases where an arrest is made or a complaint sought, an Offense Report and/or a JCR is required. The seizure shall be documented by a regular Property Report and the Receipt copy given to the violator.

Warning - In cases where a WARNING is appropriate, a special Property Report with the fireworks admonishment printed in the "Circumstances" section is to be used to document a seizure. The receipt copy of the Property Report is to be given to the violator as the formal warning.

428.6.2 STORAGE

A specially constructed fireworks container, located in the Property Unit at Public Safety Headquarters, is to be used to store all confiscated fireworks.

Seized fireworks are to be packaged and labeled with an evidence tag.

Property Unit personnel shall contact authorized disposal services as necessary for pickup.

428.7 NOISE ABATEMENT

To provide police services assistance to the City of Sunnyvale Code Enforcement Technician in cases involving neighborhood noise nuisances and noise problems resulting from incompatible land operation uses.

Municipal Code Ordinance Enforcement

428.7.1 COMPLAINT RECEIVED BY PLANNING DIVISION

- (a) When the City of Sunnyvale Planning Code Enforcement Technician receives a noise complaint that is associated to land operation, he will forward a memorandum to the Patrol Services Captain requesting police services investigation. The memo will include a summary of the problem and what specific investigation is needed.
- (b) The Patrol Services Captain will review the information on the memo and assign the case to the appropriate Crime Scene Investigator (CSI).
- (c) The CSI will meet with the complainant, obtain any necessary additional information and respond to the noise nuisance location.
- (d) Using the noise meter, the CSI will check the noise levels and record the readings (refer to Municipal Code) on the appropriate forms. He will complete an ARS Report, attach the readings and submit the report to the Patrol Services Captain.
 - 1. The case status will be left active.
- (e) As indicated under the Municipal Code Section, "The noise or sound which is continuously or recurrently generated or produced by any activity, operation or installation shall not exceed seventy-five (75) decibels at any point on the property line of the premises upon which the noise or sound is generated or produced. Provided, however, that the noise or sound level shall not exceed fifty (50) decibels at any point on such property line which forms a common boundary with property in a residential zoning district."
- (f) The Patrol Services Captain will review and initial the report, send a copy to the Code Enforcement Technician, retain a copy for future reference and submit the original to the Records Division.
- (g) The Code Enforcement Technician will notify the Patrol Services Captain via memorandum on the disposition of the problem and the offense will then be changed to an Inactive or Cleared by Arrest status.

428.7.2 COMPLAINTS RECEIVED BY DISPATCH

- (a) When a land operation noise nuisance complaint is received by Dispatch, the case will be assigned to the appropriate on-duty CSI.
- (b) The CSI will meet with the complainant, obtain any necessary additional information and respond to the noise nuisance location.
- (c) Using the noise meter, the CSI will check the noise levels and record the readings on the appropriate forms and whenever possible abate the nuisance while at the location. The CSI, if unable to abate the nuisance, will take whatever action is necessary under the provisions of Penal Code Section 415 or the Municipal Code. He/She will then notify the complainant of the action taken and the next step in the legal process. The CSI will complete an ARS Report, attach the readings and forward the report to the Patrol Services Captain.
 - 1. The case status will be left Inactive.

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- (d) The Patrol Services Captain will review and initial the report, send a copy to the Code Enforcement Technician, retain a copy for future reference and submit the original to the Records Division.
- (e) The Code Enforcement Technician will notify the Patrol Services Captain via memorandum on the disposition of the problem and the case status will be changed to Inactive or Cleared by Arrest status.

428.8 ANTI-SCAVENGING ORDINANCE ENFORCEMENT

The following procedures were developed to resolve the current problem involving the theft of curbside recyclables in the City of Sunnyvale. Theft of recyclables left at curbsides is a violation of the Sunnyvale Municipal Code and constitutes criminal conduct. Violation of the ordinance is an infraction.

Public Safety personnel shall investigate all reports of theft of recyclables and issue a citation whenever possible.

428.8.1 ON-VIEW/IN-PROGRESS INCIDENTS

If a suspect is observed by an officer stealing recyclables a citation shall be issued for the appropriate municipal code violation.

If there are no suspects and/or leads, an event number with the "N" - Nora disposition.

428.8.2 DELAYED COMPLAINTS

In cases where suspect information is developed the officer will attempt to contact the suspect and advise them of the law violation.

Landlord/Tenant Disputes

429.1 INTRODUCTION

The officer's role as a keeper of the peace requires dealing with areas of human conflict, including the handling of landlord#tenant disputes. Although the traditional practice of the police has been to regard landlord#tenant conflicts as civil only, often such disputes involve a misdemeanor violation of the penal code or result in some type of violence. It is important, therefore, for officers to be aware of both the practical and legal issues involved in the typical landlord#tenant disputes in order to prevent these conflicts from escalating into violent confrontations. An officer who understands the basic civil and criminal law in this area can be effective in mediating landlord#tenant disputes without the occurrence of violence or the necessity for arrests.

Effective handling of landlord#tenant disputes requires an understanding of applicable penal code provisions. The officer should try to avoid arrest and achieve a lasting solution to the dispute by explaining to the parties what conduct is not lawful and by suggesting alternative legal solutions.

429.2 UNLAWFUL CONDUCT BY THE LANDLORD

429.2.1 TENANT LOCKOUT

When a tenant is behind in their rent, the landlord will jam or change the tenant's door lock in order to prevent the tenant's further use of the dwelling until the rent is paid. This lockout procedure is a misdemeanor prohibited by Section 418 of the Penal Code.

429.2.2 SEIZURE OF TENANT'S PROPERTY

It is illegal for a landlord to seize a tenant's possession as payment for past#due rent. A seizure also results when the landlord has locked the tenant out of the dwelling, since the tenant's possessions are thereby locked in. The seizure of a tenant's property is a misdemeanor, prohibited by Penal Code Section 418. Generally, a landlord may not take possession of the tenant's property unless a court order is obtained which clearly gives permission. (Cal. Civil Code S1816 [a]).

429.2.3 REMOVAL OF DOOR OR WINDOWS

If the landlord removes the doors or windows of the tenant's dwelling in an attempt to evict the tenant, or in any way destroys the tenant's property, the landlord may be guilty of malicious mischief, in violation of Penal Code Section 594. Even though the landlord may be destroying his own property, the courts have held that since a tenant has a property interest in the premises, any such acts of destruction by the landlord constitutes malicious mischief against the tenant.

429.2.4 TERMINATION OF SERVICES

Interference with the tenant's ability to obtain services such as gas, electricity and water is also a common practice of a landlord who desires to get rid of an uncooperative tenant. Such action is often a misdemeanor violation of local city ordinance. In addition, California Civil Code Section 789.3 makes a landlord liable in a civil action for 1) actual damages, 2) \$100 per day punitive damages, and 3) attorney's fees, if willfully interrupts or terminates the tenant's utilities service.

Landlord/Tenant Disputes

429.2.5 TRESPASS

The landlord may enter an apartment or rental dwelling without tenant's consent only in the following situations:

- (a) In an emergency.
 - 1. Provides for entry at any time if emergency conditions exist, e.g., smoke, leaking water, etc.
- (b) To make necessary repairs or agreed on repairs or to show apartment to prospective tenants, purchases, workmen or contractors or mortgage holders.
 - 1. During normal business hours with reasonable notice to tenant.
- (c) When tenant has moved out.
- (d) When a court order authorizing entry is in effect.

Note: Any section in a lease which denies tenants the right to possession or allows unreasonable entry by a landlord is void.

429.3 OFFICER INTERVENTION

Even though a landlord may have proper legal grounds for evicting the tenant, it is unlawful for them to use any of the above methods in an attempt to force the tenant to vacate the premises.

Rather, they must bring a civil suit called an "unlawful detainer" action, to have the tenant legally evicted. In the usual case, an officer will respond to a call from an angry tenant who has been locked out of his apartment. When the officer arrives on the scene, he/she may be faced with a potentially violent confrontation between the landlord and tenant.

Often, an officer will just inform the parties that their dispute is a civil matter and leave. But if the officer understands basic legal principles, he/she can often resolve the dispute by informing the parties of their legal right and obligations.

If the officer has responded to a tenant's complaint that the landlord has 1) locked them out, 2) seized their property, 3) removed the doors or windows to the premises, 4) interfered with the use of the utilities, or 5) unreasonably trespassed on the premises, the officer can often successfully resolve the dispute by:

- (a) Informing the landlord that he/she has probably committed a misdemeanor violation.
- (b) Briefly explaining to the landlord that if he/she has legal grounds for evicting the tenant, he/she should bring an unlawful detainer action against them.

Very often the landlord is unaware that the conduct is unlawful that he/she has committed a misdemeanor. A simple explanation by the officer that the landlord's self-help measures are unlawful will often be enough to modify them. If, however, the landlord is uncooperative (e.g., refuses to replace the tenant's doors and windows), the officer can explain to him/her that criminal proceedings can be initiated by the tenant. This tactic usually insures cooperation.

If an officer has a knowledge of the relevant civil law that may be used in the typical landlord#tenant dispute, he/she will be better equipped to handle the immediate problems and suggest a

Landlord/Tenant Disputes

permanent solution. For example, if a landlord has locked the tenant out for non#payment of rent, the officer could briefly explain to the landlord how legal eviction of the tenant can be accomplished.

Simply telling the landlord that lockouts are unlawful might get the tenant back into the apartment again, but that alone will not resolve the landlord's problem.

429.4 EVICTION

The best legal way for a landlord to evict a tenant is by bringing an unlawful detainer action in court.

429.4.1 NOTICE

If the tenant has violated any of the conditions of the lease or rental agreement (e.g., he/she failed to pay rent when it was due; keeping a pet when this is specifically prohibited), the landlord must give the tenant a three#day written notice to either correct the condition or move, prior to bringing an action in court to evict them. This means that if the tenant who is behind in the rent pays the total rent due within the three#day period, the landlord cannot have them evicted.

The landlord must give a copy of the written notice to every adult to whom the premises were rented. In addition, the landlord must serve the tenant with a legally correct notice. The forms are available at any large stationary store.

429.4.2 MONTH-TO-MONTH TENANCY

In addition, a landlord has the right to terminate a month#to#month tenancy for almost any reason, even if the tenant has not violated any provisions of the rental agreement. To do this, the landlord must first serve the tenant with a written notice instructing him to vacate in 30 days. If the tenant fails to move within 30 days, the landlord must then bring an unlawful detainer action against the tenant.

429.4.3 30 DAY NOTICE

A 30 day notice must be served in one of these ways:

- (a) Handed to tenant personally.
- (b) Handed to an adult on the premises and a copy sent to the tenant by mail.
- (c) If no one is home, the notice may be posted in a conspicuous place and a copy sent by mail.

Notice: Service of notice by a landlord is not sufficient for legal eviction. See unlawful detainer action.

429.4.4 UNLAWFUL DETAINER ACTION

If the tenant has been properly served with a 3 or 30 day notice and does not comply with it, the landlord can bring court action to evict them.

If a lawful eviction occurs and the tenant re-enters the residence review the cour paperwork and consider a trespassing violation.

Landlord/Tenant Disputes

429.5 LANDLORD RESPONSIBILITIES

Landlords have a general legal obligation to keep the premises they rent in a condition fit for human occupancy and to repair all defects that make the premises uninhabitable. This means that the landlord must provide an apartment that has:

- (a) A structure, that is weatherproof, waterproof and rodent proof.
- (b) A workable plumbing system.
- (c) One working toilet, bathtub, and bathroom sink.
- (d) One working kitchen sink.
- (e) Adequate heating facilities.
- (f) Safe electrical wiring.
- (g) Adequate garbage and trash storage and removal facilities.

The landlord cannot waive these requirements by placing the burden to repair these facilities on the tenant as part of the conditions of the lease.

Foot Pursuits

430.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

430.1.1 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.

430.2 DECISION TO PURSUE

The safety of department members 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 members.

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 justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

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 may place department members 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 a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area by establishing a perimeter.

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- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) 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 foot pursuit.

430.3 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory
- (b) The officer is acting alone.
- (c) 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) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (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.

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- (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.
- (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 members 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 environmental conditions.
- (p) Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

430.4 RESPONSIBILITIES IN FOOT PURSUITS

430.4.1 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, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

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 foot 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 the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct

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further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

430.4.2 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.

430.4.3 SUPERVISOR RESPONSIBILITIES

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 foot 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-foot pursuit activity.

430.4.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

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

430.5 REPORTING REQUIREMENTS

The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.

Foot Pursuits

1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
 - (g) Arrestee information, if applicable.
 - (h) Any injuries and/or medical treatment.
 - (i) Any property or equipment damage.
 - (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which an unidentified suspect is not apprehended and there is insufficient information to support further investigation comments referencing the circumstances of the foot pursuit should be added to CAD comments.

430.6 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

Automated License Plate Readers (ALPRs)

431.1 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.

431.2 ADMINISTRATION OF ALPR DATA

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the City of Sunnyvale Department of Public Safety 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 Patrol Staff Lieutenant. The Patrol Staff Lieutenant is responsible for administering the day-to-day operation of the ALPR equipment and data.

431.2.1 ALPR ADMINISTRATOR

The Patrol Staff Lieutenant 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) Ensuring this policy and related procedures are conspicuously posted on the department's website.

431.3 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.

Automated License Plate Readers (ALPRs)

- (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.

431.4 DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of law enforcement and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained may be used and shared with prosecutors or other law enforcement agencies only as permitted by law. Data contained in the South Bay Information Sharing System (SBISS) and Northern California Intelligence Center (NCRIC) servers is for law enforcement investigatory files. As such, the data is not subject to disclosure pursuant to Government Code 6254(f).

Data collected by ALPR units are uploaded to the SBISS and NCRIC servers. All ALPR reads downloaded to the SBISS and NCRIC servers are stored for a minimum of one year (Government Code § 34090.6). Unless the data has become, or it is reasonable to believe will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the NCRIC server onto portable media and booked into evidence.

The Patrol Staff Lieutenant is responsible to ensure proper collection and retention of ALPR data.

431.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The SBISS and NCRIC adhere to the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (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).

Automated License Plate Readers (ALPRs)

- (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.
- (d) ALPR system audits are conducted by a senior SBISS and NCRIC official other than the person assigned to manage the ALPR function:
 - 1. Name of the law enforcement user
 - 2. Agency of the law enforcement user
 - 3. Date and time of the access
 - 4. Activities executed
 - 5. License plate(s) searched
 - 6. Justification for the search
 - 7. Associated case number

Audit reports from SBISS will be provided periodically and on request to supervisory personnel at the SBISS host and partner agencies. Audit reports from NCRIC will be reported to the Director of NCRIC.

All security or data breaches will be reported to the users parent agency..

431.6 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, through the Northern California Regional Intelligence Center (NCRIC).

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).

431.7 TRAINING

The Patrol Staff Lieutenant 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).

Stolen Vehicle and Lost/Stolen Plate(s)

432.1 PURPOSE

To provide uniform policy and reporting procedures in the preparation of reports concerning stolen, recovered, embezzled, rental/leased vehicles, loaned and fraudulently appropriated vehicles and lost/stolen plate(s).

432.2 DEFINITIONS

Stolen Vehicle - A stolen vehicle is one which has been stolen, taken or driven without the consent of the owner and in violation of California Vehicle Code (CVC) section 10851 or California Penal Code (PC) section 487. The investigation should establish that the vehicle has not been towed, repossessed, embezzled, lost or misplaced.

Leased and Rented Vehicles Not Returned (10855 CVC) - Whenever any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to the owner within five (5) days after the lease or rental agreement has expired, that person shall be presumed to have embezzled the vehicle. A vehicle deemed "embezzled" will, after five (5) days, be considered stolen and will be investigated as an embezzled vehicle pursuant to 504a PC.

Domestic Loan of Vehicle - When the vehicle is loaned to a friend or acquaintance, the person who loaned the vehicle may or may not have been specific as to when the vehicle was to be returned.

The policy of this Department is for personnel to advise the individual reporting the incidents that a theft report generally will not be taken until five (5) days after the date the vehicle was due to be returned. In all cases, the reporting party should be instructed to make every effort to recover the vehicle during the five (5) day waiting period.

Embezzled Vehicle - An embezzled vehicle is one which has been fraudulently appropriated by a person to whom it has been entrusted, as defined by California Penal Code section 503.

Stolen Vehicle Component - A stolen vehicle component is a vehicle component which has been taken without the owner's consent.

432.2.1 UNLAWFUL USE OR TAMPERING (10854 CVC)

This section is to be used only in cases where a person other than the owner of the vehicle who has storage, care, safe keeping, custody, or possession of the vehicle, and when such person, without the consent of the owner, takes, hires, runs, drives, or uses the vehicle or removes any part thereof.

The intent of this section is to make it criminal for a person entrusted with a vehicle, by its owner, to use or tamper with the vehicle; i.e. the auto repair shop which returns the vehicle with 500 miles added to the odometer, or switches seats during servicing. These vehicles would not normally be entered into the Stolen Vehicle System (SVS).

Stolen Vehicle and Lost/Stolen Plate(s)

432.2.2 TEST DRIVES

Private Party Sale # A stolen vehicle report will be taken after the individual test driving the vehicle fails to return it to the owner within a reasonable amount of time. A three (3) to four (4) hour time span should be a reasonable length of time for the test driver to make mechanical checks and to detect potential car problems.

Automobile Dealerships # The three (3) to four (4) hour time span applies, however, the dealership representative who authorized the test drive will be required to make the theft report after the elapsed time.

No waiting period is required when the vehicle was taken by force, fraud or deception. A Beat Officer will respond to the incident scene to take a report.

432.2.3 LOST, STOLEN, AND RECOVERED PLATE(S)

Lost Plate – Lost license plates are those which are reported by the owner or the owner's agent to have been lost.

Stolen Plate # Stolen license plates are those which the owner or the owner's agent have reasonable cause to believe have been stolen.

Recovered Plate – Recovered license plates are those which have been found that appear to have been lost, stolen, or discarded.

In accordance with 10500 CVC, lost or stolen license plates that come into the possession of the Department shall be entered into the Stolen Vehicle System (SVS) by dispatch.

432.3 DESK OFFICER RESPONSIBILITY

The Desk Officer shall take reports of stolen vehicles and or lost/stolen plate(s) where the response of a Beat Officer would lend no more information than that which can be obtained on the phone.

Ensure that the reporting party is the legal owner or in lawful possession of the vehicle at the time it was stolen. There are several methods of validating the information given:

- (a) Ask reporting party for the Vehicle Identification Number (VIN) printed on the vehicle title document. Compare the VIN against the registration file to ensure it is the same. A person fictitiously reporting a stolen vehicle will generally not know the VIN number.
- (b) Compare the driver's license number of the reporting party with the electronic CLETS record. Check this number against DDL file. Persons using another name will generally not know the driver's license number of the person whose name they are using.
- (c) Conduct a "vehicles registered to" inquiry to determine if the vehicle is actually registered to the reporting party.

If the Desk Officer, in his/her judgment, is not satisfied that the reporting party is the legal owner or lawfully in possession of the vehicle being reported, the Desk Officer should direct the reporting party to make the report in person and present proof of ownership.

Stolen Vehicle and Lost/Stolen Plate(s)

432.4 OFFICER RESPONSIBILITY

The officer will respond to the location of the theft to conduct the investigation under the following circumstances:

- (a) Physical evidence needs to be collected.
- (b) Witnesses to the crime are available for interview.
- (c) The stolen vehicle used in other serious crime, i.e. 211, 207, 187 PC and an extensive follow#up investigation may be needed.

Upon arrival, the Officer will determine the reporting party is the legal owner or was in lawful possession of the vehicle at the time it was stolen. There are several methods of validating legal ownership and/or possession:

- (a) Ask the reporting party for the VIN from the vehicle title document or insurance policy. Compare the number with the CLETS record. A person fictitiously reporting a stolen vehicle will generally not know the VIN number.
- (b) Ascertain the reporting party's driver's license number. Compare this number with the CLETS record. Persons using another name will generally not know the driver's license number of the person whose name they are using.
- (c) Conduct a "vehicles registered to" inquiry to determine if the vehicle is actually registered to the reporting party.

Further investigation will be conducted by the Officer if he/she is not satisfied that the reporting party is the legal owner or lawfully in possession of the vehicle being reported.

The investigating officer will ensure all automated entries of stolen embezzled vehicles, lost/stolen plate(s), etc., are made and appropriate All Points Bulletins (APB's) are provided to Communications.

432.5 LICENSE PLATES

432.5.1 LOST (ONE PLATE MISSING)

Obtain information on vehicle.

- (a) License - Make sure the registered owner or legal owner is the reporting party. If possible, obtain the tab number located on the registration.
- (b) VIN - Check to see it matches.
- (c) Year
- (d) Make
- (e) Model
- (f) Style - 2 door, 4 door, coupe, or van.
- (g) Color

Stolen Vehicle and Lost/Stolen Plate(s)

Direct the reporting party to immediately remove the license plate that is still on the vehicle and surrender the plate to the Department of Motor Vehicles (DMV) where they can obtain new license plate.

The report shall be documented on the CHP 180 form.

- (a) Check the boxes indicating that both plates are missing.
- (b) Check the Plate(s) Report box.
- (c) In the narrative section of the form document that the reporting party was advised to remove the remaining plate and immediately surrender it to DMV.

432.5.2 STOLEN

First substantiate the plates are stolen. If substantiated, the offense shall be documented on the CHP 180 form.

Documentation similar to lost license plate above.

432.6 STOLEN OR EMBEZZLED VEHICLE

432.6.1 INVESTIGATION

Departmental personnel who receive a vehicle theft report, vehicle component theft report, or a vehicle embezzlement report shall make every effort to determine the validity of the report. When there is reason to believe it is not an authentic report, essential information is being withheld, or a theft did not occur, the individual shall be warned of the criminal consequences of making a fraudulent report in consideration of California Vehicle Code section 10501 and California Penal Code section 148.5. If after being admonished the reporting party still insists upon making a report, they shall be required to file the report in person, answer all questions and affix his or her signature in the place provided on the CHP 180 form.

432.7 TELEPHONE REPORTS

432.7.1 UNACCEPTABLE REPORTS

Theft reports may not be accepted over the telephone under any of the following circumstances. If any of the circumstances are present, or at the direction of a supervisor, a beat officer shall be sent to take a report:

- (a) A crime is in progress and/or the suspects are present.
- (b) The reporting party insists that an officer respond to the scene.
- (c) The reporting party is not the registered or legal owner, or the lessee of the vehicle.
- (d) Witnesses and/or physical evidence are reported as being present at the scene.
- (e) The reporting party sounds intoxicated or disoriented.
- (f) The information provided by the reporting party is unreasonable, questionable, or suspicious.
- (g) The vehicle is embezzled or is associated with another crime.

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- (h) Other complicating factors are present which make it difficult to determine the validity of the stolen vehicle/component report on the telephone. Example: The suspect is a family member, person residing in the household, or has had limited use of the vehicle on prior occasions.
- (i) At the direction of a supervisor.

432.7.2 ACCEPTABLE REPORTS

When accepting a vehicle or vehicle component theft report over the telephone, the officer shall comply with the following procedures:

- (a) The officer shall identify him/herself as a Public Safety Officer.
- (b) The officer shall also complete a crime report in ARS containing a detailed description of the stolen vehicle and the investigation.
- (c) The officer should obtain the following minimum information:
 - 1. Reporting party's name, address and telephone number.
 - 2. Vehicle description (make, model, and color) and license plate number.
 - 3. Determine if the reporting party is the registered owner, legal owner, or lessee.
 - 4. Utilize the CLETS automated system to determine the current registration status of the vehicle and owner:
 - (a) Check to determine if the vehicle has already been reported as stolen and is currently outstanding, or if it has been stored, impounded, or repossessed. If any of these have occurred, inform the reporting party and provide them with any necessary information they may need.
 - (b) Obtain registered owner and Stolen Vehicle System (SVS) inquiry printouts and attach the printouts to the CHP 180.
- (d) If the vehicle has not already been entered into the Stolen Vehicle System (SVS) as being an outstanding stolen, stored, impounded, or repossessed, the officer shall inform the reporting party that based on the information provided, the vehicle theft report can be accepted by telephone, if the party desires. If the reporting party states that he/she wishes to file a report, the report shall be taken. Officer will advise the reporting party they will need to come to headquarters to sign his/her signature on the CHP 180 form.
- (e) The officer taking the report shall ensure that the information required for the Stolen/Embezzles narrative is obtained and recorded.
- (f) Reports of stolen vehicles shall be entered into the Stolen Vehicle System (SVS) by Records personnel.

Homeless Persons

433.1 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 City of Sunnyvale Department of Public Safety recognizes that members of the homeless community are often in need of special protection and services. The City of Sunnyvale Department of Public Safety will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

433.1.1 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety 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.

433.2 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.

433.2.1 ENCAMPMENTS

In response to the issue of encampments and storing of property in public areas in violation of the city ordinance, the following procedures will be followed:

- (a) If the individual has not previously been warned of the ordinance (as determined by an RMS check), the officer will provide a verbal warning, which will be documented on a Field Interview (FI) card. The officer will also provide the individual with the community resource resource handout.
- (b) If the individual was previously warned of the ordinance, the officer will issue a written warning. The original will be given to the individual and the yellow copy sent to the City Attorney's Office. The issuance of the warning will also be documented on an FI card.
- (c) If the individual is subsequently contacted and is still/again in violation of the ordinance after a written warning was issued, the officer may issue a citation for the applicable city ordinance violation. The citation will be submitted to Records for RMS data entry and then sent to the Court Liaison for submittal to the City Attorney.

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1. If the citation is for a stand-alone violation of the ordinance, the citation will be listed as an infraction violation and instead of listing a court date, the "To be notified" box shall be checked and "City Attorney" written in the adjacent space. This will be the procedure for each and every stand-alone violation.
2. For encampments and accumulation of property in public places, a supervisor will contact the Department of Public Works (DPW) requesting the property removed. The posting and removal of the property will be the responsibility of DPW.

433.2.2 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.
- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse 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.

433.3 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

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taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

433.4 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 the Crisis Intervention Incidents Policy).

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.

433.5 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 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.

Public Recording of Law Enforcement Activity

434.1 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.

434.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

434.3 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.

434.4 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.

Public Recording of Law Enforcement Activity

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 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.

434.5 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.

434.6 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. The consent should be recorded by the officer, when practical.

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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.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Crisis Intervention Incidents (CRITICAL)

435.1 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.

435.1.1 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.

Crisis Intervention Team - Is a team of officers specially trained to respond to incidents involving individuals who are either known or suspected to be in acute psychological or emotional crisis.

435.2 POLICY

The City of Sunnyvale Department of Public Safety 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 assist its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

435.3 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

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- (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.

435.4 CRISIS INTERVENTION TEAM

The use of CIT Officers is not limited to situations involving mental illness but includes those situations where an individual is either known, or suspected, to be in psychological or emotional crisis and is in need of intervention due to posing a danger to him/her self and/or others. Unless otherwise directed by a SWAT supervisor or Command Officer, a CIT Officer shall not act in the capacity of a Hostage Negotiator at a SWAT incident.

If a CIT officer is required on scene due to the severity of the incident, the CIT Officer shall assume overall responsibility for the mental illness component of the call, regardless of disposition. This includes both 5150 reporting and transportation to a mental health facility.

435.5 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. Whenever possible, a CIT Officer will respond to any call involving mentally ill individuals involving threats or violence. 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 a CIT Officer 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 no CIT Officer is available, dispatch will assign the appropriate number of Officers and advise a Patrol supervisor, "No CIT available."
- (d) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (e) Attempt to determine if weapons are present or available.
 - 1. Prior to making contact, and whenever possible and reasonable, have Communications conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications

Crisis Intervention Incidents (CRITICAL)

System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).

- (f) 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.
- (g) Secure the scene and clear the immediate area as necessary.
- (h) Employ tactics to preserve the safety of all participants.
- (i) Determine the nature of any crime.
- (j) Request a supervisor, as warranted.
- (k) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (l) If circumstances reasonably permit, consider and employ alternatives to force.

Officers shall assume responsibility for all other non-CIT related issues (i.e: crime report) unless otherwise directed by a supervisor.

In a situation where a mentally ill individual is the victim of a crime, an Officer not trained in CIT may request the response of a CIT Officer to assist with interviews or other resource information.

435.6 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.

Crisis Intervention Incidents (CRITICAL)

- 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.

435.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the Communications 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 headquarters response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

435.8 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.
- (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.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

435.9 PROFESSIONAL STAFF INTERACTION WITH PEOPLE IN CRISIS

Professional Staff 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.

Crisis Intervention Incidents (CRITICAL)

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.

435.10 FOLLOW-UP

The CIT coordinator should liaison with the Santa Clara County Department of Mental Health (DMH, Adult Probation, and County Multi-Disciplinary Committees to share disposition and follow-up needs for individuals who have required intervention. Follow-up may include joint cooperation between Patrol, Special Operations and the Law Enforcement Liaison for County Mental Health.

The CIT coordinator shall be responsible for maintaining information on high-risk individuals with prior or on-going psychological or emotional impairment. Information on high-risk individuals will be documented in the premise history file in CAD and made available to in-field units as deemed appropriate.

435.11 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).

First Amendment Assemblies

436.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

436.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

436.3 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 should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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436.3.1 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.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious, or social views of associations, or the activities of any individual, group, association, organization, corporation, business, or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

436.3.2 UNPLANNED DEMONSTRATION

In the event that a demonstration occurs without prior notice to the Department, the following guidelines shall apply:

- (a) The on-duty Patrol Supervisor shall respond to the scene to evaluate the situation and determine the need for additional resources.
- (b) If the incident cannot be handled by available patrol units, the Patrol Supervisor will request callback of the Mobile Field Force (MFF) and will immediately make the appropriate Command Staff notifications.
- (c) Pending the arrival of additional resources, the Patrol Supervisor will take the necessary action required to protect life and property.

436.3.3 RESPONSE TO DEMONSTRATIONS

- (a) Tactics employed by demonstrators engaged in disruptive activities frequently includes efforts to draw the police and other public officials into responses likely to produce violence and injury to participants and, thus, garner support for their cause. Therefore, it is incumbent upon the Department members to resolve disruptive situations in a manner which will minimize the potential for violent confrontations by performing assigned tasks within the framework of the following principles.
- (b) Demonstrations are often highly emotional incidents. The demonstrators and others in the area are committed to their various causes and their possibly conflicting rights. In such situations Department members must remain objective in order to maintain effectiveness. Once an Officer's objectivity is lost, or even appears to be lost, the Officers' mere presence at a demonstration may increase tensions and make the police task even more difficult. Department members assigned to the scene of a demonstration will strive to maintain an outward appearance of calmness, whether the task involved is simply standing by protecting demonstrators from hostile onlookers, or making necessary arrests of violent demonstrators.
- (c) Equality of Treatment # Department members will treat demonstrators, onlookers, or counter-demonstrators with equal treatment.
- (d) Response to Violent Conduct # When a demonstrator uses physical force upon another person or property, Department members should promptly make an arrest

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unless the supervising Officer at the scene concludes that making the arrest would divert limited manpower or be unnecessarily risky in reducing the ability of members to perform their duties most effectively.

- (e) Response to Other Illegal Conduct # Arrests will occasionally have to be made because of a demonstrator's nonviolent, but nevertheless, illegal conduct, for example, illegal obstruction of streets or building entrances. In such situations, the Officer in command at the scene will decide if such arrests are to be made. However, before any such arrest is made, demonstrators will be warned that they must move or risk arrest.

436.4 COORDINATION OF DEPARTMENTAL ACTIONS

- (a) Department members will strive to ensure that a disciplined and coordinated Department response is maintained at the scene of a demonstration.
 - (a) The Incident Command System structure will be utilized and implemented by the first arriving supervisor.
- (b) Department members will not act alone unless a loss of life or great bodily harm could result from the conduct of demonstrators. When mere property damage is imminent, members will coordinate their response through assigned supervisors and perform tasks as directed. Supervisors will remain at the scene and continually seek information concerning location and number of demonstrators, emotional condition of the crowd and resources available to effectively maintain order.

436.5 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.

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436.5.1 GENERAL

Due to the variety of situations existing during a civil disorder, it is not possible to establish procedures which would cover all contingencies. Therefore, the Department has established the following procedures to assist members assigned to the scene of a civil disturbance.

436.5.2 FIRST OFFICERS AT SCENE

The first Officer at the Scene of a disturbance should observe the situation from a distance and evaluate it before taking action. If the situation warrants, such Officer will notify the on-duty supervisor.

436.5.3 SUPERVISOR RESPONSIBILITY

Refer to the above Unplanned Demonstration section.

436.5.4 COORDINATION OF EFFORT

Officers actions will be coordinated by a supervisor. Only requested units will respond to the scene. Officers will report to the supervisor after parking their vehicles in one group, away from the crowd. At least one (1) Officer will be assigned to guard the vehicles against damage. Individual Officers should avoid driving their cars into the center of the crowd and operating individually.

436.5.5 ORDER TO DISPERSE

A dispersal order must be given before a person can be guilty of remaining at a place of riot, rout, or unlawful assembly. If the supervisor in charge at a disturbance scene decides to declare an unlawful assembly, such supervisor should go as near to the crowd as is safe and make an audible statement having the following form:

"This is (rank and name), a Peace Officer of the State of California and a Police Officer of the City of Sunnyvale. I do hereby declare this an unlawful assembly and in the name of the people of the State of California, I command you to immediately disperse."

A reasonable time must be given for compliance. Orders for arrest may then be given.

436.6 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 Electrical Weapons 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).

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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.

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.

436.7 ARRESTS

The City of Sunnyvale Department of Public Safety 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 should be taken into consideration.
- (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).

436.8 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 News Media Relations Policy).

Department members assigned to the scene of a demonstration will cooperate with the press pursuant to the guidelines set forth in the News Media Relations policy, whether writers, photographers, radio or television personnel. News media representatives have a constitutional right to cover demonstrations, though as everyone else, they must not violate the law.

Those with a right to cover or photograph demonstrations are obviously not limited to representatives of the major papers or radio or television stations. Persons who represent some

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of the areas' smaller newspapers or magazines, free lancers, and other citizens are also entitled to take notes or photographs.

Although the press has no special right as a matter of law to be present if an unlawful assembly is declared, nevertheless, in such situations members will attempt to discriminate between nonobstructing members of the press and voluntary participants in the unlawful assembly.

436.8.1 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).

436.9 REQUEST FOR ASSISTANCE

While the control of riots is primarily the responsibility of the Public Safety Department, assistance can be expected from other agencies if the riot or demonstration grows very large.

In the event that mutual aid assistance is required, the Public Safety Director, or his/her designee, will implement the law enforcement mutual aid plan according to the guidelines set forth in the Appendix of this manual.

436.10 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.

436.11 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.

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- (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 rank of Captain or higher, may authorize its use at the scene of the assembly, protest, or demonstration.

436.11.1 USE SUMMARY

The Police Services 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.

Civil Disputes

437.1 PURPOSE AND SCOPE

This policy provides members of the City of Sunnyvale Department of Public Safety with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

437.2 POLICY

The City of Sunnyvale Department of Public Safety recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal advice.

437.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

Civil Disputes

437.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate court(s).

437.4.1 STANDBY REQUESTS

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

437.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

437.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

Suspicious Activity Reporting

438.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity. This policy **is not** intended for public release per Government Code § 6254 (f), as this policy contains security procedures and/or intelligence information related to the Department.

438.1.1 DEFINITIONS

Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Suspicious activity - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. 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 should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

Suspicious Activity Report (SAR) - An incident report used to document suspicious activity.

438.2 POLICY

The City of Sunnyvale Department of Public Safety recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

438.3 RESPONSIBILITIES

The Special Operations Captain and authorized designees will manage SAR activities. Authorized designees should include the Office of Emergency Services Lieutenant who is the designated Terrorism Liaison Officer - Coordinator (TLO-C) and officers who are responsible for department participation in TLO program as outlined in the TLO Policy.

Suspicious Activity Reporting

The responsibilities of the TLO-C include, but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.
- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

438.4 REPORTING AND INVESTIGATION

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any professional member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

438.5 HANDLING INFORMATION

- (a) Make no mention on any report or form (other than a SAR) of potential terrorism-related material or activity whenever there is information indicating suspicious activity with a potential terrorism nexus while investigating an unrelated crime or incident. (e.g., officers conducting a domestic violence investigation observe possible surveillance photographs and a map of the region surrounding a government facility). Under these

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circumstances, the officers shall complete a separate SAR in addition to the crime or arrest report. This protects the personal identification information in the crime report from the activity detailed in the SAR.

- (b) A SAR will be completed in the event of a Terrorist Screening Center (TSC) advisory on an involved party. The contact information should be routed to a TLO or TLO-C through inter-office mail or in person so that the SAR can be completed. The on scene supervisor will determine if any further law enforcement response or notifications to the TLO-C are needed.
- (c) Adhere to the Fourth Amendment and all other constitutional rights under the United States and California Constitutions pertaining to reporting and investigation pursuant to the SAR policy. Evidence cannot be seized except pursuant to a warrant or an existing, recognized exception to the warrant requirements.
- (d) Route the SAR to the TLO-C by inter-office mail or in person.
 - 1. If a SAR is routed through the normal report process by accident, Records personnel will re-route the report as mentioned above without making any copies of the report.
- (e) Notify the TLO-C or a TLO if the report involves an arrest or a crime with follow-up potential.
 - 1. Nothing in this policy alters existing policies regarding notifications to required specialized units, supervisors, and managers.
 - 2. Hazmat personnel and Bomb Detection K-9 handlers shall ensure that a SAR is completed on all incidents on which they respond where a potential nexus to terrorism exists.

438.6 SAR FOLLOW-UP

- (a) All SAR's will be reviewed by the TLO-C and assigned to a TLO as appropriate for follow up.
- (b) The assigned TLO shall ensure that the suspicious activity reported fits the criteria of a SAR. After the TLO has completed all necessary follow-up, a decision between the TLO and the TLO-C will be made as to the credibility of the information and whether or not the SAR will be officially submitted to the Northern California Regional Intelligence Center (NCRIC) as an official SAR entry from the Department. A decision will also be made as to how the information will be disseminated internally.
- (c) The original (physical) SAR will be kept in the Investigations Unit's Intelligence Cabinet for a period of two years as allowed by California Government Code Section 34090 and will then be purged (unless it is involved in an on-going investigation). No other copies of the SAR will be made and kept in the Department. However, the details related to the contact may be maintained in RMS permanently. Any notation that a SAR was completed will not be placed in RMS to protect the involved parties in the incident.
- (d) Information in a SAR is strategic intelligence that will allow the Department and partner agencies to make an informed decision on how to counter the activity with resources if necessary.

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- (e) If a crime is discovered in the SAR, it will be re-routed back to the officer who handled the incident for follow-up, if necessary.
- (f) SARs are considered intelligence files, therefore, are exempt from disclosure per the California Public Records Act.

Neighborhood Resource Officers

440.1 PURPOSE AND SCOPE

This policy describes the Sunnyvale Department of Public Safety Neighborhood Resource Officer (NRO) program.

440.2 POLICY

The Department of Public Safety is committed to enhancing the quality of life of Sunnyvale residents, students, and school faculty within the city's jurisdiction. Neighborhood Resource Officers enhance safety within the community by forming and maintaining partnerships with neighborhood groups, school administrators, faculty members and students.

440.3 NEIGHBORHOOD RESOURCE OFFICER (NRO) PROGRAM

The goals and objectives of the NRO program include, but are not limited to:

- (a) Creating respect for law and order in the public school system and minimizing criminal activity.
- (b) Identifying students at risk of becoming involved in the criminal justice system and guiding them toward positive and socially acceptable behavior.
- (c) Reducing criminal activity on school campus and within the surrounding neighborhoods.
- (d) Enhancing communication between the Department of Public Safety and Sunnyvale residents, students, and school faculty.
- (e) Reviewing campus security measures throughout the school year and making recommendations to enhance safety and reduce risk.

440.4 NEIGHBORHOOD RESOURCE OFFICER (NRO) DUTIES

Neighborhood Resource Officer (NRO) duties and responsibilities include:

- (a) Responding to calls and investigating misdemeanor offenses that occur on student-occupied property during school hours.
- (b) Assisting DPS personnel with investigations that originate on student-occupied property or that involve students.
- (c) Providing education for students, faculty and administrators as requested.
- (d) Assisting faculty and administrators in establishing policies that contribute to the safety of school staff and students.
- (e) Participating in student conferences, as requested and appropriate.
- (f) Providing youth gang task force intelligence as appropriate.
- (g) Identifying community issues, concerns, and crime trends which cause long term quality of life and livability issues.

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- (h) Coordinating resources to assist in solving problems within the community.
- (i) Providing education and support to neighborhood associations, neighborhood watch groups, and community based organizations.
- (j) Participating in community outreach programs and events as appropriate.

440.5 TRAINING

The Department should provide members appointed as NROs POST recognized training, such as SRO/NRO schools, Crisis Intervention Training, etc. as available.

Community Service Officers

441.1 PURPOSE

The Department of Public Safety is committed to enhancing the quality of life of Sunnyvale residents. Community Service Officers (CSOs) provide enhanced service to the community by responding to non-emergency calls for service, freeing Public Safety Officers to focus on proactive policing.

441.2 DUTIES

- (a) Assist officers with field duties, community presentations, and neighborhood outreach events.
- (b) Investigate crime and traffic reports which are low risk in nature and are not in progress.
- (c) Identify, preserve, collect and analyze evidence associated with low risk criminal incidents.
- (d) Report problems or calls for assistance as appropriate.
- (e) Enforce municipal and vehicle code violations as appropriate.
- (f) Conduct traffic control when necessary.
- (g) Assist with crowd control during non-violent incidents.
- (h) Testify in court, as necessary.
- (i) Transport victim(s), witness(es) and juvenile(s) as needed.
- (j) Transport Public Safety vehicles, as necessary.
- (k) Assist with parking control/enforcement, as needed.
- (l) Assist with marking and tagging abandoned vehicles, as needed.
- (m) Participate in mandated and authorized training as required.

441.3 RESPONSIBILITIES

- (a) 10851's
 - 1. Reports
 - 2. Recovery
 - 3. No suspects or leads
- (b) Burglary Reports
 - 1. No suspect or leads
- (c) Lost/Found Property
- (d) Vandalism

Community Service Officers

1. No suspects or leads
- (e) Collision Reports
 1. 11-82
 2. 11-81 (no transport)
 3. Hit and Run
 - (a) No suspect(s)
 - (b) Non-transport
 4. Shall not take any portion of a DUI collision report
- (f) Thefts
 1. No suspects or leads.
- (g) Traffic Control
- (h) Crowd Control
 1. Non-violent
- (i) Subpoena Service
- (j) Vehicle tows
- (k) Vehicle and Equipment Maintenance
- (l) Community Presentations
- (m) Barking Dogs
- (n) Dead/Injured Animals
 1. As needed
- (o) Stray Animals
 1. As needed
- (p) Vehicle Abatement
 1. As needed
- (q) Parking Enforcement
 1. As needed
- (r) Hospital Pick-ups
- (s) Vacation Checks
- (t) Neighborhood/Park Checks
- (u) Injury on City Property
- (v) City Property Damage
- (w) Traffic Hazards

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Community Service Officers

- (x) Attempt to Contacts
- (y) Citation Sign-offs
- (z) Municipal Code Violations
- (aa) Car Seat Installations
- (ab) Evidence Photos
 - 1. As needed

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 City of Sunnyvale Department of Public Safety. 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:

Traffic Function and Responsibility

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.

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).

Traffic Function and Responsibility

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.

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.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests should be stored in a manner that protects and maintains the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

Traffic Collision Reporting

501.1 PURPOSE AND SCOPE

The City of Sunnyvale Department of Public Safety 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.

When Department policy conflicts with the CIM, department policy shall be applied.

501.2 RESPONSIBILITY

An investigation and report should correctly identify the cause of a collision and responsible party(s). In those cases where a law violation can be proven, a citation shall normally be issued to the responsible party(s) per 40600(a)/(d) VC. Whenever possible, an officer shall issue a citation to the responsible party(s) while at the scene of the collision and the individual shall be asked to sign the citation. If the individual refuses to sign the citation, the issuing officer shall write on the signature line "personally served". No arrest shall be made pursuant to 40302(b) VC. Traffic collision investigations that are submitted where no citation has been issued at the scene shall follow the normal channel for approval. If the reviewing supervisor believes that a law violation can be proven, s/he will direct the Investigating Officer to issue a citation and arrange for personal service of the Notice to Appear/Complaint Citation.

Note: The method of personal service may vary and will be up to the discretion of the Reviewing Supervisor.

A crime report number ("CR") is required anytime there is a Collision Investigation, Collision Report, or Property Damage Only (PDO) Report completed.

501.3 TRAFFIC COLLISION REPORTING STANDARDS

Investigations of collisions shall be documented in accordance with the following guidelines. The California Highway Patrol Collision Investigation Manual (CIM) should be used as a guide in collision report writing.

All traffic collision reports taken by members of this department shall be forwarded to the their immediate supervisor for review and approval upon completion, or within 24 hours of collision (maximum). The Traffic Lieutenant will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the assigned Patrol Captain, or other persons as required.

501.3.1 EVENT NUMBER (E.V.)

An **Event Number (E.V.)** only incident ("N" disposition) may be used with the following non-highway collisions:

- (a) Minor injuries (injured party is not taken directly to a medical facility).
- (b) Property damage only (no public property involved).

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- (c) An involved party's telephone report of a property damage only accident (no public property involved).
- (d) A collision involves damage to private property and the driver is unable to notify the property owner in compliance with 20002(a) VC. However, the driver notified the Department in order to meet compliance.

501.3.2 PROPERTY DAMAGE ONLY (PDO)

Property Damage Only (PDO) with the report format narrative option may be used when the following conditions exist:

- (a) No more than two parties involved.
- (b) No injuries or complaint of pain.
- (c) All in-person delayed reports taken by the Desk Officer.
 - 1. The Desk Officer shall write "delayed" in the Special Conditions box and the PCF will be listed as "unknown".
- (d) 20002(a) CVC where prosecution is unlikely.
 - 1. No suspects or leads.

501.3.3 COLLISION REPORT

A **Collision Report (CHP 555)** with the report format (see CIM 3-B-1) shall be used when one or more of the following apply:

- (a) A traffic collision occurring on a highway involving injuries which do not require immediate treatment at a medical facility, unless a supervisor determines that the collision should be documented as a Collision Investigation.
- (b) Private property collisions where a person is taken to a medical facility for treatment (except in the case of a fatal collision).
- (c) A collision involving damage to public property.
- (d) More than two parties are involved in the collision.
- (e) The collision involves a delayed reported injury.

501.3.4 COLLISION INVESTIGATION

A **Collision Investigation (CHP 555)** with the investigation format (see CIM 3-A-1) shall be used when one or more of the following conditions exist:

- (a) A vehicle collision results in a fatality.
- (b) A vehicle collision results in personal injury, and the injured party(ies) is/are taken directly to a medical facility for medical care.
- (c) All collisions resulting in an in-custody arrest for a vehicle code violation.
- (d) A collision involves an "on-duty" City employee who is operating an "in transport" vehicle upon a highway and/or involves a non-City employee or private property. An

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“in transport” vehicle is primarily used for moving persons or property (including the vehicle itself) from one place to another.

- (e) Circumstances of a collision suggest that a Public Agency may be liable for damages and/or injury.
- (f) An involved party is in violation of 20002(a) or (b) on or off a highway and sufficient information is available to identify the hit-and-run driver through follow-up.
- (g) At the discretion of a supervisor.

501.3.5 ARS REPORT

An **ARS Report** with incident type “CITY” listing all involved parties and a synopsis may be used when the following conditions exist and approved by a supervisor:

- (a) Involves a city employee operating a city vehicle.
- (b) Collision occurred on city or private property resulting in damage solely to city property.
- (c) The narrative will contain the following headings:
 - 1. Summary
 - 2. Statements
 - (a) Parties
 - (b) Witness(es)
 - (c) Passenger(s)
 - 3. Cause
 - (a) Supervisor will determine cause and party at fault.

501.3.6 TRAINING COLLISION

When the following conditions exist a memo and photos will be sent through the chain of command documenting the collision:

- (a) Involves a city employee operating a city vehicle during drivers' training.
- (b) Collision occurred on city or private property.

Traffic Unit officers involved in motorcycle training on city or private property are exempt from this reporting requirement.

Training collisions will be subject to the same review and tracking procedures as employee involved collisions.

501.4 CITATIONS

Citations may be issued in conjunction with any PDO, Collision Report, or Collision Investigation per 40600(a) VC. “A peace officer has reasonable cause to issue a written notice to appear if, as a result of the officer’s investigation, the officer has evidence, either testimonial or real, or a combination of testimonial and real, that would be sufficient to issue a written notice to appear if the officer had personally witnessed the events investigated” (reference 40600(d) VC).

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501.5 EMPLOYEE INVOLVED COLLISIONS

501.5.1 INVOLVED EMPLOYEE RESPONSIBILITY

If the involved employee is not injured and/or transported to a medical facility he/she should:

- (a) Assess injuries of involved parties.
- (b) Request emergency medical response as necessary.
- (c) If able activate MVAR and BWC devices.
- (d) Notify on-duty supervisor.
- (e) Remain at scene.
- (f) Maintain scene safety and preserve evidence.
- (g) If the involved employee decides not to provide a statement at the time the collision is being investigated, the employee shall provide a statement to the Patrol supervisor no later than 10 days after the incident.

501.5.2 PATROL SUPERVISOR RESPONSIBILITY

- (a) Respond to the scene of all on-duty employee (including other City employees) involved collisions. If the collision involves an on-duty Public Safety employee who is outside the city limits the appropriate Bureau captain. A supervisor will respond only at the captain's discretion under these circumstances. The outside agency's case number shall be obtained and a copy of the collision report requested.
- (b) Ensure a thorough investigation is conducted including digital photographs of involved vehicle(s) and/or property damage.
- (c) If the involved employee chose not to provide a statement at the time of the original investigation, the supervisor will obtain a statement from the involved employee, no later than 10 days after the incident. If the employee still does not desire to provide a statement, the supervisor will obtain a statement from the employee after providing the Lybarger Admonishment. The supervisor will audio record the admonishment and the employee's statement. The recording will be submitted as part of the case file.
- (d) Determine the Primary Collision Factor (PCF) and the responsible driver.
- (e) Write "Cause" narrative under "Opinions and Conclusions" heading of the collision investigation report.
- (f) Ensure "On Duty Emergency Vehicle" is noted under the "Special Circumstances" section of the Crossroads face page.
- (g) The supervisor will review, but not approve the report in Crossroads.
- (h) The supervisor will submit a printed copy of the report to the Traffic Unit supervisor for review.

501.5.3 SUPERVISOR OF INVOLVED OFFICER

1. Complete Accident/Injury Review form (Form HR85). Form link: dps/Internal/Admin/WC%20Forms/Forms/AllItems.aspx

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2. Complete the Worker's Compensation form (if required) (Form 5020). Forms link: dps/Internal/Admin/WC%20Forms/Forms/AllItems.aspx
3. Complete the Vehicle Accident Review form.
4. Forward Accident/Injury Review and Worker's Compensation forms to the officer's Bureau Captain.
5. The completed Vehicle Accident Review form is sent to the Training Unit Senior Office Assistant.

501.5.4 TRAFFIC UNIT SUPERVISOR RESPONSIBILITY

1. Upon receipt of the printed copy of the report the Traffic Unit supervisor will review the report in Crossroads for accuracy.
2. Once the report is reviewed the printed copy of the report will be sent to the Bureau Captain for review. The report will be stamped reviewed by Traffic Unit supervisor.

501.5.5 TEAM CAPTAIN RESPONSIBILITY

1. Upon receipt of the printed copy from the Traffic Unit supervisor the Team Captain will review the report in Crossroads.
2. The Team Captain will either approve or request changes to the original Crossroads report.
3. Once the original report is approved the report is sent to the Training Unit Senior Office Assistant.
4. The completed Accident/Injury Review and Workers Compensation forms are sent to the Confidential Principal Office Assistant assigned to Strategic Services.

501.5.6 BUREAU DEPUTY CHIEF RESPONSIBILITY

Upon receipt of the Accident Binder from the Training Unit the Bureau Deputy Chief will present the binder to the Operations Group for review. The review will consist of:

- (a) Reviewing the Primary Collision Factor
- (b) Reviewing whether the collision was avoidable or unavoidable
- (c) Reviewing previous on-duty driving history of the involved employee
- (d) Recommending discipline and/or remedial training.

After the review the Bureau Deputy Chief will complete the worksheet determining if the accident was avoidable or unavoidable, any discipline, and any remedial training.

Once the Bureau Deputy Chief receives the determination letter from the Training Unit he/she will review and sign the letter.

501.5.7 TRAINING UNIT RESPONSIBILITY

The Training Unit is responsible for the following:

1. Obtaining management signatures for Vehicle Accident Review Form (VARF).

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2. Create Accident Review binder for appropriate Bureau Deputy Chief.
3. Create finding letter and send to appropriate Bureau Deputy Chief for review and signature.
4. Send copy of collision report to Fleet.
5. Send complete Accident Review binder to Chief for final review and approval.
6. Send a copy of the collision report and a copy of the finding letter to Risk and Insurance.
7. Send copy of finding letter to involved officer's Bureau captain.
8. The Training Unit will maintain accident history.
9. The Training Unit will manage and administer any required remedial training.

501.6 MAJOR ACCIDENT INVESTIGATION TEAM (M.A.I.T.)

Whenever a major collision occurs that includes the types of traffic collisions listed below, the appropriate Patrol Supervisor will initiate the call back of a Major Accident Investigation Team member via Communications.

- (a) Fatal or possible fatal collisions.
- (b) Collisions where someone suffers a major disability injury.
- (c) Collisions involving a substantial liability to the City: i.e., major injury collisions involving City employees.

The following information should be provided to the Traffic Safety Unit Lieutenant:

- (a) Number of vehicles involved.
- (b) Number of persons injured/killed.
- (c) Whether or not a Crime Scene Investigator (CSI) is on duty and available to assist the Investigator.

501.6.1 WHEN M.A.I.T. IS NOT AVAILABLE

There will be times when M.A.I.T is not available. In those circumstances, the on-duty supervisor will be responsible for coordinating accident investigation responsibilities. Even when the M.A.I.T team is absent, the CSI Coordinator should still be contacted to coordinate evidence responsibilities. In the absence of M.A.I.T and a CSI Coordinator, the field supervisor should take the following steps to ensure accidents are properly investigated for M.A.I.T. follow-up:

- (a) Interview all witnesses, passengers and drivers
- (b) Attempt to obtain voluntarily blood samples from involved drivers
- (c) Mark vehicles points of rest, debris, location of injured parties and any other collision evidence (ie. skid marks, roadway gouges, scuff marks etc.
- (d) Obtain aerial photos.
- (e) Tow all involved vehicles to the City Corp Yard as "evidence tows" and follow proper chain of evidence procedures.

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- (f) Conduct a thorough canvass for video evidence or additional witnesses.
- (g) Document signal light functions, if accident occurs in an intersection.

Vehicle Towing and Release

502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the City of Sunnyvale Department of Public Safety. Nothing in this policy shall require the Department to tow a vehicle.

502.2 TYPES OF TOWS

502.2.1 CITIZEN REQUEST - NON-HAZARD (ROTATION)

- (a) Vehicle is not a hazard.
- (b) Driver is present and has requested or has been advised of the tow request.
- (c) Field unit will request a Citizen Request Non-hazard tow. The tow company will be advised that it is a citizen request tow and the description of the vehicle.
- (d) The tow will count as a rotation tow, unless the driver refuses service.
- (e) Specific auto club requests do not count as a rotation tow.
- (f) No DOJ entry is made.

502.2.2 CITIZEN REQUEST - HAZARD (ROTATION)

- (a) Vehicle is a hazard.
- (b) Driver is present and has requested or has been advised of the tow request.
- (c) Field unit is required to remain at scene until arrival of the tow. Field unit will request a Citizen Request Hazard tow.
- (d) The tow company will be advised that it is a rotation tow.
- (e) These tows are entered into the rotation log.
- (f) No DOJ entry is made.

502.2.3 HAZARD ABANDONED (ROTATION)

- (a) Vehicle is a hazard.
- (b) Driver is not present.
- (c) Field unit is required to remain at scene until arrival of the tow. Field unit will request a Hazard Rotation tow.
- (d) The tow company will be advised that the tow is a rotation tow.
- (e) Field unit will provide Communications with the tow authority, as well as all of the information needed for the entry into the rotation log and DOJ.
- (f) If the driver returns to the scene the field unit will advise Communications to correct the rotation log entry to Citizen Request - Hazard tow. No DOJ entry is made.

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502.2.4 ACCIDENT TOW (ROTATION)

- (a) Any vehicle towed from the scene of an accident will be a rotation tow.
- (b) Field unit will request an Accident Tow and advise of any special requirements.
- (c) If the driver of the vehicle is unaware the vehicle is being towed the field unit will provide the tow authority.
- (d) All accident tows are assumed to be a citizen request, unless otherwise specified. No DOJ entry will be made.
- (e) The tow company will be advised that the tow is an accident tow and any special requirements.
- (f) If the vehicle is not a hazard and the driver requests a specific tow company (e.g. AAA, Allstate, ect.) the field unit will advise Communications.

Also reference 514.3.3 of this policy.

502.2.5 ABANDONED VEHICLE TOW - NON-HAZARD (ROTATION)

- (a) Upon receipt of a complaint of an abandoned vehicle a Vehicle Abatement Officer (VAO) or assigned field unit will mark and tag the vehicle.
- (b) The assigned field unit will complete a SCC AVASA form.
- (c) After 72 hours a VAO will recheck the marked vehicle to determine if it has been moved. If the vehicle has not been moved the VAO will request a tow from the abatement rotation list.
- (d) If the vehicle warrants an immediate tow an abatement tow will be requested.
- (e) The VAO or assigned field unit will provide Communications all required information for entry into the rotation log and DOJ.

502.2.6 RECOVERED STOLEN (ROTATION)

This section references all stolen vehicles located by field units. The field unit will request a 10851 Recovery tow. The field unit will provide to Communications information regarding the condition of the vehicle and whether any plates are missing. The tow company will be advised that the tow is a rotation tow.

Exception - If the vehicle was stolen from Sunnyvale and is driveable the owner of the vehicle maybe contacted to respond to the scene to take possession of the vehicle. If this occurs, a CHP 180 (Recovered Stolen Vehicle Report) will be completed and submitted to Records as soon aspossible after releasing the vehicle to the owner. Records will attach the CHP 180 to the SVS update. Communications will indicate that the vehicle was released to the owner.

502.2.7 PRISONER TOW (ROTATION)

When a person who is driving or in control of a vehicle is arrested his/her vehicle will normally be towed and stored for safekeeping. The tow company will be advised that it is a rotation tow. The office will provide the proper tow authority to Communications.

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Reference this policy for traffic collision scenes.

502.2.8 EVIDENCE TOW (ROTATION)

This section references any vehicle being held for evidence. Officers will request an evidence impound tow. The tow company will be advised that it is an evidence impound tow.

Once the investigating officer has determined that the vehicle is no longer required to be held as evidence, (and the DA is in concurrence and OCA, if applicable for city lawsuits or claims, etc.), the status of the case is to be updated by ARS supplemental to indicate the vehicle is no longer needed to be held as evidence and is now a TOWED/STORED vehicle. Records staff should be notified so that SVS can be updated to reflect the change. Property staff should also be notified by the investigating officer and assist to coordinate with the tow company that originally towed the vehicle to relocate the vehicle to the tow yard so the vehicle may be released from there as per this policy..

502.2.9 UNLICENSED DRIVER (ROTATION)

Anytime an officer stops a driver who is driving with a suspended, revoked, or having never been issued a license, the officer should release the vehicle to another licensed driver, if practical, or secure the vehicle at the scene, as long as the vehicle does not jeopardize public safety and the efficient movement of traffic creating a hazard for other drivers or being a target for vandalism or theft. The exception would be if the officer can determine that the driver has been previously issued a citation for being an unlicensed driver, at which time the officer may store the vehicle pursuant to 22651(p) CVC, only after the issuing the driver a citation pursuant to 12500(a) CVC. If the officer can determine the unlicensed driver has been previously issued a citation for 12500(a) CVC and the vehicle stored pursuant to 22651(p) CVC, the officer may impound the vehicle pursuant to 14602.6 CVC. The prior unlicensed driver/tow information (obtained through RMS, DMV, CJIC) shall be documented on the CHP 180. The officer will request a rotation tow for an unlicensed driver and provide Communications with the proper tow authority and other pertinent information for the log and DOJ entry.

Reference this policy for sobriety checkpoints.

502.2.10 CITY VEHICLES

The City contracts with a specific tow company to handle all City vehicles. A separate log is kept for all City vehicles towed or serviced by the tow company.

Field units will request a City Vehicle tow providing the unit number, location, and nature of the problem. Communications will advise the tow company that it is a City vehicle and the nature of the problem. Communication will also advise where the vehicle is to be towed.

502.2.11 ABATEMENTS

A Vehicle Abatement Officer (VAO) will normal handle an abatement tow. A separate log is kept for abatement tows. Field units will request an abatement tow and provide all pertinent information for the log and DOJ entry. Communications will advise the tow company that the tow is an abatement.

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502.2.12 PRIVATE PROPERTY (ROTATION)

Any tow from private property at the request of the property owner or agent. Field units will request a private property tow. The property owner or agent will ultimately be responsible for the removal of the vehicle and will sign the tow company release form. The field unit will provide Communications with all pertinent information for the log and the DOJ entry. The tow company will be advised the tow is a rotation.

502.2.13 BIG RIG TOWS (ROTATION)

The Department has an established Big Rig rotation list. If the need arises for such a tow, the officer will request a Big Rig tow and provide Communications with the pertinent information for the log and the DOJ entry (if necessary). Additionally, the officer should provide any details about the rig to be towed, e.g. length, weight, mechanical problem, etc. Communications will advise the tow company this information to assist on how to best handle situation. The officer will stand by with the driver if the rig is a traffic hazard.

502.2.14 EXPIRED REGISTRATION

(a) Circumstances Justifying Removal

1. The vehicle is not abandoned and is in operating condition (occupied or unoccupied).
 - (a) If abandoned tag only as an abandoned vehicle.
2. A registration check on the license plate or the V.I.N. on the vehicle shows a California registration expiration date that is in excess of six months from the date the vehicle is found on the roadway or,
3. The California expired license plates on the vehicle reflect a "not on file" registration status indicating that the vehicle has not been registered for an excess of four years and the registration record has been purged.

(b) Circumstances Not Justifying Removal

- (a) The vehicle has no license plates and a VIN records check shows a "not on file" status.
 - (a) Tag the vehicle as an abandoned vehicle..
- (b) The vehicle displays a valid temporary operating permit.

(c) Documentation

- (a) Request a hard copy of the DMV response on the vehicle's registration status from Dispatch or Records.
- (b) Attach the DMV hard copy to the towed vehicle report (CHP-180) and forward the report to Records.

502.3 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

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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.

502.3.1 FIELD UNIT RESPONSIBILITY

- (a) Make requests for a tow using the correct type and tow authority.
- (b) Provide all information needed by Communications to complete the tow log and also make the entry into the SVS system.
- (c) Advise Communications of any special requirement or situation affecting the tow (i.e. no tires, lost wheel, etc.)
- (d) On any tow, regardless of what type, when the driver is not present or is not aware of the tow, advise Communications that entry into the DOJ vehicle system is required.
- (e) If the tow company exceeds thirty (30) minutes without notification of delay, field units, at their discretion, may cancel and request the next rotation tow.
- (f) Report unsatisfactory service by completing the Unsatisfactory Tow Report. [J:\DPS\Department-wide\MasterForms\Dispatch](#)
- (g) When a rotation tow is required, auto club tow companies shall not be used in lieu of rotation tow companies.
- (h) If the vehicle is a traffic hazard the officer shall remain on scene until the vehicle(s) have been removed and the necessary clean up has been completed.

502.3.2 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 to be given to the tow truck operator and the original shall be submitted to the Records Unit as soon as practicable after the vehicle is stored.

502.3.3 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 a rotation tow. The officer will then store the vehicle using a CHP Form 180.

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502.3.4 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:

- 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.

502.3.5 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 presentation of a valid driver's license and current vehicle registration.

502.3.6 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by headquarters 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.

502.3.7 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, 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

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following firm is called on the next request. The officer shall be advised when the request has been made and the towing service has been dispatched.

Communications will maintain a rotation tow log for:

- (a) Standard Tows
- (b) Abatement Tows

Dispatchers will log all requests for from a field unit with the following information:

- (a) Date
- (b) Time
- (c) Case number
- (d) Tow company name
- (e) License number
- (f) Location
- (g) Description
- (h) Nature

Dispatchers will make all required entries or updates into the DOJ vehicle system, including the miscellaneous field:

- (a) Nature of the tow or tow authority (Vehicle Code section)
- (b) Tow company name
- (c) Tow company telephone number

Dispatchers will report any unsatisfactory tow service using the Unsatisfactory Tow Report.

502.3.8 RECORDS UNIT 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 Lieutenant for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

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 Unit 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 first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); 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.

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- (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.

502.4 TOWING SERVICES

The City of Sunnyvale contracts with selected tow companies to act as the official tow service.

The City tow contract lists responsibilities of the contracted tow company. Copies of the contracts are kept in the Administrative Staff Lieutenant's office.

502.5 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 the Department's custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

502.6 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.

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.

502.7 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

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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.

Vehicle Impound Hearings

503.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

503.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the City of Sunnyvale Department of Public Safety, a hearing will be conducted upon the voluntary request and the completion of the Tow Hearing with the signed acknowledgement of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)). A fee will be charged for the tow hearing as per VC 22852 and is listed on the current fee schedule.

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)).

503.2.1 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)). If requested by telephone, the employee taking the request will read the procedure and certification information from the Tow Hearing form to the requester and will also advise the person that a signature is required prior to conducting the hearing to acknowledge that a fee will be assessed. An on-duty lieutenant 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 within the 10 day time period 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

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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 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 the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).

Impaired Driving

504.1 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).

504.2 POLICY

The City of Sunnyvale Department of Public Safety is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

504.3 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 Lieutenant 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 standardized field sobriety tests (SFSTs) as taught and administered by the Department 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.

504.4 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.

504.4.1 CHOICE OF TEST

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 his/her blood or breath, and the officer shall advise the person that he/she has that choice using the District Attorney Admonishment card. If the person arrested either is incapable, or states that he/she 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)).

504.4.2 BREATH SAMPLE

The CSI Coordinator 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 CSI Coordinator.

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)).

504.4.3 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 he/she 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.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she 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.

The blood sample shall be booked into evidence and entered into PETS.

504.4.4 URINE SAMPLES

If a urine test will be performed, a certified blood tech will be requested through Communications.

Urine samples shall be collected and witnessed by an officer of the same sex as the individual giving the sample. The person tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The urine sample shall be booked into evidence and entered into PETS.

504.4.5 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).

504.4.6 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, he/she 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 his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

504.4.7 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

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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 his/her 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).

504.5 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.

504.5.1 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.

504.5.2 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she 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 his/her 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.
- (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.

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- (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.

504.5.3 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

504.6 ARREST AND INVESTIGATION

504.6.1 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 accident.
- (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 him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

504.6.2 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).

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- (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.

504.7 RECORDS UNIT 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.

504.8 ADMINISTRATIVE HEARINGS

The Records Manager will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer 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.

504.9 TRAINING

The Training Lieutenant 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 Training Lieutenant should confer with the prosecuting attorney's office and update training topics as needed.

Notice to Appear/Complaint Citation

505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

505.2 RESPONSIBILITIES

The Traffic Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Unit shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

505.3 USE

The Notice to Appear/Complaint Citation form is a judicially approved multi-purpose, multi-use citation. The form may be used as prescribed by law for Penal Code, Vehicle Code, Municipal Code, B&P Code, H&S Code, etc. for violations and arrest releases for minor infractions to more serious misdemeanor violations.

Since the citation form has such a varied use, it is necessary to regulate the variety of charges which may be made on a single citation, as different charges may be assigned different courts for arraignment and plea, and some citation records must be destroyed at specified periods, while others must be retained for longer periods.

505.3.1 REGULATIONS FOR USE

- (a) Vehicle and Municipal Code traffic violations may be charged on the same citation.
- (b) Multiple criminal code offenses (non-traffic) may be charged on the same citation even though the charges are of different codes, except:
 - (a) 11357(b) H&S - by law no other charge shall be made on the same citation.
- (c) Parking violations (Municipal and Vehicle Codes) will be issued on the Parking Violations Summons Form only.

505.3.2 COMBINATION CITEABLE AND NON-CITEABLE VIOLATIONS

- (a) Book for all charges except non-bookable traffic violations.
- (b) Cite only for non-bookable traffic violations.
 - 1. In DUI cases, moving traffic violations are considered a lesser included offense in the DUI charge and are not to be cited for in addition to 23152(b) CVC.

505.4 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 an on-duty

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supervisor . Upon a review of the circumstances involving the issuance of the traffic citation, the on-duty supervisor may request the Bureau of Police Services 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.

505.5 VOIDING PARKING/TRAFFIC CITATIONS

Voiding a parking/traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued.

All requests for voiding a citation shall be directed to the Bureau of Police Services Captain via the chain of command.

- (a) Write the reason for the request on a memo.
- (b) The officer's immediate supervisor shall review the request and initial the memo.
- (c) The Bureau of Police Services Captain will review the request and void the citation only if it appears justified.

505.6 CITATION AMENDMENTS

When a traffic citation is issued and in need of correction, the officer issuing the citation must file an amendment with the Court Liaison office when the original citation is turned in, in order to correct errors and omissions on the citation.

Attach the original copy of the citation to the amendment form and forward to the Court Liaison office.

505.7 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 Unit.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Unit.

505.8 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

All notice of parking violation appeals are handled through the Department's ticket vendor, Data Ticket.

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

505.9 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

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- The following criminal Vehicle Code violations.
 - 10851 CVC
 - 10852 CVC
 - 10853 CVC
 - 23103 CVC
 - 23109(a) & (b) CVC
 - 23140 CVC
 - 23152(a) & (b) CVC
 - and Vehicle Code Felony
- All other infraction traffic violations of the Vehicle Code.
 - Movers and equipment violations are filed with the traffic court.
 - Juvenile bicycle and pedestrian violations are filed with the Department's Traffic Diversion program.
- Violations of the Sunnyvale City Municipal codes

All other misdemeanor violations for juveniles shall be documented on a Juvenile Contact Report (JCR) with a case number and the case should be referred to Juvenile Probation.

Trial by Written Declaration

506.1 GENERAL INFORMATION

California Vehicle Code Section 40902 allows a defendant to contest citations in writing, without having to make a personal court appearance, a procedure called “Trial by Declaration”. This process is only available for cases involving traffic infractions of the Vehicle Code or of local ordinances adopted under the Vehicle Code. More information about this process is available at the Santa Clara County Court website: www.sccscourt.org/self_help/traffic/court_dates/trials.shtml

506.2 TRIAL BY WRITTEN DECLARATION UPON STIPULATION PROCEDURE

- (a) A Trial by Declaration (Form TR-205) may be obtained from the Santa Clara County Superior Court Clerk's Office or website.
- (b) The Court Liaison Office Clerk will receive the Request for Declaration, and the Declaration of Facts, from the Court Clerk. Upon receipt, the Court Liaison Clerk will forward both forms to the issuing officer for form completion.
 - 1. The issuing officer will immediately complete and return forms to the Court Liaison Office. The Court Liaison Clerk will specify a deadline date for the forms to be completed and returned.
 - 2. Officer shall completely and thoroughly fill out the form(s). The declaration shall be detailed and shall follow the narrative format in PSPM 10.2 - Court Testimony/Traffic.
- (c) Upon receipt by the Court Liaison the completed forms shall be returned to the Court Clerk.

Juvenile Traffic Safety

507.1 PURPOSE

The Juvenile Traffic Safety Program of the Sunnyvale Department of Public Safety encompasses all phases of juvenile traffic safety problems involving bicycles, skateboards and pedestrians. The program focuses on juvenile offenders, under 18 years of age at the time of incident, who have been cited for traffic violations involving them as pedestrians, bicyclists or skateboarders.

The program's goal is to teach juvenile traffic offenders their rights and responsibilities as a pedestrian, bicyclist or skateboarder, with the primary emphasis on developing good traffic safety skills and habits.

507.2 PROCEDURE

507.2.1 FIRST OFFENSE

Public Safety offers a one hour class on traffic safety as an alternative to the juvenile appearing before the Juvenile Probation Traffic Department of Santa Clara County.

- (a) Each offender is charged a registration fee to attend the Traffic Safety Class. This fee defrays the costs of pamphlets, audiovisual aids and program administration costs.
- (b) The program and classes are conducted by a Neighborhood Resource Officer of the Community Services Division. The classes are scheduled by the Neighborhood Resource Officer and held in the Sunnyvale Department of Public Safety Training classroom.
- (c) A parent is required to accompany his/her minor to the class. Completion of the class fulfills the requirement of the Santa Clara County Juvenile Probation Traffic Department.

507.2.2 SECOND AND SUBSEQUENT OFFENSES

- (a) Second and subsequent citations are forwarded to the Juvenile Probation Traffic Division of Santa Clara County and are not eligible for diversion.
- (b) Citations forwarded shall have attached copies of Public Safety records, documenting previous efforts to orient the juvenile offender toward safe traffic habits (i.e., previous class attendance, previous citation(s)).
- (c) Juvenile Probation Traffic Hearing Officers will schedule timely hearings and take into consideration documents forwarded with the citation and assess penalties as appropriate.

507.3 CITATION PROCEDURE

- (a) The standard Department of Public Safety Notice To Appear/Complaint citation form is used to cite the juvenile traffic offender.
- (b) The "Juv Safety" box in the lower right hand corner shall be marked when applicable.

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- (c) The "Business Address/School" line shall include the juvenile's school, grade level, and teacher's name when appropriate.
- (d) In the "Other Description" box, write the minor's home telephone number .
- (e) Records personnel will route all citations marked "Juv Safety" to the Neighborhood Resource Officer.
- (f) The Neighborhood Resource Officer will review the citations and schedule the offender into a class or refer to the Juvenile Probation Department's Traffic Division as appropriate.

507.4 RECORDS/FILE MAINTENANCE

The assigned Neighborhood Resource Officer will maintain a file of the Court copy (white copies) of all "Juv Safety" citations and subsequent copies.

The file will be purged by the Neighborhood Resource Officer when the minor reaches 18 years of age and is thus ineligible for the program.

507.5 CLASSES

The class will consist of appropriate slide, movie, handout and lecture material to re#educate the juvenile offender as to the rules and responsibilities of being a bicyclist, skateboarder and pedestrian with safety being the emphasis.

The Neighborhood Resource Officer will contact the juvenile offender (and parent/guardian) via mail regarding the scheduled class date. Classes will be held within 45 days from date of incident.

Classes are scheduled during weekday evenings (Monday through Thursday) at 7:00p.m. or 8:00p.m.

The registration fee is paid at the Public Safety records counter and the receipt obtained will admit the minor to the class.

507.5.1 TRAINING/INFORMATION

The Neighborhood Resource Officer assigned will also update and inform Patrol Personnel regarding the applicable laws for bicycles, pedestrians and skateboards.

Juvenile traffic safety information and handout materials will be made available to the public by the Community Services Division upon request, and as part of the Diversion Program.

Disabled Vehicles

508.1 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.

508.2 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.

508.3 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.

508.3.1 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.

508.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

Signal Outages

509.1 PURPOSE

To ensure the safe and orderly movement of vehicular and pedestrian traffic, on the roadways, during traffic signal outages, the following policies are in effect.

509.2 POLICY

There are times when, due to either mechanical or power failure the multi-phased traffic signal devices become inoperative. Each traffic situation is different and requires evaluation by the officer and supervisor to determine the appropriate action. The overriding goal of the Department is to protect lives and property. At times, during these incidents, we must sacrifice the convenience of steady traffic flow for the safety of all persons involved. In some instances, traffic control is feasible, and there are other instances in which intersections should be left uncontrolled and Vehicle Code § 21800 periodically enforced. These are guidelines. The conditions faced by department personnel will dictate the traffic control measures needed.

509.2.1 VEHICLE CODE SECTIONS

When traffic control measures are taken, certain vehicle code sections should be considered:

Vehicle Code § 21800(d) - A driver approaching an intersection that has the signal device not operating shall stop at the limit line or before entering the intersection. After yielding the right of way, a driver may then proceed through the intersection.

Vehicle Code § 21457(a) - Flashing red signal, driver must stop and after yielding may proceed.

Vehicle Code § 2818 - It is unlawful to traverse a flare or cone pattern provided for the regulation of traffic or at any emergency scene.

Vehicle Code § 21461(a) - It is unlawful to disobey any traffic control sign or signal.

Vehicle Code § 21457(b) - Flashing yellow signal, driver may proceed with caution.

509.2.2 CONSIDERATIONS

Officers/CSOs should consider the following when deciding what methods to use to control an intersection:

- (a) Time of day and amount of traffic on the roadway;
- (b) Size of the intersection;
- (c) The area encompassed by the power outage;
- (d) The number of officers available to assist with traffic control;
- (e) The anticipated length of time of the outage;
- (f) Speed limit of the roadways involved;
- (g) The impact on daily commute traffic.

Signal Outages

509.3 OFFICER RESPONSIBILITIES

Once an officer or CSO responds to an intersection and determines that some type of traffic control is needed at the location, the officer or CSO should request traffic control equipment or personnel as needed to move traffic safely and effectively.

509.4 SUPERVISOR RESPONSIBILITY

In cases involving a single intersection needing traffic control the supervisor should not be needed to monitor the problem. However, if the situation will require multiple personnel, extended time periods, and/or large areas, the supervisor must ensure that the necessary traffic control measures are taken.

The supervisor should:

- (a) Proceed to the affected area and evaluate the problem.
- (b) Assign personnel to intersections based upon staffing and resource availability.
- (c) Arrange for staffing to assist and relieve personnel assigned to intersections needing prolonged traffic control.
- (d) Coordinate with Public Works to develop an emergency traffic plan.
- (e) Contact P.G. & E., SMI, etc. through Communications and obtain updated estimates for the restoration of services.
- (f) Monitor the situation.

509.5 MAJOR POWER OUTAGES

There are occasions that power grids go down for extended periods of time. These situations require significant resources from The Department and the City. With the amount of traffic moving upon roadways, especially along certain corridors, the resolution can become taxing on resources.

When such situations arise, the first priority should be directed to those roadways that have the heaviest traffic flow or present the most serious danger.

The following method may be used to move traffic from an area without functioning signals to an area that has signals in service:

- (a) Determine which direction the majority of the traffic will be traveling.
- (b) Using a combination of patrol car(s), barricades, flares, and cones, lay one straight line across the middle of the intersection to prevent left turns through the intersection.
- (c) Cone cross traffic down to right turns only.
- (d) Coordinate with Public Works to provide signage, including detours.
- (e) Except for emergency vehicle traffic, do not allow traffic to turn across the intersection.
- (f) Using radios, coordinate traffic stops and starts with all involved intersections.

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 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.3.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigations Unit supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.3.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (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.

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- (b) The suspect 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.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.4 INITIAL INVESTIGATION

600.4.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect any evidence.

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6. Take any appropriate law enforcement action.
 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.4.2 PROFESSIONAL MEMBER RESPONSIBILITIES

A professional member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.5 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

600.6 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

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600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment. Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.7.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

600.8 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Captain

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or the Chief. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

600.9 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Special Operations Captain is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

- (a) Security procedures are developed to protect information gathered through the use of the technology.
- (b) A usage and privacy policy is developed that includes:
 - 1. The purposes for which using cellular communications interception technology and collecting information is authorized.
 - 2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
 - 3. Training requirements necessary for those authorized employees.
 - 4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
 - 5. Process and time period system audits.
 - 6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
 - 7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
 - 8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department's usage and privacy procedures and all applicable laws.

Community Crime Unit

601.1 INTRODUCTION

The Community Crime Unit (CCU) is one of the work units in the Special Operations Bureau assigned to Investigations.

601.1.1 PURPOSE

CCU is designed to support the department in identifying and responding to community related matters involving crime trends and/or complaints. The unit is designed to be flexible in its response capabilities utilizing a wide-array of options. These options include a uniformed or plain clothes component based upon the identified operational need. Additionally, providing skills for surveillance and undercover operations as necessary.

601.1.2 POLICY

The Community Crime Unit will utilize assigned personnel and equipment to apply traditional and non-traditional deployment models and operational tactics to identified crime incidents and trends within the City of Sunnyvale, and surrounding area, in order to maintain and/or enhance the quality of living in our community.

601.1.3 ORGANIZATION

CCU staffing will be determined based upon the available personnel assigned to the Special Operations Bureau. The determination of staffing will be made by the Special Operations Deputy Chief and Captain.

601.2 RESPONSIBILITIES

601.2.1 DEPUTY CHIEF AND/OR CAPTAIN

The Special Operations Deputy Chief and/or Captain have overall responsibility for the unit operations.

601.2.2 UNIT SUPERVISOR

A supervisor assigned to oversee CCU will provide field level supervision to personnel, and others as needed, to safely and effectively conduct the assigned mission(s).

Missions commonly assigned to CCU, but are not limited to:

- (a) Youth and community violence interdiction
- (b) Sunnyvale Targeted Offender Project
- (c) Gang activity interdiction
- (d) Narcotics, vice, ABC, and adult entertainment operations
- (e) Massage establishment compliance
- (f) Theft Reduction and Apprehension Project
- (g) Outside agency collaboration/assistance

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An Investigations Lieutenant will be assigned to maintain records related to all expenditures and the availability of funds retained by the Unit for undercover operations. As such, the Lieutenant will be held accountable for the proper disbursement and control of all funds used by the Unit. The Lieutenant may authorize up to \$400 to be used in undercover operations. For operations requiring over \$400, authorization must be obtained from the Captain in charge of the Special Operations Bureau.

601.2.3 ASSIGNED OFFICERS

Public Safety Officers assigned to CCU shall be responsible for :

- (a) Criminal registrant intelligence coordination
- (b) Gang intelligence coordination
- (c) Assest forfeiture coordination
- (d) Narcotic trend/intelligence coordination
- (e) Alcohol Beverage Control operations
- (f) Adult entertainment operations
- (g) Massage establishment compliance
- (h) Specialized equipment maintenance and procurement

601.2.4 CRIME ANALYSIS UNIT

The Crime Analysis Unit will provide information to the CCU Lieutenant as needed to support their operation.

601.3 OPERATIONS

601.3.1 DRESS

Personnel assigned to the Community Crime Unit will wear attire commensurate with the needs of the operation. This may consist of:

Duty Uniform

- (a) Patrol based personnel will normally wear the Patrol duty uniform.
- (b) CCU members wearing the Patrol duty uniform shall comply with current Department grooming standards.

Tactical Raid Gear

- (a) Most commonly used by CCU members during parole/probation checks, search warrants, and other field enforcement actions as needed.
- (b) Shall consist of CCU issued outerwear and tactical gear clearly identifying the wearer as a law enforcement officer.

Appropriate Civilian Attire

- (a) Utilized as directed by the unit supervisor.

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- (b) Except in extreme emergencies, no enforcement actions shall be taken by CCU members in civilian attire. CCU operatives that may potentially become involved in an enforcement action shall be clearly identifiable as a law enforcement officer prior to taking any action.
- (c) Personnel shall wear appropriate attire as mandated by Department policy when appearing in court and at other times as directed by a supervisor.

601.3.2 ENFORCEMENT ACTIONS/SEARCH AND ARREST WARRANTS

Any planned enforcement, undercover, or covert operation involving more than 3 personnel shall have an Operations Plan written and approved before conducting the operation. The Investigations Lieutenant must review all Operations Plans prior to submission to a Captain or Deputy Chief for approval and signature of the plan. A briefing shall be given to all participants in the enforcement action. Events requiring an Operations Plan include but are not limited to:

- (a) Search warrant service
- (b) Parole search
- (c) Probation search
- (d) Gang compliance operations
- (e) Surveillance
- (f) Undercover operations (i.e., controlled delivery, controlled substance purchase, etc.)
- (g) Informant operations
- (h) Arrest warrant service
- (i) Planned on-view arrests
- (j) Covert operations of any kind
- (k) When directed by a supervisor

Obtaining and serving of Search and Arrest Warrants shall be done in a professional manner with adherence to all legal procedures and requirements. Concern and respect for all rights and dignity of the persons upon whom the warrants are served or with whom officers come in contact with during such service is required of all personnel. Searches will be conducted in a professional manner. Unnecessary destruction, use or manipulation of personal property during searches is prohibited.

If additional personnel are required for high risk warrant service, SWAT members should be utilized. Requests for SWAT personnel shall be directed to the Special Operations Captain. This request will then be communicated to the SWAT team Captain.

Personnel assigned to street enforcement operations and/or a warrant service team shall wear approved clothing such as cover jackets, helmets, and vests that clearly identifies them as law enforcement officers.

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Unless approved by the Lieutenant in charge, only law enforcement personnel will be allowed to accompany officers during any operation or activity.

A Lieutenant shall immediately notify the Special Operations Captain whenever the following occurs:

- (a) Injury to officer or citizen.
- (b) Significant damage to City or private property.
- (c) Circumstance occurs that may result in a complaint or City liability.
- (d) Alleged misconduct by involved personnel.

601.4 UNDERCOVER OPERATIONS

Undercover controlled substance purchases are inherently dangerous operations. No undercover, informant or other buys shall be authorized by the Lieutenant in charge without an appropriately approved operations plan.

- (a) CCU is a work unit with a variety of assignments that will require assigned personnel to be visible to the public. Generally, the utilization of personnel in an undercover capacity who have been involved in uniformed operations within a 30 to 60 day period should be avoided. An assigned Investigations Lieutenant will be responsible for the coordination and procurement of undercover operatives as the needs arise. Outside agency operatives should be utilized as necessary.
- (b) Bar programs and other unusual undercover assignments utilizing less than 3 backups may be authorized by the Special Operations Captain.

601.4.1 CONSUMPTION OF CONTROLLED SUBSTANCES

Personnel assigned to the Unit shall not consume controlled substances, dangerous drugs, marijuana or any other contraband substance unless the use is in response to the threat of death or serious injury. If an officer is placed in a position to use a controlled substance, they shall evaluate whether feigning consumption is possible. The incident shall be reported in writing as soon as possible, specifying the exigent and circumstances that demanded such actions. Any officer who ingests a controlled substance shall receive immediate medical attention.

601.4.2 USE OF ALCOHOL

The Department recognizes that while performing undercover operations, it may be necessary for a CCU operative engaged in covert operations to purchase or consume alcoholic beverages. When such actions are required, drinking shall be kept to a minimum. When possible, prior approval shall be obtained from the supervising Lieutenant. If it is necessary to purchase or consume alcoholic beverages during an undercover operation, the supervising Lieutenant shall be notified as soon as practical.

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601.4.3 REVERSE SALES

All sales of a controlled substance (called "reverse sales") shall be a "sell/bust" and no amount of controlled substance shall be allowed to "walk" or leave the control of the Sunnyvale Department of Public Safety. Exceptions to this policy may only be made by the Special Operations Deputy Chief.

CCU shall only do "reverse sales" inside the city limits of Sunnyvale unless approved by the Special Operations Captain. The Unit may participate or work cooperatively with the primary law enforcement agencies in outside jurisdictions in their "reverse sales" cases.

601.4.4 INFORMANT MANAGEMENT

Confidential Informants shall be managed in accordance with current California Department of Justice guidelines and the procedures established by the Sunnyvale Department of Public Safety. Documentation is required for each confidential informant that is utilized. All lawful attempts will be made to keep the identity of the informant confidential. No officer shall use a subject in custody as an informant or arrange for the temporary release of the person without obtaining prior approval from an Investigations Lieutenant. Informants removed from custody from a facility other than the temporary holding area at the Sunnyvale Department of Public Safety shall only be removed with prior supervisor approval and only after consulting with the Santa Clara County District Attorney's Office.

601.4.5 SEIZED CASH

Any incident where cash is found, the following shall apply:

- (a) Upon discovery of any amount of cash, two officers shall count it in each other's presence.
- (b) Upon discovery of what appears to be in excess of \$500.00 cash, the Lieutenant in charge shall be notified prior to the moving of the currency. The Lieutenant in charge shall count the cash along with an officer.
- (c) Upon the discovery of over \$10,000.00, the Lieutenant in charge shall notify the Special Operations Captain as soon as practical.
- (d) After counting the cash, it shall be sealed in the appropriate packaging prior to transport from the scene. At Public Safety Headquarters, the packaging will be unsealed and appropriate cash counting equipment will be utilized to validate the count from the scene.
- (e) Cash that has no evidentiary value in criminal proceedings shall be delivered to the Public Safety Cash Register, where the money will be immediately stored. A receipt will be given to the Case Agent for inclusion in the case file.
- (f) Cash with evidentiary value will be repackaged, sealed and booked into the appropriate property locker in accordance with current evidence procedures.

601.4.6 OUTSIDE AGENCY NOTIFICATION

When conducting operations outside of the City of Sunnyvale, notification to the agency of jurisdiction shall be completed by the supervising Lieutenant or his/her designee. All data base sources shall be utilized by CCU personnel to insure operations are coordinated with

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outside agencies. These data bases may include, but are not limited to, Western States Information Network (W.S.I.N.), Cal Gang and LA Clear. Inquiries must be made in the following circumstances:

- (a) Prior to use of a confidential informant.
- (b) Prior to the execution of an operation on a suspect or location.
- (c) As designated by the lieutenant in charge.

Notifications to schools and other facilities should be considered prior to preplanned operations if this notification will not jeopardize the safety of DPS personnel or the success of the operation.

Sexual Assault Investigations (CRITICAL)

602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the standardized, uniform investigation and reporting 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 Adult Abuse policies.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates, law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

602.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

The sensitivity of these cases must be remembered during the investigation. Due to the seriousness of these cases, Officers should recognize the entire investigation is available for judicial review and scrutiny. Officers should follow a standardized procedure which promotes the most professional and thorough investigation.

The victim's welfare must be considered foremost during the investigation. Even cases in which a victim chooses to secrete information from Officers, the victim should always be handled sensitively. The victim's appearance, profession, social status, or relationship with the perpetrator should not influence the Officer's handling of any reported sexual assault. All reports of the above listed crimes shall be documented on an offense report.

602.3 INVESTIGATION AND REPORTING

In all reported or suspected cases of sexual assault, a crime report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

Reports of a sexual assault may come from numerous sources within the community which may include:

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- (a) the victim,
- (b) hospital or doctor,
- (c) counselor,
- (d) rape crisis center,
- (e) parents,
- (f) other

Generally, upon receipt of a sexual assault report, an officer, a Supervisor, and a Crime Scene Investigator should be assigned.

The officer should render first aid to the victim. The assigned Officer should determine if a suspect is still present and take appropriate enforcement action.

The location of the crime scene should be determined and secured by the Crime Scene Investigator.

602.3.1 VALLEY MEDICAL RESPONSE PROCEDURES

If vaginal, anal, or oral penetration has occurred within the last 72 hours, the Officer shall take the victim, when practical, to Valley Medical Center Emergency Room. If the assault occurred more than 72 hours earlier, Investigations will determine the necessity of an exam.

- (a) At VMC, the officer should call and request the adult Sexual Assault Response Team (SART) nurse, if the victim is 12 years old or older. If the victim is under 12 years of age or younger, call and request the pediatric SART nurse to respond.
 - (a) Written parental consent is required unless there are exigent circumstances or a court order authorizing the exam. Victims and non-suspect parents shall not be forced to cooperate.
- (b) Officers should advise the registration desk and the charge nurse of their arrival and start the registration procedures.
- (c) Officers should meet with the SART nurse and request a rape kit be taken. Refer to the Collection of Biological Evidence sub-section in this policy.
- (d) Officers should obtain the original Sexual Assault Examination Report and the rape kit (which should contain a copy of the examination report).
 - 1. The rape kit should be given to a CSI to be booked into the CSI freezer.
 - 2. The victim's clothing should be given to a CSI, if it holds evidentiary value.

602.4 SPOUSAL RAPE

602.4.1 DEFINITION

Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished against the will of the spouse under the following circumstances:

- (a) By means of force or fear of immediate and unlawful bodily injury on the spouse or another person.

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- (b) By threats of retaliation in the future against the victim or any other person and there is a reasonable possibility that the perpetrator will execute the threat.

602.4.2 STATUTE OF LIMITATIONS

There shall be no arrest or prosecution under this section unless the violation is reported to a peace officer or the District Attorney within 90 days after the day of the violation. If reported within 90 days, the provisions of 800 PC, 6 year statute of limitations for commencement of prosecution applies.

602.4.3 REPORT REQUIREMENTS

An offense report is to be completed in order to provide initial documentation.

Proper documentation must be made to accurately reflect when the violation was reported and to whom it was reported.

It is recognized that such allegations may be made during family disturbances, when officers are present, and when, upon being interviewed, the victim may withdraw the allegation or refuse to cooperate in the investigation. When such is the case, investigating officers should inform the alleged victim that a report has not been accepted due to the victim's refusal to cooperate in the investigation, and that if the victim decides that a report will be made at a later time, it must be made within ninety (90) days of the violation, and that it must be made to a law enforcement officer having the power to arrest for the violation. When the victim is so admonished and still declines to make a full report for the purposes of investigation, no documentation is required at that time.

602.5 INDECENT EXPOSURE

The following procedure shall be followed by Officers during the investigation of indecent exposure:

- (a) Identify witnesses, victims, and/or suspects.
- (b) Interview victim/witness(es) and broadcast description.
- (c) Complete an Offense Report.

If a suspect is detained and identified by the victim, a citizen's arrest is the appropriate enforcement action unless the following circumstances are present:

- (a) The suspect has previously been convicted of 314 PC or 288 PC (Child Molest). Note: No requirements as to time served.
- (b) The indecent exposure occurred after having entered, without consent, an inhabited dwelling or trailer coach as defined in 635 CVC, or the inhabited portion of any other building.

602.6 TRAINING

Subject to available resources, periodic training will be provided to:

- (a) Members who are first responders. Training should include:
 - 1. Initial response to sexual assaults.

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2. Legal issues.
3. Victim advocacy.
4. Victim's response to trauma.
- (b) Qualified investigators who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.
 2. SART.
 3. Medical and legal aspects of sexual assault investigations.
 4. Serial crimes investigations.
 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
 6. Techniques for communicating with victims to minimize trauma.

602.7 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigations Unit supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.8 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

602.9 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

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preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

- (a) Officers should only be concerned with a preliminary interview of the victim, which is to include elements of the crime, suspect identification and information that could be provided SART personnel to assist in the collection of evidence. Officers should audio record the preliminary interview.

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 opinions of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (42 USC § 3796gg-8; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

602.9.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault the assigned officer shall accomplish the following:

- (a) Advise the victim of the right to have a victim advocate and a support person present at any interview by law enforcement as provided in 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(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)).
 - 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)).

602.9.2 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). The officer will also complete one of the two Affidavits Re: Confidentiality

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of Identity to Sexual Assault Victims in the County of Santa Clara (PS 340 for a single victim or PS 341 for multiple victims).

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).

602.10 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Officers should meet with the SART nurse and request a rape kit be taken, including pubic combings; pubic pluckings; vaginal, rectal, and oral swabs (as appropriate); and fingernail scrapings.

Officers shall request a Licensed Medical Technologist to respond and take a blood sample from the victim. This will normally be done at VMC. Officers should advise the Medical Technologist that a sample is needed for blood typing, DNA analysis, and blood/alcohol content. Attempt to have the Medical Technologist and the SART nurse take the blood samples at the same time to reduce the number of blood draws.

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.

602.10.1 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). Generally, rape 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 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).

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(d)).

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602.10.2 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, the assigned investigator may 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 investigator 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) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):
 - 1. To be informed if 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 if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice 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 Department of Justice Databank of case evidence.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned investigator 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 investigator 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.

602.10.3 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.

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602.11 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 Investigations Unit supervisor.

Classification of a sexual assault case as unfounded requires the Investigations Unit 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.

602.12 CASE REVIEW

The Investigations Unit 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.

Asset Forfeiture

603.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the City of Sunnyvale Department of Public Safety seizes property for forfeiture or when the City of Sunnyvale Department of Public Safety is acting as the fiscal agent pursuant to a multi-agency agreement.

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 who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Heath 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.

603.2 POLICY

The City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety 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.

603.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

603.3.1 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.

603.3.2 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).

603.4 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.
- (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.

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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.

603.5 MAINTAINING SEIZED PROPERTY

The Record's Manager is responsible for ensuring compliance with the following:

- (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.

603.6 FORFEITURE REVIEWER

The Chief will appoint an 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

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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.
 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.

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- (i) Ensuring that a written plan that enables the Chief 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 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).

603.7 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).

603.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the City of Sunnyvale Department of Public Safety 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.

603.8 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

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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).

Informants (CRITICAL)

604.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

The recruitment and development of informants is important to the point where they regularly contribute information concerning criminal enterprises and become a valuable resource to the Department.

Although individual Officers are responsible for recruiting informants, informants do not 'belong' to the officer, but represent a resource for the Department as a whole.

The specific procedures and requirements of this policy do not apply to persons providing information as anonymous participants in the Drug Tip Line, or "Crime Stoppers" programs.

604.1.1 DEFINITIONS

The term "informant" shall include any person who provides information about criminal activity and/or actively assists law enforcement under the specific direction of an officer for the following reasons:

- (a) Defendant Informant – a person who provides law enforcement officer(s) information regarding a crime or criminal activity in exchange for consideration in a pending criminal matter.
- (b) Paid Informant – a person who provides a law enforcement officer(s) information regarding a crime or criminal activity for monetary consideration or is otherwise compensated in that manner.
- (c) Other Informant – a person who provides law enforcement officer(s) information regarding a crime or criminal activity including but not limited to the following motivations:
 - 1. personal gratification, which may include collecting rewards;
 - 2. revenge;
 - 3. rivalry;
 - 4. concerned citizen

Source of Information – a person or organization, not under the direction of a specific Officer, who provides information without becoming a party to the investigation itself (e.g., a business firm furnishing information from its records; an employee of an organization who, through the routine course of his/her activities, obtains information of value to the Department; or a concerned citizen who witnesses an event of interest to the Department).

A source of information who seeks financial compensation shall be re-classified as a "paid informant". A source of information who becomes an active participant in the investigative process shall be re-classified as an "other informant".

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Significant Contact – any contact or communication with an informant, planned or unplanned, in which the informant provides information of any intelligence value to any law enforcement agency regarding criminal activity or which is used as the basis of an affidavit of a search or arrest warrant.

604.2 SELECTION OF SUITABLE INFORMANT

Not every person contacted is a suitable candidate to be an informant. The Department's overall responsibility to the community must be balanced against the need to gather criminal intelligence. As a general rule, a person charged with any crime(s) of serious violence, sexual misconduct (other than prostitution related offenses), domestic violence or driving under the influence should not be considered as a potential informant.

604.2.1 AUTHORIZATION TO USE INFORMANT

No department member shall use the services of an informant without permission of the Special Operations Bureau Captain or his/her designee. As the Special Operations Bureau Captain's designee, an assigned Investigations Lieutenant is responsible for managing the use of informants as well as the informant files. The designated Investigations Lieutenant will supervise the use of an informant and assign one detective as the handler.

- (a) Use of Parolees or Probationers as Informants – Unless unusual circumstances exist, approval must also be obtained from the person's parole or probation officer prior to utilizing parolees or probationers as informants.
- (b) Use of Previously Disqualified Informants – may only be utilized on a case by case basis with the concurrence of the designated Investigations Lieutenant and the Special Operations Captain.

604.2.2 JUVENILE INFORMANTS

The use of juveniles as informants should be avoided. The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol or tobacco products the use of any juvenile 13 years of age or older as an informant is only permitted when authorized by court order (Penal Code § 701.5).

Detective/Officers seeking to use a juvenile as an active informant must obtain written and signed permission from the parent or guardian of the juvenile. The content of the document must include, in general terms, the type of activity the juvenile is expected to perform. In the case of a juvenile who is a ward of the court, written permission must be obtained from the court. If the juvenile has a probation officer, the probation officer must be contacted prior to using the juvenile as an informant. This policy does not prohibit an officer from obtaining criminal intelligence information from a juvenile during an initial interview.

604.3 PRACTICES

Informants (CRITICAL)

604.3.1 INFORMANT RECRUITMENT PROCEDURES

Once an individual has been identified as a potential informant, the handling detective must comply with the following procedure. This procedure applies to all individuals except those defined as a “source of information”.

- (a) Report the initial contact with a potential informant to the designated Investigations Lieutenant.
- (b) Conduct a full criminal history check.
- (c) Conduct a full debrief.
- (d) Complete the informant file forms.
 1. Explain the forms to the potential informant.
 2. Have the potential informant fill out and sign the forms.
 3. Obtain a photograph of the potential informant.
 4. Turn in a completed informant packet to the designated Investigations Lieutenant for review.
 5. Once approved, assign a number to the packet and place it in the locked intelligence cabinet.
 6. Conduct a de-confliction inquiry through Western States Information Network(WSIN) inquiry and list informant as a DPS asset.
 7. Record significant contacts on the informant sheet.

604.3.2 MANAGEMENT AND CONTROL OF INFORMANTS

The designated Investigations Lieutenant will supervise the use of an informant and normally assign a detective as the informant’s handler.

Classification of Informant Status

- (a) Active – Any informant currently providing information or who has done so within the last 12 months.
- (b) Inactive – Any informant who has not provided information within the last 12 month period shall be classified as inactive.
- (c) Disqualified – Any informant who has been determined to be unsuitable for any reason, including but not limited to:
 1. Fails to follow instructions of a handling Detective.
 2. Knowingly violates any provision of the informant Working Agreement.
 3. Knowingly provides false information.
 4. Engages in any criminal conduct without the direction of law enforcement.

These are not automatic disqualifications. They will be reviewed on a case by case basis.

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604.3.3 STATUS CHANGE PROCEDURES

Active to Inactive – Every six months, the designated detective will review the informant files. If there are any informant files found where there have not been any significant contacts within the last 6 months, those files will be reviewed. At that time, a determination will be made to inactivate the file or keep it active for an additional 6 months. If any informant file is located with no significant contacts within the last 12 months, the file shall be reclassified as “inactive” by completing the Status Change Notification form.

Inactive to Active – A detective/officer may request that the designated Investigations Lieutenant reactivate an informant who has had their status changed from active to inactive after updating the informant file. The designated Investigations Lieutenant should make a determination on the suitability of the informant to be reactivated. The determination will be noted on the “Detective Notes” area of the Status Change Notification form.

Active to Disqualified – A Detective/Officer who has reason to believe that an informant may no longer be suitable for use as an informant shall make an immediate report of his/her recommendation, and the reasons therefore, to the designated Investigations Lieutenant. After the determination has been made to disqualify an informant, the detective handling the informant will note it in the Informant Worksheet and the Status Change Form. In addition, the detective assigned to the informant shall submit an unreliable informant card to WSIN and notify any other known criminal justice agency that may be affected by the informant’s unreliable information.

604.3.4 PROCESSING THE CASE

- (a) Arrest - Officers who arrest an informant or potential informant for a criminal violation, other than a warrant, shall report all the details of the arrest in an offense report. Reports shall be submitted for complaint without necessary delay. The decision to delay prosecution in an informant’s case rests with the District Attorney’s Office.
- (b) Once a potential informant has been arrested and has expressed a desire to cooperate, contact the designated Investigations Lieutenant and he/she will then assign a detective to handle the informant debrief. It will be the responsibility of the detective who handles the informant to contact the District Attorney concerning the informant’s case.
- (c) If a suspect is arrested and he/she identifies himself/herself as an active informant, contact the designated Investigations Lieutenant. The designated Investigations Lieutenant will then contact the handling detective who will manage the situation on a case by case basis.

604.3.5 INFORMANTS WITH PENDING CRIMINAL MATTERS

Department members interviewing a potential informant with a pending criminal matter shall not make any promises, actual or implied, as to the eventual sentence or disposition of the informant’s case. Only the courts and the District Attorney may enter into agreements that affect the outcome of a defendant’s case. Department members shall not make any independent agreements for assistance or compensation with informants. The detective will contact the District Attorney’s Office, present the case against the potential informant, introduce the informant packet to the

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Deputy District Attorney and sign up the individual with the District Attorney's Office as an informant.

In the event an attorney in any criminal matter is representing an informant, the attorney must be contacted prior to the use of the informant.

604.3.6 RELEASE OF INFORMANT FROM CUSTODY

Detectives seeking the release of potential informants from custody shall obtain approval from the designated Investigations Lieutenant or the Special Operations Bureau Captain prior to seeking the release.

- (a) Citation Release of Informants Charged with Crimes – When an informant or potential informant has a pending criminal matter where a citation would normally be an appropriate option, a detective may release the informant from custody, with a citation, to aid in a criminal investigation with the approval of the designated Investigations Lieutenant or the Special Operations Bureau Captain.
- (b) Release Pursuant to 849 (b)(1) P.C. – When an informant or potential informant has a pending criminal matter that is not eligible for a citation release, the detective or officer may release the informant pursuant to 849(b)(1) P.C. as long as the informant has not been arrested for one of the crimes described within this policy in Selection of a Suitable Informant.

Once the informant has been released pursuant to section 849(b)(1) P.C., the detective must notify the District Attorney's Office to obtain permission to continue to work with the informant and to make arrangements to have the case filed in a timely manner.

604.3.7 REWARDING INFORMANTS CHARGED WITH CRIMES - PENDING CASES

When an informant with a pending case has cooperated in a criminal matter, the extent of the assistance may be brought to the attention of the court and the District Attorney. When it is a detective's intention to recommend this type of reward, the following steps must be taken:

- (a) Prior to recommending any consideration in the informant's case, approval from the Investigations Unit of the District Attorney's office must be obtained.
- (b) Any contact with the court will be done by the Investigations Unit of the District Attorney's office or by the detective at the direction of the District Attorney's office and with concurrence of the assigned Investigations Lieutenant.
- (c) If the pending case is from another jurisdiction, that agency must also grant permission to use the informant, if the intention is to recommend consideration in that agency's case.

604.3.8 REWARDING INFORMANTS NOT CHARGED WITH CRIMES - PAID

It is the responsibility of the Investigations Lieutenant to determine the appropriate amount of payment to informants. The Special Operations Bureau Captain will set an appropriate maximum amount the Investigations Lieutenant can commit to before obtaining the Special Operations Captain's approval. All payments to informants must have prior approval of the Investigations Lieutenant and be documented on the department voucher form #PS373.

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604.3.9 RELATIONSHIP OF DETECTIVES/OFFICERS WITH INFORMANTS

- (a) The relationship between officers/detectives and the informant must be completely ethical and professional. Fraternization with an informant in any way other than in an official capacity is strictly prohibited.
- (b) When contacting informants, officers shall have another officer present, particularly when meeting with informants of the opposite sex. Exceptions may only be authorized by the designated Investigations Lieutenant or the Special Operations Bureau Captain. Only during actual undercover situations may a detective be alone with an informant.
- (c) A detective shall not accept any gifts or gratuities from an informant or engage in any business or financial dealings with an informant. All off-duty contact (other than telephone) with informants must be reported to the designated Investigations Lieutenant or the Special Operations Bureau Captain.
- (d) Informants should be introduced to a minimum number of Department personnel. Informant knowledge of law enforcement personnel, tactics, and investigative techniques should be kept to a minimum. Informants shall not be given home or personal phone numbers or addresses of DPS personnel.

604.3.10 TRACKING INFORMANTS

It is the responsibility of the detective assigned to the informant to make reasonable efforts to stay updated regarding the location of the informant until all cases involving the informant have been adjudicated.

604.3.11 INFORMANT OPERATIONS

When an informant purchases evidence, contraband or otherwise expends department funds, the following guidelines will apply:

- (a) All informant buys will be under the direct control of the detective assigned to handle the informant or another designated Detective.
- (b) Anytime funds are provided to an informant, at least two officers must be present to witness the furnishing of funds. These two officers will sign and witness the expenditure of funds on the department voucher # PS373.
- (c) All funds must be pre-recorded prior to the buy.
- (d) Appropriate documentation and monitoring of the event shall be approved by the designated Investigations Lieutenant.
- (e) The informant shall be searched for contraband and money by the Detective or his/her designee prior to the evidence purchase. (This would include a search of the informant's vehicle). Continuous surveillance should be maintained on the informant (whenever possible) during the evidence purchase in order to ensure proper chain of custody.
- (f) The informant shall be searched again after the evidence purchase. (This includes the informant's vehicle). Debriefing the informant should also take place immediately following the operation.

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604.3.12 REVEALING THE IDENTITY OF AN INFORMANT

The decision to reveal the identity of an informant rests with the District Attorney's office and Special Operations Bureau Captain. However, detectives or officers shall reveal the identity of an informant when ordered to do so by the presiding judge or magistrate in a court proceeding. Detectives or Officers, through the District Attorney, may request a hearing on revealing the identity of an informant. It is the responsibility of the detective handling the informant to notify the DA's office prior to going to court on a case where an informant was used. It is also the responsibility of the detective while in court, to protect the informant under Evidence Code 1040 and 1042. The Deputy DA cannot make this request, only the testifying officer can claim this privilege.

604.4 INFORMANT FILE FORMS

604.4.1 OPERATOR FACT SHEET

The Special Operations Bureau Captain or his/her designee must approve the use of the informant and liaison officers. Prior to the utilization of an informant the detective shall submit an Operator Fact Sheet for written approval. The Operator Fact Sheet, in all instances, must be submitted no later than five days after verbal approval has been given. The Operator Fact Sheet will be retained in the individual informant file and shall be accompanied by the Special Consent Form, maintained by the designated Investigations Lieutenant.

604.4.2 SPECIAL CONSENT FORM

The Special Consent Form must be explained by the detective to the informant and the informant must initial each item and sign the bottom of the form. The detective and a witness must also sign this form. An informant may not be used prior to the completion of the Special Consent Form.

604.4.3 INFORMANT WORKSHEET

An Informant Worksheet is to be maintained on every informant. This form is to be retained in the individual informant files. The record shall include a listing of all reliable information which has led to an arrest, an affidavit for a search or arrest warrant or any other pertinent information on a criminal matter. Additionally, the worksheet should include any monies paid to the informant, and other consideration(s) the informant has received. The detective assigned to the informant is responsible for the timely upkeep of the record.

604.4.4 STATUS CHANGE FORM

The Status Change Form will be used when the informant is first activated and every time the informant changes status.

604.4.5 INDIVIDUAL INFORMANT FILES

The designated Investigations Lieutenant shall maintain and keep current the confidential informant file for all informants working within the Department of Public Safety. This file will contain the Operator Fact Sheet, the Special Consent Form, the Informant Worksheet, the Status Change form, CII and CJIC records checks, DMV printout and a current photograph of the Informant.

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Each Confidential Informant will be assigned a C/I number and thereafter, in case reports or other correspondence, the individual will be referred to only by that number. The information will be considered confidential and will only be released to members of the Sunnyvale Department of Public Safety on a need-to-know basis. The information may be released to other law enforcement agencies that are working on related cases, but only when necessary for effective enforcement, joint investigations or as otherwise authorized by the designated Investigations Lieutenant or the Special Operations Bureau Captain. Any such release is to be documented in the file.

Eyewitness Identification

605.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

605.1.1 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.

Emergency Identification - An emergency identification is a process by which an Officer allows a witness to view a suspect without regard to time of day or location. An emergency identification may be conducted when there is reason to believe that either the witness or victim is in danger of death, coma, blindness, or any other deteriorating physical condition which would preclude a later identification.

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.

605.2 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. Such identifications will be accomplished in a manner which ensures due process of the law, eliminates suggestiveness, and documents the process for use in court.

Members will also follow the Santa Clara County Line-up Protocol for Law Enforcement.

dps/Internal/Admin/SiteAssets/CountyProtocols/11-LineUpProtocolforLawEnforcement_2011.pdf

605.3 INTERPRETIVE SERVICES

Members 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 member should explain the identification process to the interpreter. Once it is determined that the interpreter

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comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

605.4 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.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

605.5 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.

605.5.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

605.5.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

605.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

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Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person 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 (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

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 member should contact the appropriate prosecuting attorney before proceeding.

605.6.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

605.7 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 show-up or one-on-one 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 member 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) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

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- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up 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.
- (h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

Brady Material Disclosure (CRITICAL)

606.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information -Information known or possessed by the City of Sunnyvale Department of Public Safety that is both favorable and material to the current prosecution or defense of a criminal defendant.

606.2 POLICY

The City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety 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.

606.3 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 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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606.4 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 Internal Affairs Lieutenant or any other person designated by the Chief may examine the subject officer's personnel file to determine whether there are *Brady* materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If *Brady* material is located, 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.

606.5 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.

606.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

Chapter 7 - Equipment

Department Property and Equipment

700.1 RESPONSIBILITY

Public Safety employees are responsible for the proper care of Departmental property and equipment assigned to them. Damaged or lost property may subject the responsible individual to appropriate disciplinary action.

700.1.1 DEPARTMENTAL AUTOMOBILE DRIVER REQUIREMENTS

- (a) Obtain authorization for use.
- (b) Complete key checkout process (in and out).
- (c) Inform Communications of usage.
- (d) Inspect/service vehicle as required, i.e. fuel, lubricants, coolants and tires.
- (e) Refuel after use if less than one-half full.

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.

Department issued firearms, conducted electrical weapons (CEWs) and radios shall be removed from the interior of personally owned vehicles and properly secured when the vehicle is not attended. Weapons and radios may be secured in a locked compartment vault or similar in-vehicle safe, that is permanently affixed to the interior of the vehicle and not in plain view.

- (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) No member of the Department is to appropriate, permanently or temporarily, for personal use any property for which the Department is responsible except by purchases at public auction.
- (e) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

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- (f) No adjustment or repair of any kind is to be made to equipment by anyone other than shop personnel or contracted agents or those authorized by the Chief of the Department.

In the event that City property is found bearing evidence of damage that has not been reported, it shall be prima facie evidence that the last person using the property or vehicle was responsible.

700.2.1 DEPARTMENT ISSUED UNIFORMS AND EQUIPMENT REPAIR OR REPLACEMENT REQUESTS

Requests for repair or replacement of Department issued equipment shall be made using the following procedures:

Employee Responsibility - Requests for repair/replacement shall be made in writing to the employee's supervisor utilizing form PS145. The employee shall indicate the reason for the request on the PS145 (use the miscellaneous section) i.e.; tattered, sizing too large/small, lost, stolen, etc. In the event that the replacement of the property is due to either theft or loss, a separate report will be filed with the Police or Public Safety agency having jurisdiction. This report will detail the circumstances that resulted in the loss of city property. In the event that the damage was a result of action while on duty, the related EV, FR or CR number should be listed on the PS145.

Supervisor Responsibility - The supervisor shall review the equipment and sign the bottom of the PS145 if repair/replacement is needed (supervisor's signature required). The supervisor shall forward the bagged articles to be repaired/replaced to the Property Officer with the signed PS145. The supervisor shall ensure that the proper associated reports have been completed.

Management Responsibility - As needed, the Property Officer will present to a designated management employee, items submitted for repair/replacement. The management person or designee will review items for repair/replacement authorization.

- (a) *Repair* - If the article(s) is determined to be repairable, a signed PS145 authorizing repair only and the equipment will be returned to the employee. Information on the current Department authorized repair vendor will be included.
- (b) *Replacement* - If replacement is authorized, the requested item(s) will be sent directly to the employee if in stock or, if not in stock, the signed PS145 will be returned to the employee authorizing a new issue. The employee can then go directly to the uniform supplier. If in stock items need tailoring, a signed repair and authorized vendor information form will be included with the equipment.
- (c) *Request Denied* - If the article(s) is determined to be serviceable, it will be returned to the employee with an explanation as to why replacement/repair was denied.

700.2.2 DEPARTMENT AUTHORIZED FOOTWEAR REPAIR, REPLACEMENT, AND REIMBURSEMENT

Employees eligible to receive reimbursement for replacement/repair of shoes shall make the request to their supervisor. The supervisor shall view the shoes and may verbally authorize repair or replacement as appropriate.

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Repair - The employee fills out the Uniform Request and Authorization Form (PS145), naming the type of resole requested or repair needed. The supervisor signs the form and forwards it to the Property Clerk. The Property Clerk will sign the form and return the completed form to the employee. The form will name the contract shoe repair vendor. The employee then takes the completed form and the shoes needing repair to the vendor. The vendor will take the form and bill the Department for the repairs.

Reimbursement - Once the employee has purchased footwear from the approved list, he/she shall present the receipt and shoes to his/her supervisor who will determine policy compliance, list the manufacturer, model number and type of shoe on the Uniform Request and Authorization Form (PS145). After the supervisor signs the form, it is forwarded to the Property Clerk who arranges for reimbursement. The employee will be reimbursed the purchase price of the shoes up to the maximum allowed as determined by the current MOU contract.

700.3 PERSONAL EQUIPMENT USE, DAMAGE, AND REPLACEMENT

Personally owned articles of apparel or equipment shall not be substituted for issued articles. Personally owned articles which are supplemental to that which is issued shall not be worn or carried as part of the standard uniform or equipment except as provided in Sections P1046.2.2 and P1046.2.3.

Employees who bring personal property upon the work site do solely at their own risk. The Department assumes no liability for lost, damaged, or stolen personal property except that provided below.

In general, the City's liability for lost or damaged personal property shall not exceed the depreciated fair market value. Claims for damage or replacement can be filed with Human Resources. Employees will also notify their supervisor.

Any claims for loss or damage to personally owned equipment caused by proper performance of duty shall be in writing and forwarded with the equipment through the Chain of Command to the appropriate Deputy Chief. If the Deputy Chief approves the claim, it is then forwarded to a Senior Office Assistant, who will arrange for reimbursement to the employee of the approved amount.

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 DEPARTMENTAL AUTOMOBILES, UNAUTHORIZED USE

The following uses are prohibited:

- (a) Trips outside the county, without consent of a supervisor.
- (b) For personal business or pleasure driving except in conjunction with a Public Safety duty and then only with consent of the Chief.

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- (c) Use by personnel other than officers unless:
 - 1. Weapons have been removed.
- (d) Transportation of any passenger without notifying Communications of the circumstances and nature of the detail.

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.

700.5 DEPARTMENT PARKING LOT REGULATIONS

The intent of this policy is to provide reasonable parking accommodations for employees and the public. To further this, it is intended that all employees use parking spaces designated by this policy for employee parking before using unrestricted parking spaces.

700.5.1 PARKING IN SECURED LOT

Unpainted Curbs # Personally-owned vehicles of Public Safety employees may park in the unpainted areas on a first come, first served basis. Sworn personnel who must load and unload equipment from their personal vehicle to a City patrol vehicle, and civilian employees working after dark, have first priority for parking their personal vehicles in the secured employee parking area.

Employees not meeting this criteria are encouraged to use the front employee parking area if space is available.

White Curbs # Only marked, emergency vehicles may park in parking spaces marked by a white curb.

Yellow Curbs # Only non#emergency City-owned vehicles and personally- owned vehicles, for which an allowance is regularly paid to the employee by the City for using their personal vehicle on#duty, may park in the yellow zone during regular business day hours (0700#1830 hours Monday through Friday). ***All other Public Safety employees may park personal vehicles in the yellow zone on weekends, City holidays, and between 1830#0700 hours daily.***

700.5.2 PROHIBITED PARKING

Employees attending training at Public Safety Headquarters are encouraged not to park in the front lot or secured lot, but rather, use alternate parking sites. As an alternate, employees may park on All America Way and in the employee parking lot that is between City Hall and the City Hall Annex off All America Way.

The Library parking lot is for Library patrons and Library staff only. Public Safety staff is discouraged from using this lot.

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Employees shall not park their personal vehicle in the Public Safety front parking lot or secured parking lot for a period longer than thirty#six (36) consecutive hours without Command approval

700.6 CARE OF DEPARTMENT BUILDINGS

Public Safety employees shall not mar, mark or deface any surface in any Department building.

No material shall be affixed in any way to any wall in Department buildings without specific authorization from a Commanding Officer.

700.6.1 NOTICES

Public Safety employees shall not mark, alter or deface any posted notice of the Department.

Notices or announcements shall not be posted on bulletin boards without permission of the supervisor. No notices of a derogatory nature shall be posted at any time.

700.6.2 REPRODUCTION

Printing or copy work will not be allowed for personal, Employee Association, or community project use without the written consent of the Chief.

700.7 ISSUE/SURRENDER OF DEPARTMENT PROPERTY

Non#expendable articles of publicly owned property shall not be issued to specific members or employees for "permanent or indefinite" term use, except by the Property Unit; and then only as directed by the Special Operations Deputy Chief. (Only articles which are "consumed by authorized use" are considered expendable.)

The Property Unit shall maintain accurate and current, complete records of issue, replacement and surrender of all non#expendable articles of publicly owned property which have been issued to a specific person.

700.8 RECOVERY OF (ISSUED) CITY PROPERTY

Public Safety employees are required to surrender all Department property in their possession upon notice of separation from service. Surrender of property may be arranged by appointment with the Property Unit., but in all cases must be completed prior to the end of the last shift worked.

Exception: A time extension may be authorized in writing by the employee's direct supervisor but this information must be provided one week in advance to the Property Unit. Failure to return non#expendable articles will delay processing of final payroll until the issue is resolved by recovery or restitution.

The Principal Office Assistant shall initiate a notification to the property unit to inform of a pending separation. The property unit shall review unit records to determine if any articles of property may be in the possession of the individual which are in addition to standard issue for the classification of employee, and promptly send notice of the results to the employee's supervisor.

The Property Officer shall work with the departing employee and accommodate recovery and receipting of articles and noting of exceptions, and will report all results to the Recruitment Lieutenant. Prior to the date of actual termination, the Bureau of Personnel and Training

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Lieutenant shall prepare and forward a list to that Bureau's Deputy Chief of all articles returned, and a separate list of articles not returned. The Deputy Chief will prepare a formal letter to the officer and seek further recovery. If further resolution is necessary after this point, the Deputy Chief will make recommendations as needed to the Chief.

Only the Chief's office may issue a form of release to the Department of Administration indicating that all nonexpendable issued property has been recovered.

700.9 PERSONAL LOCKERS/LOCKS

Locker assignments are authorized and issued by the Property Unit. Only Department issued padlocks may be used.

Personal Communication Devices

701.1 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.

701.2 POLICY

The City of Sunnyvale Department of Public Safety allows members to utilize city-owned PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes 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.

701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any city-owned PCD and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a city-owned PCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for department purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

Personal Communication Devices

701.4 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. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only, for City-related business. Such devices and the associated telephone number shall remain the sole property of the City 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 or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

701.5 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. Wireless devices (such as Bluetooth headsets) should not be worn in public, unless in use while driving.
- (b) 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 for personal business to authorized break times, unless an emergency exists. While employees may use individually owned PCDs for personal business during authorized breaks, or while assigned to a fire station and as authorized by the station supervisor, such usage should be limited to areas where the call will not be seen or heard by members or the public.
- (c) Repeated misuse of Department owned PCDs for personal use or personally owned PCDs while on duty may be subject to discipline. Employees may be responsible for reimbursing the department for any charges incurred on a Department owned PCD as a result of personal use.
- (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. If personally-owned accounts or devices are used for City-related communications, members should be aware that those communications are records of city business that may be public records and shall take appropriate steps to (a) preserve such records in accordance with the City's records retention policy, and (b) search for and provide them to City officials if requested in response to a public records act request.
- (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

Personal Communication Devices

through any means, without the express authorization of the Chief or the authorized designee, may result in discipline.

- (f) As a matter of routine employees should avoid providing his/her personal phone numbers to citizens or suspects. An employee's personally owned PCD is not an alternative for citizens to request Public Safety services.
- (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.
- (h) Employees who use their personal PCD for department use will not be reimbursed unless authorized by the Chief.

701.6 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.
- (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 or the authorized designee.

701.7 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). Use should be restricted to business-related calls or calls of an urgent nature.

701.8 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

702.1 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.

702.2 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.

702.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

702.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, prolonged pursuits/high-speed operation.

702.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

702.3.1 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:

- (24) Emergency road flares
- Fire extinguisher (properly serviced)
- (2) Sticks yellow crayon or chalk
- (1) First aid kit
- AED
- (1) Blanket

Vehicle Maintenance

- (1) Orange bucket containing NP100 masks
- (1) Evidence collection kit

702.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- (1) First Aid kit

702.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than half a tank of fuel. Vehicles shall only be refueled at the authorized location.

Whenever a car is refueled, the driver should always:

- (a) Inspect the engine oil quantity.
- (b) Visually inspect the engine coolant supply reservoir. Place the car out of service if the reservoir has less than a 1" level. Do not add water.
- (c) Visually inspect tires and adjust pressures if they appear to be improperly inflated.
- (d) Remove trash and litter from trunk and interior of the car.

702.5 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.

702.6 PROFESSIONAL EMPLOYEE USE

Professional employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Professional employees shall also prominently display the "out of service" placards or light bar covers at all times. Professional employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Motorcycle Inspection, Maintenance and Repair

703.1 INTRODUCTION

The police motorcycle is subjected to many uses which exceed the manufacturer's expectations. Because of this, Motorcycle Officers are assigned individual vehicles. It is the responsibility of the individual Officer to inspect his/her motorcycle and continually be alert for symptoms of impending failure.

The Officer who does not properly inspect and maintain his/her assigned motorcycle, has failed to perform a required duty and has unnecessarily jeopardized his/her safety.

No one is in a better position to conduct an inspection and evaluation of a police motorcycle than the rider.

703.2 RESPONSIBILITY

The Patrol Operations Captain shall be responsible for the security, control and maintenance of all Traffic Enforcement Unit motorcycles and cars. The Traffic Enforcement Unit Lieutenant shall be responsible for day to day fleet maintenance and liaison with the Corporation Yard repair shop.

703.3 INSPECTION

The Traffic Enforcement Unit Lieutenant shall inspect the Traffic Unit motorcycles and cars used by the Unit Officers at least once a month. The Traffic Unit Lieutenant shall report his/her findings to the Patrol Operations Captain.

No unauthorized equipment or ornamentation shall be placed on the motorcycle without the Traffic Unit supervisor's approval.

Each Traffic Unit Officer shall conduct an inspection of the vehicle he/she is intending to use before riding/driving the vehicle, and shall continue to inspect the vehicle during its entire period of operation, and shall report all discrepancies found to the Traffic Unit supervisor. The pre-ride inspection should include a visual inspection of the tires and ensure they are properly inflated.

- (a) The pre-operation inspection shall include, but not be limited to, the following:
 - (a) All lighting and warning or electrical safety devices (horns and sirens shall be tested only in remote areas).
 - (b) Examination of tires, wheels, frame, shaft, and body for evidence of damage or need for service.
 - (c) All motorcycle accessories including, but not limited to, the lidar holder, the baton holder, the flashlight holders, and the interior gun mount.
- (b) A police motorcycle shall not be ridden whenever it is found not to operate, or be equipped as required by law.
- (c) During operation, inspections may reveal defects which require correction. Whenever defects are determined, the operator of the involved motorcycle shall advise the Traffic Unit Lieutenant of the problem and follow the supervisor's direction in an effort to

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Motorcycle Inspection, Maintenance and Repair

correct the defect. In the Traffic Unit Lieutenant's absence, the chain of command shall be followed for guidance. In no event shall an Officer attempt to have the defect repaired without supervisory approval. If approval cannot be immediately obtained, the motorcycle shall be taken out of service and not ridden.

- (d) At the conclusion of the period of use, post operation service shall be performed as follows:
 - 1. Refuel when fuel level is less than half a tank.
 - 2. Replenish with supplies as required.

703.3.1 CLEANING INSPECTION

- (a) Motorcycles should be cleaned thoroughly once a week.
- (b) The motorcycle should be wiped down whenever dirt has accumulated to the point that it detracts from the outward appearance or interferes with an officer's ability to keep his/her uniform and equipment clean and presentable.
- (c) While cleaning and inspecting the motorcycle the officer shall check for loose nuts, bolts, wiring, etc.

703.4 MAINTENANCE

703.4.1 VEHICLE MALFUNCTION REPORT

All defects shall be immediately reported to the Traffic Unit Supervisor. A course of action will be discussed in an effort to repair the problem.

703.4.2 ROADSIDE SERVICE FOR MOTORCYCLES

When roadside service is needed, either in or out of the City, the Officer shall first attempt to contact the Traffic Unit supervisor to explain the vehicle defect. In the absence of the Traffic Unit supervisor, the Officer shall have Communications send the City contract tow company. A memo and tow receipt shall be submitted to the Traffic Unit Supervisor detailing the reason for the tow and the location of the motorcycle.

Whenever a motorcycle requires towing transport during normal business hours (Monday thru Saturday, 0900 to 1800 hours), the motorcycle shall be towed to the authorized contract motorcycle repair shop. Any other time the motorcycle shall be towed to the motorcycle garage and a decision will be made by the Traffic Unit supervisor regarding repairs.

703.4.3 VEHICLE SUPPLY AND TOOL INVENTORY

Each Motorcycle Officer shall be responsible for assuring that any motorcycle he/she uses is supplied with the following:

- (a) MP7 and an extra magazine
- (b) Reflective vest

Vehicle Use

704.1 PURPOSE AND SCOPE

This policy establishes a system of accountability to ensure City-owned vehicles are used appropriately. For the purposes of this policy, "City-owned" includes any vehicle owned, leased or rented by the City.

704.2 POLICY

The Department provides vehicles for official business use and may assign take-home vehicles based on its determination of operational efficiency, economic impact to the Department, tactical deployments and other considerations.

704.3 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.

Any member operating a vehicle equipped with a two-way communications radio, MDC and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

704.3.1 SHIFT ASSIGNED VEHICLES

Members who use a fleet vehicle as part of their work assignment shall ensure that the vehicle is properly checked out and logged on the daily shift roster, according to current procedures, prior to taking it into service.

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 the shift. 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.

704.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a City-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Lieutenant of the reason for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

704.3.3 UNMARKED VEHICLES

Except for use by the assigned member, unmarked units shall not be used without first obtaining approval from the supervisor of the unit to which the vehicle is assigned.

Vehicle Use

704.3.4 INVESTIGATION BUREAU VEHICLES

Investigations Bureau vehicle use is restricted to investigative personnel during their assigned work hours unless approved by an Investigations Bureau supervisor. Investigations Bureau vehicles used by members not assigned to the Investigations Bureau shall be approved by the Special Operations Lieutenant.

704.3.5 AUTHORIZED PASSENGERS

Members operating City-owned vehicles shall not permit persons other than City members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

704.3.6 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.

704.3.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than a member should be inspected at the beginning of the shift, 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.

704.3.8 PRIVACY

All City-owned 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.

704.4 ASSIGNED VEHICLE AGREEMENT

Members who have been assigned a take-home vehicle may use the vehicle to commute to the workplace and for department-related business. The member must be approved for an assigned vehicle by his/her Captain and shall sign an agreement that includes the following criteria:

- (a) The member must live within a 30-minute commute of his/her regularly assigned work location (based on average traffic flow). A longer response time may be permitted subject to Captain approval. Members who reside outside the permissible response time may be required to secure or garage the vehicle at a designated location or the central office at the discretion of the Captain.

Vehicle Use

- (b) Except as may be provided by a memorandum of understanding time spent during normal commuting is not compensable.
- (c) City-owned vehicles shall not be used for personal errands or other personal business unless approved by a supervisor for exceptional circumstances. The member may be required to maintain insurance covering any commuting or personal use.
- (d) The member may be responsible for the care and maintenance of the vehicle. The Department should provide necessary care and maintenance supplies.
- (e) Vehicles shall be locked when not attended.
- (f) When the member will be away for periods exceeding two weeks the vehicle shall be stored in a secure garage at the member's residence or at the appropriate department facility.
- (g) All department identification, portable radios and equipment should be secured.

Members are cautioned that under federal and local tax rules, personal use of a City-owned vehicle may create an income tax liability to the member. Members should address questions regarding tax consequences to their tax adviser.

The assignment of vehicles is at the discretion of the Chief. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

704.5 KEYS AND SECURITY

All uniformed field members approved to operate marked patrol vehicles shall obtain a key for his/her assigned vehicle from the key board in the radio room. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

704.6 ENFORCEMENT ACTIONS

When driving an assigned vehicle to and from work outside of the jurisdiction of the City of Sunnyvale Department of Public Safety, an officer should avoid becoming directly involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions Policy and the Law Enforcement Authority Policy).

Officers may render public assistance (e.g., to a stranded motorist) when deemed prudent.

Officers shall, at all times while driving a marked City-owned vehicle, be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

Vehicle Use

704.7 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.

704.7.1 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.

704.8 VEHICLE DAMAGE, ABUSE AND MISUSE

When a City-owned 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 also Traffic Collision Reporting Policy).

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 Lieutenant. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.

704.9 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a City-owned vehicle upon the toll road shall adhere to the following:

- (a) All members operating a City-owned vehicle 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) All 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.

Military Equipment

705.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

705.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

Military Equipment

705.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

705.3 MILITARY EQUIPMENT COORDINATOR

The Chief should 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 governing body 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 governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of City of Sunnyvale Department of Public Safety (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 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 and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

705.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[Sunnyvale DPS AB 481 Military Equipment List \(2022\)](#)

705.5 APPROVAL

The Chief or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military

Military Equipment

equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) 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.
- (g) Acquiring military equipment through any means not provided above.
- (h) Using military equipment and/or collaborating with another law enforcement agency in the deployment or use of their military equipment not authorized by this policy which may be justified in the event of exigent circumstances. The Chief will provide justification to the governing body within 30 days after the incident.
- (i) Using military equipment and/or collaborating with another law enforcement agency in the deployment or use of additional quantities of similar authorized military equipment for pre-planned events. The Chief will provide justification to the governing body within 30 days after the deployment.

705.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

705.7 MAINTENANCE OF MILITARY USE SUPPLY LEVELS

When stocks of military equipment have reached significantly low levels or have been exhausted, the Department may order up to 30% of stock in a calendar year without city council approval to maintain essential availability for the Department's needs.

705.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

Military Equipment

The Chief or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

705.9 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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
- External RMS databases, via links such as Coplink and ARIES
- Statewide Integrated Traffic Reporting System (SWITRS)
- Booking photos
- GIS systems

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

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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.

Communication Operations

801.1 POLICY

All Department of Public Safety employees shall comply with the Radio Use Policy. Employee compliance is required as a condition of acceptable employee performance.

801.1.1 FCC COMPLIANCE

City of Sunnyvale Department of Public Safety radio operations shall be conducted in a professional manner and in accordance with Federal Communications Commission (FCC) procedures and guidelines.

801.2 PURPOSE AND SCOPE

The Communications Unit is a 24-hour operation within the Sunnyvale Department of Public Safety.

The basic function of this unit is to provide efficient, accurate and safe emergency communications services to the community, internal public safety personnel and other law enforcement/fire suppression and emergency medical provider agencies by:

- (a) Processing all emergency and non-emergency calls for services in a timely manner, obtaining pertinent information that ensures both citizen and officer safety.
- (b) Dispatching Public Safety calls in a timely manner.
- (c) Responding to the immediate information needs and requests of field personnel.
- (d) Ensuring training is provided and received by all personnel to maintain skills, knowledge and expertise in all areas of the Communications Unit.

801.3 OPERATIONS

The Communications Unit has a Standard Operations Procedure manual to which all Communications Unit employees shall adhere during the course of their duties.

801.4 AUTHORITY

- (a) The Communications Manager is authorized to issue necessary orders to Communications Personnel to provide for continuation of proper operation of the Communications Center, providing such orders are not contrary to Department General Orders, nor regulatory of personnel of another work unit.
- (b) When circumstances require a prompt decision concerning service priorities, Dispatchers may initiate a plan, restrict radio usage, restrict the use of a radio frequency, call for radio silence, etc., as may be required, and other radio operators shall comply. A Dispatcher shall remain subordinate to the authority of a Command Officer and the Communications Manager.

801.5 RADIO POLICY

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The following guidelines provide the policy for using the Department's communications system:

- (a) All radio resources are to be used for official business only.
- (b) All radio users will avoid requesting services from Communications that are of a non-essential nature.
 - 1. Non-emergency message relays for citizens.
 - 2. Non-urgent telephone messages and inquiries from officers.
 - 3. Records checks on persons not in officer's presence or in custody at headquarters.
 - 4. Requests for information available through CAD, when officer safety is not an issue.
- (c) All transmissions will be brief as possible.
- (d) The currently authorized "10" radio codes (PS-199 form obtained in Report Writing Room) are used on SVPD1. Per NIMS guidelines, the use of plain language is required for multi-agency, multi-jurisdiction and multi-discipline events, such as a major disaster and exercises.
 - 1. All radio operators are required to memorized the codes or have immediate access to a copy and the codes for brevity, clarity and confidentiality of radio transmissions.
- (e) The phonetic alphabet will be used whenever such is helpful in avoiding misunderstanding, and is always to be used when broadcasting alphabetical letters.
- (f) All radio users will monitor the radio sufficiently prior to transmitting, to preclude unnecessary interruptions to in-progress communications.
- (g) Due to time delays involved in the Department's retransmission system, all radio operators should wait at least one (1) second after keying the microphone, before beginning to speak. Failure to pause results in speaking before the radio transmitter relays engage, and eliminating the retransmission of the beginning of the message.
- (h) Mobile units communicating with the base station will wait for a Dispatcher's acknowledgement before transmitting messages requiring any written or computer action by the Dispatcher.
- (i) When transmitting to the base station or another mobile and an acknowledgement is not immediately received wait a reasonable amount of time before transmitting again, unless the message is urgent or emergency in nature.
- (j) If an acknowledgement is not received from the Dispatcher, do not switch to another resource and attempt to transmit. Dispatchers monitor all resources, and if they are unable to answer one resource, they will also be unable to answer another resource.
- (k) The signal "10-23" or "Stand-By" indicates the base station or mobile unit is temporarily unable to copy, and units will wait for further acknowledgement before transmitting, unless traffic is Code 3.

Communication Operations

- (l) Disagreements with dispatch procedures should be handled through appropriate supervisors.
- (m) Requests for hard copy computer printouts will be directed to (and copies will be obtained from) the Records Unit, rather than Communications.

801.5.1 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 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.

All radio users will identify themselves whenever transmitting by using:

- (a) Assignment designation (i.e. 22R, F1, Engine 41, T1, etc.)
- (b) When there is no assignment designation officers will use their badge number (i.e. L100, A10, etc.)
- (c) To identify a unit that is staffed by two fully trained officers the number 2 will be added at the end of patrol assignment identification (i.e. 51H2, etc.)

Use of Officers' names is to be avoided except during tactical emergencies.

801.5.2 CAR STOPS/SUSPICIOUS VEHICLES OR PERSON

In order to ensure officer safety and to maintain consistency in standard operational procedures where safety dictates a location be known, the first broadcast should identify unit, type of call/action, and location. This will allow other units to note the location and situation in case Dispatch did not hear or cannot immediately answer. Vehicle license numbers and/or descriptions should be broadcast secondarily.

Officers shall follow the guidelines listed below when initiating vehicle stops.

- (a) Officers who initiate a car stop after darkness will broadcast a "1196" Code, provide the location of the stop and give the license number of the vehicle being stopped.
 - 1. The nearest available unit will then respond toward the location of the stop.
 - 2. Patrol supervisors may exempt officers from the "1196" Code policy when they are on special traffic assignment and are working in close proximity to each other as units of a team, e.g. DUI enforcement detail, etc.
- (b) Officers who initiate a car stop during daylight hours are not required to transmit a "1196" Code.
 - 1. During daylight hours, officers may broadcast a "1195" Code, which signifies assistance is not needed or wanted.

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2. The "1195" Code does not exempt the officer from providing the location of the stop and the license number of the vehicle being stopped, nor does it preclude the Officer from requesting a fill unit(s) whenever necessary.
- (c) Code 4 (cancellation of the backup [fill] unit) may be used only when the subjects(s) have been encountered and there is an articulate reason to determine that the fill unit is unnecessary.

801.5.3 OFFICER SAFETY AND RESOURCE CONTROL

In order to improve Officer safety and control of personnel working various assignments other than regular shift patrol duties, the following procedures shall apply:

Beat Officers # Officers working in the field beyond normal shift will notify Dispatch of the nature, location and estimated time their work will entail.

Contract Work # Officers working dances, traffic control, security, etc. will advise Dispatch of the nature, location and time of their activity. This will be done by phone prior to the start of assignment.

Investigations

- (a) Investigators working after hours will notify Dispatch of their assignment and estimated time clear as soon as practical after normal shift.
- (b) This order is waived for those personnel, assigned to Investigations, working sensitive cases with the approval of the Investigation's supervisor.

Neighborhood Resource Officer # Shall notify Dispatch of their location and assignment.

Completion of Assignment # When the assignment or detail is completed, units will again advise the Dispatcher.

801.5.4 RESTRICTED COMMUNICATIONS

The signal "Code 33" or "Code 3", or alert tones indicate radio silence to all units, and **no transmissions (except other Code 3 traffic) are to be made until the resource is clear.** The obvious exception is transmission by those units related to the emergency.

The signal "Code 22" indicates radio silence for all units except those transmissions that are Code 2 or Code 3 in nature.

801.5.5 TACTICAL TALK GROUPS

Tactical talk groups are intended to provide an essential communications capability for units that are involved in situations requiring priority (or exclusive) use of a radio talk groups, and/or a Code 33 on the primary talk groups is inadvisable due to particular circumstances.

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The Tactical talk groups may be used as an alternative to the primary talk groups when it has been committed (by a Code 33) for the exclusive use of units involved in a high priority situation.

- (a) The use of the tactical talk groups, as provided by these guidelines may be initiated only by supervisory personnel having obtained assurance from the Dispatcher that the talk groups can be properly attended.
- (b) Unauthorized use of the tactical talk groups is prohibited.
- (c) The tactical talk groups will not be monitored by Dispatchers except when so directed by a supervisor.
- (d) Unit to unit use of the tactical talk groups may be appropriate for brief, essential communications which would unnecessarily interrupt the primary Police or Fire frequency. However, supervisory approval is required before such use is undertaken.

801.5.6 EMERGENCY ALERT BUTTONS

All marked patrol vehicles are equipped with one (1) emergency alert switch. It is located on the vehicle's mobile radio. Another emergency alert switch is located on the officer's portable radio. These switches shall be activated to summon "EMERGENCY HELP" when other means are impractical or unavailable.

On the first Sunday of each month, a Patrol Lieutenant shall ensure that the Code 20 button in every patrol vehicle available for service is activated to assure proper functioning. On all remaining Sundays throughout the month, only those patrol vehicles in use will have the Code 20 buttons tested.

801.6 EMERGENCY CALLS FOR ASSISTANCE

The purpose of this policy is to provide guidance to Officers and Dispatchers in the event of an Officer initiated call for assistance. Emergency calls for assistance may be received in any of the following manners:

- (a) Transmitted via radio by an Officer;
- (b) Activation of the "Code 20" button in the patrol vehicle; or
- (c) Relayed by a citizen upon request from an Officer.

801.6.1 CODE 20 CITY-WIDE EMERGENCY CALL FOR ASSISTANCE

- (a) Generally, any call for emergency assistance will be initially treated as a Code 20, until such time as an assessment of the incident is made by an Incident Commander who determines that the incident is beyond the control of available Public Safety resources.
- (b) A Code 20 call for assistance requires the emergency (Code 3) response of all available Public Safety patrol units. At any time, a modification may be made to reduce the request to a specific number of units.
- (c) A modification to the Code 20, either reducing the number of personnel or escalating the call to a Code 30, can be initiated only by command, supervisory or, in their absence, the senior Public Safety Officer on the scene, upon notifying Public Safety Dispatch that he/she is assuming Incident Command.

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801.6.2 CODE 20 UNKNOWN CIRCUMSTANCES

A Code 20 to an unknown situation, (i.e. telephone call from a citizen stating (in the citizen's opinion) an Officer needs help), will require a Code 3 response by the three (3) nearest patrol units. The first arriving unit is to assess the situation and provide Dispatch with, or report on, conditions as quickly as possible.

801.6.3 CODE 20 ACTIVATION OF PATROL CAR EMERGENCY ALERT BUTTON

- (a) If a Code 20 button in a patrol car is activated and is believed to be valid, a Code 20 response will be dispatched to the officer's last known location.
- (b) If there is doubt about the validity of the activation, Dispatch is to inquire of the unit (via radio) to report on status. If the officer can speak freely, a report on the conditions should be given. If the officer needs help and cannot speak freely, the officer should attempt to provide some type of verbal response, but use his/her last name in lieu of a radio call sign as the identifier. Responding units switch to tactical talk group SVPD-4.
- (c) If no radio response is received by Dispatch, a dispatcher should then direct the response of patrol units, keeping in mind the last known location of the officer in trouble and the potential need for a perimeter in sight of the officer and suspect(s). A show of force may, in some instances, be sufficient to convince the suspect(s) to surrender. In all cases, the practice of "waiting out" the suspect(s) should be considered. Hostage negotiations may be used as deemed necessary by the Incident Commander.

801.6.4 CODE 20 LOCATION UNKNOWN

If the location of the officer needing assistance is not known, a supervisor is to plan and institute a systematic search of the officer's beat and/or the City as required, until the officer is located.

801.6.5 CODE 30

When a Code 30 is called, the Incident Commander is to designate a staging area and the dispatchers are to inform responding law enforcement personnel to assemble and report in at the staging area. At the staging area, the Incident Commander, or designee, will make assignments for the deployment of personnel.

801.7 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.

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- 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.

801.7.1 EMERGENCY RULE

- (a) When a demanding mix of situations occurs that, together, are beyond the reasonable capabilities of the Communications Center to perform, the shift supervisor can enact the Emergency Rule or a Dispatch Life Support (DLS) Downgrade Mode to help manage the workload.
- (b) When the Emergency Rule is enacted, the address, telephone number and nature of the emergency shall be obtained and verified. The caller shall be advised to call back if the situation changes. Beyond that, no further Police, Fire, and/or Medical assessments and instructions are provided. A call for service will be created with the information provided and responders sent as soon as practical.
- (c) In the absence of a shift supervisor, the most senior Dispatcher can act in the place of the shift supervisor for the purposes of this policy.

801.8 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 headquarters files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

801.9 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510) and standards set forth by the International Academy of Emergency Dispatch.

Property and Evidence

802.1 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 those persons authorized to remove and/or destroy property.

802.2 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.

Disposal – Non-evidentiary property that a civilian or an officer has requested to be destroyed. This generally includes weapons and ammunition. (POST)

Stolen – Refers to property that has been reported as stolen, that is not in the custody of the law enforcement agency.

802.3 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.

802.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- (a) Complete the ARS property tab describing each item of property separately, listing all mandatory fields of information in the ARS entry screens, including but not limited

Property and Evidence

to: serial numbers, owner's name, finder's name, and other identifying information or markings.

- (b) Assign a unique tag number in the system to each item of evidence using the appropriate method.
- (c) Print the corresponding evidence/property barcode tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number in the upper right hand corner of each package or envelope.
- (e) Property is deemed booked in and received by the Property unit as soon as the tags are assigned and the barcode labels are printed. If there will be a delay for any reason, the booking officer shall contact the property clerk immediately with the reason for the delay and shall identify the storage location of the property.
- (f) When the property is too large to be placed in a locker, the item may be temporarily stored in the secured CSI lab, with concurrent notification made to the property clerks.
- (g) County Crime Lab protocol shall be followed for packaging and lab submission requirements. Any exception to this must be approved by an on-duty supervisor with the reason noted for submission to the crime lab and in ARS.

802.3.2 NARCOTICS AND DANGEROUS DRUGS

The Property Unit 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 & Safety Code § 11364.

All narcotics and dangerous drugs shall be entered into ARS using the Drug tab. All narcotics (except marijuana) shall be packaged and booked separately in a KPAK using a separate tag number and barcode label for each item. Marijuana shall follow the same booking procedures except it shall be packaged in a paper bag or property envelope. Paraphernalia as defined by Health and Safety Code § 11364 shall also be packaged and booked separately, in the same manner as 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 locker, accompanied by the required crime lab sticker. 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 a KPAK of appropriate size available in the report room. The booking officer shall initial and date the sealed KPAK. Narcotics and dangerous drugs shall not be packaged with other property. Paraphernalia shall be packaged separately from narcotics and dangerous drugs.

A completed property barcode label shall be attached to the outside of the KPAK. The chain of evidence shall be recorded on the crime lab sticker.

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Narcotics returned to the Property Unit following check out to officers shall be disposed of in accordance with existing court orders or other applicable laws and statutes.

802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Lieutenant. 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 headquarters 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 Clerk is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Firearms shall be booked unloaded and with the action left open and stored in a sealed firearms evidence box. All mandatory AFS entry fields shall be entered into the Firearms tab in ARS and a Firearms Notice of Rights and Receipts form shall be provided to the person from whom the firearms were taken. All firearms taken into the custody of the department can only be returned through the DOJ law enforcement gun release process. All firearm serial numbers written on property receipts and entered into database systems shall be verified against the actual firearm by a second person prior to submission. If a firearm is missing a serial number or is obliterated, all efforts will be made by the booking officer to restore the number.
- (b) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (c) Biohazard substances shall be clearly labeled as such prior to booking and if an item poses a known health hazard to the property room, command notification must be made prior to submission.
- (d) License plates found not to be stolen or connected with a known crime, placed in the outgoing US mail, using prepared envelopes for return to the Department of Motor Vehicles. No formal property booking process is required. Anytime a license plate is returned to the DMV in this manner, the ARS report shall be updated to reflect this information.
- (e) All bicycles and bicycle frames require ARS entry of the property record. Property barcodes will be printed and securely attached to each bicycle or bicycle frame. The property will be placed and secured in the bicycle storage area.
- (f) All cash shall be counted in the presence of a second officer and the envelope initialed by the booking officer and the second officer. A supervisor shall be contacted for cash in excess of \$1,000 for special handling procedures or asset forfeiture review.

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- (g) Counterfeit and foreign currency shall be entered into ARS using the Securities tab as a non-negotiable item. Counterfeit and foreign currency shall be booked into property in a KPAK. Officers shall clearly indicate on the packaging whether or not the item is of evidentiary value.
- (h) Pharmaceuticals shall be entered into ARS under the drug tab. Sharps shall not be accepted or booked in to the property unit unless as evidence. Proper safeguard procedures shall be followed and sharps shall be placed into the designated sharps disposal container.
- (i) Items with defaced serial numbers (other than firearms) will not be returned to owners except by court order pursuant to PC 537e.
- (j) Blood/Urine from suspects shall be booked in to the jail refrigerator and entered into ARS. A barcode label shall be printed and only the barcode label shall be booked in to the property unit. The property clerks shall be responsible for collecting and transporting the specimens to the crime lab as required.
- (k) Food/Consumables, including alcohol, shall not be booked in to the property unit unless of evidentiary value. Such items shall be disposed of in a safe and lawful manner.
- (l) Flammables shall be booked directly in to designated storage containers and shall not be brought in to the property room.
- (m) Jewelry and collectibles shall be individually packaged and described so as to readily identify each item. All items should be individually packaged in KPAK.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

802.3.5 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).

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.

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The Property Clerk 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 Unit Policy).

802.4 PACKAGING OF PROPERTY

Employees shall properly document all items of property into departmental systems, package each item in accordance with standardized packaging guidelines and a barcode label shall be affixed to each item of property as required, prior to booking the item in to the property unit. Department packaging guidelines will be made available to all personnel to facilitate consistency and uniformity with regards to evidence submission and storage.

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)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

802.4.1 PACKAGING CONTAINER

Employees shall package all property in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Firearms boxes shall be used to package unloaded firearms. Narcotics and dangerous drugs shall be packaged as described above.

A property label shall be securely attached to the outside of each individual item.

802.5 RECORDING OF PROPERTY

The Property Clerk receiving custody of evidence or property shall record his/her ID number, the date and time the property was received and where the property will be stored in the property and evidence storage system.

A unique property tag shall be obtained for each item. This number shall be recorded on the property barcode label and affixed to each item prior to submission to the property unit.

Any changes in the location of property held by the City of Sunnyvale Department of Public Safety shall be recorded at the time of the change, by the property employee making the change.

802.6 CHAIN OF POSSESSION

Once received, the property clerk shall always maintain an accurate record of the current location, disposition and the custody of all items of property and evidence and shall require the identification and signature of any person to whom an item is transferred or released. In the event of an

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emergency or disaster the Property Clerks shall coordinate with patrol to temporarily store property in the designated offsite location in accordance with the Emergency Management Plan.

802.7 ACCESS TO PROPERTY FACILITIES

Only Property Clerks and those in the direct chain of command of Property staff shall be granted card key access to the Property storage areas. Card key access is controlled by the Property and Evidence manager. Others in need of access to storage areas (e.g. those assigned to assist property clerks or visitors) shall be required to sign in and out, logging entry and exit times at each access door. No access shall be granted to narcotics or homicide evidence storage areas to visitors except for reasons of audit, inspections or by written authorization by the Unit Management, the District Attorney, the Chief, by the Grand Jury or court order.

802.8 PROPERTY CONTROL

Each time the Property Clerk 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 Clerk at least one day prior to the court day.

802.8.1 TEMPORARY CHECK OUT OF EVIDENCE

Officers desiring property for court shall contact the property clerk at least one day prior to the court day. Evidence may be checked out for official use from the Property Clerk using the Use of Evidence Request form. The employee who accepts the evidence is responsible for the condition of the item for the duration of the time the item is in his or her possession. Any additional transfer of custody of the item shall be documented on a Property Transfer form. Evidence shall not be released to the owner by property staff without consent of the District Attorney, the investigating officer or by court order. All evidence shall be promptly returned to the property unit when no longer needed for investigative use or for court.

802.8.2 FINAL DISPOSITION OF PROPERTY

Once an item has been booked in to the Property Unit the Property Unit staff is responsible for coordinating the final disposition and release of the item.

802.8.3 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence package and in the property and evidence system shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective, or investigating officer.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property Clerk. This request may be filled out any time after booking of the property or evidence.

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802.8.4 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Once a week, the Property Clerk will take all evidence booked in with a Major Case Request form to the crime lab for analysis. All property items listed will be reviewed to ensure they are packaged according to crime lab submission requirements. The original copy of the Major Case Request form will remain with the property unit files. The Property Clerk will scan each item out to the location of the crime lab so the property and evidence system reflects the accurate storage location. When each item is returned, each item will be checked back in and the system will be updated to show the return location for each item.

802.8.5 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 in the property database, stating the date, time and to whom released.

The Property Clerk 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 and documented as such.

The return of the property should be recorded promptly in the property database, indicating date, time, and the person who returned the property.

802.8.6 AUTHORITY TO RELEASE PROPERTY

Once received into the Property Unit, only the Property Clerk can coordinate the final disposition or release of all evidence and property coming into the care and custody of the Department.

Cases involving homicide or of a high-profile nature should be reviewed by the Investigations Unit prior to final disposition.

802.8.7 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

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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 Clerk 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 Unit for filing with the case. If some items of property have not been released, the property card will 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 Property Unit Supervisor 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).

802.8.8 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)).

802.8.9 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, the Property Clerk shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm 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).

802.8.10 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

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shall be released or disposed of as provided by an order of the court. If the court 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.

802.8.11 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 City of Sunnyvale Department of Public Safety 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.

802.8.12 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

802.9 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 Clerk 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.

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802.9.1 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)
- 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(e))

802.9.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence the Property Unit shall prepare a memo to transfer the funds to the Finance Department. If the money remains unclaimed after three years, the Finance 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.

802.9.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property Unit Manager shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney

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- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigations Bureau supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications 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 Bureau supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief 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 and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigations Bureau 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).

802.10 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a quarterly basis, the supervisor of the evidence custodian shall inspect 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.
- (c) An annual audit of evidence held by the Department shall be conducted by a Captain (as appointed by the Chief) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, a selective audit of 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.

Pharmaceutical Drug Collection/Disposal Program

803.1 PURPOSE AND SCOPE

Unneeded, old, or expired pharmaceuticals, if flushed down the toilet or drain, can contaminate water supplies and the environment. In addition, unwanted medications disposed of in the trash have the potential to be stolen, used, or accidentally ingested if they are not rendered unusable. Having these items around the home also presents a danger of accidental ingestion by children and animals.

The Sunnyvale DPS Drug Collection/Disposal Program provides a safe location for citizens to properly dispose of unused prescription medications.

- (a) This program provides an environmentally safe alternative to disposing of medications in the landfill or sewer systems which may later negatively effect the environment.
- (b) This program encourages citizens to remove their unneeded medications from their homes. This reduces access to addictive medications for accidental or intentional misuse by children in the home.

803.2 GUIDELINES

DPS fire stations will maintain a steel secure collection container for the deposit these medications.

- (a) Collection boxes shall be clearly marked for this purpose.
- (b) Collection boxes shall be locked and securely mounted to prevent removal of the box or retrieval of medications from within the box without a key.
- (c) Citizens may turn in medications/drugs anonymously to sworn DPS employees.
- (d) Medications are to be placed into plastic bags provided at the fire station.
- (e) Syringes and other dangerous items are not to be accepted and efforts should be made to direct the citizen to a proper disposal site.
- (f) Opened containers of liquid will not be accepted unless they are completely sealed.

803.3 PROCEDURES

The following procedures are to be utilized to facilitate the safe collection of pharmaceuticals brought to the fire stations for disposal:

- (a) Medications may be brought to any Sunnyvale fire station and are to be accepted by on-duty sworn officers. Officers are to wear medical gloves when handling medications.

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Pharmaceutical Drug Collection/Disposal Program

1. Items determined to be hazardous or possibly hazardous may be referred to the Station 2 Hazardous Materials Unit for further examination or disposal/disposition.
 2. Exceptions to this policy are syringes/needles, and any other dangerous substance deemed to be too unsafe to be handled.
 3. If any product or item is not accepted, efforts should be made to guide the citizen to a proper disposal site.
 4. Illegal drugs (i.e. cocaine, methamphetamine, heroine, etc.) that are brought to the fire stations will require an immediate patrol response. Contraband is to be handled using standard patrol procedures for disposal.
- (b) After it is accepted, the pharmaceutical is to be entered into a log adjacent to the depository. The log should include the officer's name, the name of the product (if known), product description, date/time, and an event number (obtained from dispatch).
 - (c) The collected product is to be placed in a sealable baggie, and affixed with an identifying sticker. The identifying label is to include the identical information provided in the depository log.
 - (d) Once sealed and labeled, the product is to be placed in the locked pharmaceutical depository.
 - (e) Once a month, the Sunnyvale DPS CSI Coordinator is to arrange to have a CSI stop at each fire station and collect the deposited materials. The collection day will be coordinated with Property Unit. Station supervisors are to notify a CSI for pickup should the pharmaceutical depository become filled to capacity before its monthly inventory.
 - (f) The assigned CSI will place all of the collected items into a locked DPS evidence locker.
 - (g) Once the property unit has received the pharmaceuticals, they will process them for destruction via the contracted waste management company for incineration or other environmentally safe method of disposal.
1. Once a month the Property Unit will weigh the collected pharmaceuticals.
 2. A single case number will be assigned to the pharmaceutical collective, to be booked for destruction. An ARS Supplemental report is to be written by the Property Unit documenting the amount (weight) of the items to be destroyed for each collection booked in.
 3. The master collective will then be disposed of into the provided waste management containers for destruction by the contracted waste management company.

Records Unit Procedures

804.1 PURPOSE AND SCOPE

The Records Manager shall maintain the Department Records Unit Procedures Manual on a current basis to reflect the procedures to which Records personnel shall adhere to during the course of their duties.

804.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Unit by Records Unit personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number YY-00001 would be the first new case beginning January 1 of a new year.

Online reports are numbered commencing with the last two digits of the current year followed by a sequential numbering beginning with 80001 starting at midnight on the first day of January of each year. As an example, case number YY-80001 would be the first new online case beginning January 1 of a new year.

804.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up and all reports critical to a case that are not of evidentiary value shall be maintained in a secure area within the Records Unit accessible only to authorized personnel.

City of Sunnyvale Department of Public Safety employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law. Staff members shall not alter, falsify, remove, secrete, destroy, mutilate or otherwise unlawfully edit original case files (Government Codes § 6200 & 6201).

804.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records Unit. Should an original report be needed for any reason the requesting employee shall first notify Records staff. All original reports removed from the Records Unit shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Records Unit.

804.3 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the City of Sunnyvale Department of Public Safety and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Administration Lieutenant and the prosecuting attorney for review and response within 60

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days (Penal Code § 851.8). If, after receipt by both the law enforcement agency and the prosecuting attorney of a petition for relief under subdivision (a), the law enforcement agency and prosecuting attorney do not respond to the petition by accepting or denying the petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied.. Factual innocence means the accused person did not commit the crime.

Upon determination that a finding of factual innocence is appropriate, Records staff shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

804.4 JUVENILE RECORD SEALING

Juvenile records may be sealed in accordance with Welfare and Institutions Codes § 389, 781, 781.5 & 793(c) and Penal Codes § 851.7 and 1203.45.

804.4.1 GENERAL PROCESSING

- (a) Welfare and Institutions Code § 389 permits the sealing of a record any time after a person has reached the age of 18, by allowing the person or county probation officer to petition the court for sealing the records, including records of arrest relating to that person.
- (b) Welfare and Institutions Code § 781(a) permits the involved person or a probation officer to petition the court to completely seal a record five years or more after the jurisdiction of the juvenile court has terminated as to the person, or five years since the juvenile was cited to appear before a probation officer or LEA; or, any time after the person has reached the age of 18, the person may petition the court for the sealing of the records relating to the person's case. (WIC781(a)).
- (c) The person must not have been convicted of any felony or misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court.
- (d) Convictions do qualify for sealing under Welfare and Institutions Code § 781.
- (e) Welfare and Institutions Code § 781.5 is the Juvenile equivalent of Adult Factual Innocence.
- (f) Welfare and Institutions Code § 793(c) is a sealing request in which the juvenile has successfully completed a Deferred Entry of Judgment program.
- (g) Penal Code § 851.7 is a request to seal a juvenile's records after said juvenile was released from a misdemeanor arrest per Penal Code § 849(b)(1). This code does not destroy a record. The record may be reopened or referred to in the event of subsequent criminal activity at the discretion of the court.
- (h) Penal Code § 1203.45 allows that a person who was a minor at the time the offense was committed, if the offense was a misdemeanor and was not under the authority of the juvenile court, may petition the court in which they were convicted to seal their record, provided they have previously received relief per Penal Codes § 1203.4 or

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1203.4(a). This code does not destroy a record. The record may be reopened or referred to in the event of subsequent criminal activity at the discretion of the court

804.4.2 LAW ENFORCEMENT AGENCY RESPONSIBILITY

- (a) The law enforcement agency receiving a court order sealing of juvenile records per Penal Code § 781(a), need only notify the court of their compliance.
- (b) Law enforcement agencies do not need to notify any other agency of the Department of Justice of the record sealing. It is the responsibility of the court to order any other agencies to seal their records.
- (c) Access to or dissemination of information in a sealed file is not allowed for any reason, except by court order.
- (d) Juvenile records, in possession of law enforcement agencies, that have been sealed under Penal Code § 781 shall be destroyed **five years** after the ordered is sealed. (Five years from the date the judge signed the sealing order (Penal Code § 781(d))

804.5 RECORD VALIDATION

Each month, the DOJ sends a packet that contains a list of randomly selected entries in the automated systems that are required to be verified for current status, accuracy and completeness. The packet includes a list of items to be validated, two return envelopes, an acknowledgment letter, and a certification letter. The list includes entries in the following systems:

- Stolen vehicles
- Stolen guns
- Automated boats
- Found guns
- Wanted persons
- Securities
- Missing persons
- Restraining orders
- Unidentified persons
- Supervised release

In accordance with NCIC policy, validation of vehicle, boat, wanted person, missing person, supervised release and restraining order entries requires the ORI to have recent consultation with an appropriate complainant, victim, prosecutor, court, motor vehicle registry file or other appropriate source or individual. In the event the ORI is unsuccessful in its attempts to contact the victim, complainant, etc., the entering authority must make a determination based upon the best information and knowledge available whether or not to retain the original entry in the file.

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Any necessary changes must be made and documents showing the changes must be kept with the report.

Evidence Requests for Court

805.1 PROCEDURE

Officers requiring evidence for any court proceedings shall submit an Evidence Request Form (PS358) to the Property Unit a minimum of three days prior to the date it is needed for court.

When the evidence is picked up by the Officer, he/she shall sign the chain of possession section of the property request form and assume responsibility for the evidence.

805.2 DISPOSITION

When evidence is retained by the Court, officers shall complete a property transfer form listing the item number(s) and a description of the evidence retained. This report is to be put into the Property Room slot or in the locker with other evidence items being returned. The Property Clerk will retain the records in the Property office.

Officers shall immediately return all items not retained by the Court to the Public Safety Department Property Room and secure it in an evidence locker.

Restoration of Firearm Serial Numbers

806.1 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 firearms requiring the restoration of serial numbers will be sent to the Santa Clara County Crime Lab for restoration. This policy complies with Penal Code § 11108.9.

806.2 PROCEDURE

Any firearm coming into the possession of the City of Sunnyvale Department of Public Safety as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed by the Santa Clara County Crime Lab:

806.2.1 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.

806.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures as outlined in P804. The employee booking the firearm shall indicate in the property tab that serial numbers have been removed or obliterated.

Restoration of Firearm Serial Numbers

806.2.3 PROPERTY AND EVIDENCE RESPONSIBILITY

The Property Clerk receiving a firearm when 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.

806.2.4 DOCUMENTATION

Case 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.

806.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Clerk will enter the complete firearm information into ARS on a supplemental report and will notify the originating office of the information to facilitate completion of a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL). Records staff will forward the form to the NTC in Falling Waters, West Virginia and will also enter the updated firearm information as a crime gun into the DOJ AFS and the ATF eTrace system as per Penal Code § 11108.3.

806.3 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.

Records Maintenance and Release

807.1 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.

807.2 POLICY

The City of Sunnyvale Department of Public Safety is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

807.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief 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 bureau 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 § 6253).
- (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 § 6253).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 6253.
- (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 § 6253.10 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.

Records Maintenance and Release

- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department's website.

807.4 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.

807.4.1 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 § 6253). Records staff may ask for identifying and contact information to assist with processing the request, and when an exempted record is requested, to help determine whether the requester is authorized to receive the record.

The processing of requests for any record is subject to the following (Government Code § 6253):

- (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 § 6254.30).
- (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 § 6253.1).
 - 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 may be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).

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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 (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

807.5 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 § 6254.29).
- (c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; 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, 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 to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
 - 1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be

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provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, 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 § 6254.4.5.
- (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 § 6254).
 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 § 6254(f).
- (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 Attorney, 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 § 6254).
- (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.
- (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 6254).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).

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- (n) Records relating to the security of the department's electronic technology systems (Government Code § 6254.19).
- (o) A record of a civilian 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)(8)).
- (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 § 6254).
- (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).

807.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a Records supervisor and the Court Liaison 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 the City Attorney or District Attorney office so that a timely response can be prepared.

807.7 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 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.

807.7.1 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

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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).

807.8 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:

- Social Security number
- 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
- 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
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

807.8.1 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 City of Sunnyvale Department of Public Safety.
 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.

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5. Whether the notification was delayed because 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 City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety, 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.

807.8.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
- (a) Written notice.
 - (b) Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
 - (c) 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 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.
 - (d) Notification to major statewide media and the California Information Security Office within the California Department of Technology.

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- (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.

807.9 DESTRUCTION OF PRINTED INFORMATION

Title 11, California Code of Regulations, Section 708 requires all criminal history information to be destroyed in such a way that the subject of the record can no longer be reasonably ascertained. As soon as the law enforcement and/or valid business purpose has been fulfilled, all printed information obtained from all computer terminals at the Department, whether fixed or mobile, must be deposited into designated shred bins.

807.10 OTHER RECORDS

- (a) Registrant Records – Records pertaining to the registration of individuals pursuant to Penal Code § 290, Penal Code § 186.30, Penal Code § 457.1 and Health and Safety § 11590 are considered confidential, and are for law enforcement use only.
 - 1. **Exception:** In accordance with Penal Code § 290(a)(1)(F), one copy of the SS8102s form shall be provided to the registrant each time he or she registers.
- (b) Mobile Video, Body Worn Camera and Routine Video Monitoring – Recordings from Mobile Video, Body Worn Cameras and Jail video recording are considered part of an investigative record and are not subject to release as a public record per Government Code § 6254(f). Lobby video, and other areas of routine video monitoring may be authorized for release without a subpoena. Such requests will be considered on a case by case basis to determine whether they are for subject matter that is exempt per Government Code § 6254(f).
- (c) Dispatch Tape/Radio Traffic - These records are considered part of the investigative record and are not subject to release as a public record per Government Code § 6254(f).
- (d) DMV Information - Department of Motor Vehicles Information obtained via CLETS may be provided verbally only for those specific valid law enforcement purposes authorized under the terms of the Department's current DMV Requestor Code. Valid law enforcement purposes include: Confirm Identity, Confirm Driving Privilege, Confirm Vehicle Registration/Ownership, Verify Financial Responsibility. In no case is a file copy or CLETS produced printout authorized for release as a public record from this agency.
- (e) Photos - Sunnyvale suspect arrest photos may be released under the following conditions:
 - (a) After an arrest, has been made and the case is referred to the District Attorney, a booking photo may be released with approval of a Command Staff member, after consultation with the District Attorney's Office.
 - (b) Prior to arrest any other suspect photo may be released with the approval of a Command Staff member.

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807.11 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 § 6254(f)(4)).

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 in which the use of force by an officer against a person resulted in death or in great bodily injury (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief or the Internal Affairs Unit 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.

807.11.1 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.
- (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 § 6254(f)(4)).

807.11.2 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 § 6254(f)(4)):

- (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.
- (b) 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 in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

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Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

807.11.3 REDACTION

If the Custodian of Records, in consultation with the Chief or 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 § 6254(f)(4)).

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 § 6254(f)(4)).

807.11.4 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 § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (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 § 6254(f)(4)).

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 § 6254(f)(4)(A)).

Protected Information

808.1 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 City of Sunnyvale Department of Public Safety. 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.

808.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the City of Sunnyvale Department of Public Safety 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.

808.2 POLICY

Members of the City of Sunnyvale Department of Public Safety will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

808.3 RESPONSIBILITIES

The Chief 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.
- (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.

Protected Information

808.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, City of Sunnyvale Department of Public Safety 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.

808.4.1 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).

808.5 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 Unit to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

808.5.1 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).

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).

808.5.2 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.

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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.

808.6 SECURITY OF PROTECTED INFORMATION

The Chief 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 and appropriate authorities.

808.6.1 ACCESS TO INFORMATION

All peace officers, as defined by Penal Code § 830, are entitled to review and receive copies of arrest records and Offense Reports as required for the execution of their duties.

Access to information obtained from law enforcement computer systems is only authorized when it is conducted by authorized persons in order to fulfill a valid law enforcement or related purpose.

Examples of valid access reasons include:

- Making inquiries for authorized criminal justice agencies.
- Making inquiries in response to legitimate law enforcement related requests.

Refer to Penal Code § 502 and Vehicle Codes § 1808.46 and 1808.47 for additional information.

808.6.2 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).

Each member, volunteer, contract worker and vendor is provided with an Employee Statement Form that outlines the requirements related to the use of all of the information systems and clearly identifies penalties for misuse of systems and information obtained from systems. Refer to Penal Codes § 502, 11105 and 13300, Vehicle Codes § 1808.46 and 1808.47, for additional information.

All access to department facilities, (to include the DPS headquarters building, computers, vehicles and all external facilities such as fire stations) shall be immediately suspended for any/all persons not abiding by this order.

808.7 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).

808.8 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.

Computers and Digital Evidence

809.1 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 and the Santa Clara County Crime Lab Physical Evidence Manual. <J:\DPS\PoliceServices\Patrol\CSI\WorkingFiles\Policies & Procedures>

809.2 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) Label each item with case number, evidence sheet number, and item number.
- (f) 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.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
 - 1. Where the computer was located and whether or not it was in operation.

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2. Who was using it at the time.
 3. Who claimed ownership.
 4. If it can be determined, how it was being used.
- (i) 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, software and manuals) should not be seized unless as a precursor to forfeiture.

809.2.1 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 certified 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.

809.2.2 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.

809.3 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 the Property Unit to copy the contents to an appropriate form of storage media.

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- (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.
- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

809.4 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.

809.5 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.

809.5.1 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.

809.5.2 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 CSI lab as soon as possible for submission into evidence.

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- (b) Officers are not authorized to review or copy memory cards. CSI's are the only employees authorized to copy and/or distribute digital media made from the memory cards.
- (c) CSI's will upload the images into the approved digital evidence system. Once they have verified that the images properly transferred to the digital evidence system, the CSI will erase the memory card for re-use.
- (d) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

809.5.3 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.

809.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only authorized personnel are to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

Animal Control

810.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Animal Control Officers (ACO) and City of Sunnyvale Department of Public Safety personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of abused, stray, biting, deceased, and injured animals, and the abatement of animal nuisances.

810.2 ANIMAL CONTROL OFFICER AUTHORITY/RESPONSIBILITY

The authority of ACOs is defined in Section 830.9 of the California Penal Code and the Sunnyvale Municipal Code.

The ACO shall be responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The ACO shall be under the operational control of the Department of Public Safety.

During hours when the ACO is on duty, requests for animal control services shall be assigned by Dispatch .

Requests for Patrol assistance may be made by the ACO when necessary.

810.3 OFFICER RESPONSIBILITY

During hours when the ACO is off-duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be assigned by Communications to the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to resolve or control the situation:

- (a) When there is a threat to the public safety.
- (b) When an animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
- (c) When the animal is creating a noise nuisance.
- (d) When an animal is creating a traffic hazard.
- (e) When the owner/handler has been arrested and there is no other alternative placement for the animal.
- (f) When an animal is gravely injured.
- (g) In cases of criminal animal cruelty.

810.3.1 ANIMAL RELATED CALLS OR COMPLAINTS

Animal Control Officers will respond to animal related calls or complaints in accordance with the Animal Control Response Guidelines.

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When an ACO is not available, other Officers may be assigned by Communications in accordance with the Animal Control Response Guidelines and Matrix.

810.4 ANIMAL LICENSING

The Animal Control Unit is responsible for administering the licensing of dogs residing in the City of Sunnyvale. Animal licensing and enforcement shall be administered in accordance with the Sunnyvale Municipal Code.

810.5 CITATIONS

It should be at the discretion of the handling officer or the field supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

810.6 POST-ARREST PROCEDURES

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

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811.1 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.

811.2 POLICY

The City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the City of Sunnyvale Department of Public Safety to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the City of Sunnyvale Department of Public Safety 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.

811.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief will:

- (a) Ensure that the City of Sunnyvale Department of Public Safety 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

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by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

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 City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety 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).

811.3.1 ADDITIONAL REQUIREMENTS

The Chief 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.

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2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.
- (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 City of Sunnyvale Department of Public Safety 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 his/her 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 City of Sunnyvale Department of Public Safety is necessary to contact or detain the assailant (Education Code § 67380).
2. If the institution discloses the identity of the alleged assailant to the City of Sunnyvale Department of Public Safety, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

811.4 RECORDS COLLECTION AND RETENTION

The Records Manager is responsible for maintaining City of Sunnyvale Department of Public Safety 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
 4. Aggravated assault

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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 City of Sunnyvale Department of Public Safety (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)).

811.4.1 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)):

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- (a) The daily crime log will record all crimes reported to the City of Sunnyvale Department of Public Safety, 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 headquarters 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.

811.4.2 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 City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety for which a written report is prepared.

811.5 INFORMATION DISSEMINATION

It is the responsibility of the Administration 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)).
- (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.

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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.

Child Restraint System Installations

812.1 POLICY

It is the intent of the Department to keep a pool of personnel trained as CPS Technicians at all times. The Crime Prevention Unit will be the lead of this program. Personnel may also be assigned to this training due to the positions in which they hold.

812.2 PROCEDURES

Any DPS personnel approached with a question regarding installation or selection of a Child Restraint System shall refer the person to the Crime Prevention Unit. The Crime Prevention Unit shall be responsible for follow-up contact with the individual.

- (a) Child Restraint System installations are conducted by appointment whenever possible. Installation appointments are scheduled for Wednesdays on a space available basis.
- (b) The Crime Prevention Unit will verify the request is from a Sunnyvale resident and then schedule the appointment as soon as possible.
- (c) If a citizen inquiring about an installation has a child with them, the Desk Officer will determine if a CPS technician is available. If available, the CPS technician shall respond to headquarters per the request. If no technicians are available, the citizen shall be referred to the Child Restraint System phone extension.

At no time shall any DPS personnel acting in an official capacity give, offer or provide information regarding the selection or installation of the Child Restraint System unless that individual is a certified CPS Technician.

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 City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety prior to being released or transported to a housing or other type of facility.

900.1.3 OUT OF COUNTY PRISONER PICKUP/TRANSPORT

When a person is arrested on a Sunnyvale warrant outside of Santa Clara County, and that person is unable to post the required bail, the Sheriff's Department of the county where the person has been incarcerated will notify SVDPS of the following:

- (a) Date of arrest
- (b) Location of incarceration
- (c) Latest date and time of prisoner pickup prior to prisoner release pursuant to 821 PC.

Prisoner pickup/transportation arrangements will be made for all persons arrested on Sunnyvale warrants outside of Santa Clara County.

Within Alameda, Contra Costa, San Francisco, San Mateo, and Santa Cruz counties:

- (a) The Squad 5 supervisor will assign an officer to pick up and transport the prisoner to the Santa Clara County Jail.
- (b) The pickup should be made on the last day prior to the required release pursuant to 821 PC.
- (c) The transport officer should call the agency prior to pickup to see if the prisoner is still in custody and give the ETA for the pickup.

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- (d) The transport officer takes the original copy of the warrant for the pickup. A copy is left for Records.

For counties not listed above, the Special Operations Captain will make arrangements for prisoner pickup.

900.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

900.2.1 INCIDENT REPORTS

Incidents that occur in the temporary holding facility that result in an injury or threat of physical harm to an officer, prisoner or any other person shall be fully documented within an ARS Report. All such incident reports are to be submitted to a Bureau of Police Services Captain within 24 hours of the incident.

900.3 GENERAL CRITERIA AND SUPERVISION

Prisoners should be transported at the beginning of each watch and should be held no longer than 6 hours unless their presence is needed for further investigation

900.3.1 TRANSPORTATION OF PRISONERS

Each squad supervisor will assign an officer on a daily basis who will be responsible for transporting prisoners, who have not been released at Public Safety, to County jail.

- (a) The transport is to be conducted during the first half of the squad's shift.

Transport of prisoners will be conducted in a caged patrol unit or the prisoner van. Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier.

Whenever a prisoner is to be transported from the Temporary Holding Facility to another facility by a member of this department the transporting officer shall be responsible for the following:

- (a) Verify the identity of each prisoner to be transported matches the booking paperwork.
- (b) Review all pre-booking, post booking and felony affidavits for completeness.
 - (a) If a warrant abstract is sent directly to the Santa Clara County Jail and no abstract has been sent to Public Safety by an agency, a copy of the warrant or abstract must be obtained and returned to Records.
- (c) Ensure that all pertinent documentation accompanies the prisoner. After booking all booking related reports are to be turned into Records.
- (d) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting

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officer shall ensure such threat or danger is communicated to intake personnel at the facility.

900.3.2 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the City of Sunnyvale Department of Public Safety, 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 he/she is in temporary custody.
- (c) Any individual who is seriously injured.
- (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 he/she 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 him/herself 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 his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, 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

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unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.3 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 his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

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).

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.

900.3.4 STAFFING PLAN

The Chief 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 Corrections Standards Authority (CSA) 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 CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the Chief, as required by 15 CCR 1027.

900.3.5 MEDICAL CLEARANCE/QUESTIONNAIRE

The Medical Clearance/Questionnaire provides initial medical and mental health information to assist in determining any special housing requirements. The questionnaire also provides information concerning any communicable diseases or other medical conditions which may affect the prisoner, the health of officers and other prisoners.

- (a) When a prisoner is brought into the Sunnyvale facility, the Booking Officer shall read the Confidential Medical Information Questionnaire to the prisoner prior to placing him/her in any cell, and record the prisoner's response on the form.
- (b) If the response indicates that the prisoner requires immediate medical attention, refer to the Medical Care policy.
- (c) The Confidential Medical Information Questionnaire will be attached to the Post Booking Sheet while the prisoner is in custody at the Sunnyvale facility.

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- (d) When the prisoner is released or transferred, the Confidential Medical Information Questionnaire is to be turned in to Records.

900.3.6 MENTALLY DISORDERED PRISONERS

Mentally disordered persons are associated with psychiatric disorders and can experience hallucinations, disorganized or delusional thinking. Those prisoners who, as a result of a mental disorder, are a danger to themselves, others, or are gravely disabled, shall not be housed at the Sunnyvale facility.

- (a) Transfer such persons from the field to an approved Mental Health Unit pursuant to 5150 W&I.
- (b) If criminal charges are pending, the transporting Officer shall notify Mental Health personnel that they should contact the Sunnyvale Public Safety Department prior to releasing the prisoner.
- (c) Exception - Those mentally disordered prisoners whose custody is required at the Sunnyvale facility, due to the nature of the crime (murder, rape, robbery, etc.) for further investigation, may be temporarily housed at the Sunnyvale facility under constant supervision, until their presence is no longer required.

Developmentally disabled persons are generally characterized by limitations of intellectual capacity. Developmentally disabled prisoners shall not be housed at the Sunnyvale facility. Such prisoners are to be transported directly to an appropriate mental health facility or to the Santa Clara County jail.

900.3.7 SUICIDE PREVENTION

Officers admitting prisoners into the Sunnyvale facility should be particularly alert for those prisoners who fall within the victim's profile described below. Such prisoners should be considered potential suicide risks.

- (a) Prominent persons charged with embarrassing crimes.
- (b) Persons held for alcohol or drug related charges.
- (c) All juveniles held in secure custody in a cell.
- (d) Persons with a history of self#destructive acts.
- (e) Individuals who state their intention of suicide.
- (f) Individuals who appear depressed.

The use of isolation enhances the chance of suicide. Inmates exhibiting the above profile, who are not intoxicated and are non#assaultive, should be housed with another non#assaultive, non#intoxicated person, and transportation arrangements should be made immediately.

Those prisoners who are considered definite suicide risks shall be immediately transported to County Jail with such notification of the suicide risk to the Jailer.

A person's state of intoxication upon incarceration greatly increases the likelihood of suicide. Special attention and documentation is critical for intoxicated inmates.

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Arresting Officers shall notify the Desk Officer of any prisoner considered a potential suicide risk.

900.3.8 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 Lieutenant.

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 him/her for obvious signs or indications of suicidal intent.

The receiving/transport 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, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Lieutenant of any conditions that may warrant immediate medical attention or other appropriate action. The Lieutenant shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.4.1 RECEIPT OF PRISONERS

All adult prisoners and those juveniles thought to be a control problem (violent, suspected contraband, etc.) who are brought to Public Safety shall be brought into the facility via the sally port.

The arresting and/or booking officer should:

- (a) Make a thorough search of all prisoners booked into the Temporary Holding Facility. Female prisoners should be searched by female officers or other female staff whenever possible.
- (b) Inventory and record all property removed from the prisoner.
- (c) Secure property for safekeeping.
- (d) Remove all hazardous items from the prisoner.
- (e) Remove belt, shoes, and jackets.
- (f) Complete the department booking form or County intake form.
- (g) The arresting or booking officer will log the prisoner into the Temporary Holding Facility log. This procedure is to be completed regardless of the time the prisoner is to be held in the facility and shall include those prisoners whose admittance is for booking only.

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900.4.2 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall (15 CCR 1050):

- (a) Advise the Lieutenant 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.

900.4.3 CONSULAR NOTIFICATION

Consular notification is mandatory when certain foreign nationals are arrested. The Police Services 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 he/she may have his/her 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 him/her without delay that he/she may communicate with consular officers.
 - (c) Forward any communication from the individual to his/her 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 his/her 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 his/her consular officers without delay.

900.5 USE OF RESTRAINTS

The use of restraining devices on a prisoner housed inside a cell is prohibited except that restraining devices may be used on those prisoners who display bizarre behavior which results in attempted destruction of property or who reveal an intent to cause physical harm to themselves or others. Restraints shall not be used as punishment.

Only Department approved restraints shall be used to restrain prisoners. Only devices which are specifically manufactured as restraints, such as "The Wrap" and padded belts and cuffs may be used. Such restraints shall only be used with the approval of a supervisor and shall be applied in such a manner that will not restrict circulation. Officers need to be aware of the dangers of positional asphyxia and need to monitor a restrained prisoner.

Officers are to immediately call EMS personnel and notify a supervisor in the event of medical emergency. A defibrillator is located on the wall in the Desk Officers office.

Prisoners that are placed in restraints in the field should be transported directly to a County facility. The use of restraints in the Sunnyvale facility shall be limited to short term security applications, during the movement and control of prisoners. Prisoners requiring application of restraints shall be transferred to a County facility as soon as possible.

Officers shall notify the Desk Officer whenever a prisoner has been placed in a cell with restraints applied.

The Desk Officer shall make direct visual supervision of the prisoner continuously to ensure that the restraints are properly employed and to ensure the safety and well-being of the prisoner. These checks shall be documented on the prisoner log.

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No other prisoner shall be placed in a cell with a restrained prisoner.

900.5.1 PREGNANT ARRESTEES

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall persons known to be pregnant or in recovery following delivery be restrained by the use of leg irons, waist chains or handcuffs behind the body.

No arrestee who is in labor, delivery or recovery after delivery shall be otherwise 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 § 6030).

900.6 RELEASE OF PRISONERS

The Temporary Holding Facility should be inspected for damage prior to the release or transportation of any prisoner.

Any damages should be noted and, if necessary, an additional crime report completed. If additional charges are warranted they will be added. Photographic evidence should be obtained and documented to support any additional charges.

Prisoners should be required to clean cells prior to release or transportation. If a prisoner refuses, he/she may not be compelled to clean up nor may his/her release be delayed to accomplish this.

Prisoners shall be released in accordance with State law. The releasing officer will be responsible for the following:

- (a) All proper reports and forms shall be completed prior to release.
- (b) All bail monies are accounted for.
- (c) Bail bonds are attached to the necessary paperwork and placed in the bond basket in the Records Unit.
- (d) All property, not to include evidence, contraband, or dangerous weapons shall be returned to the prisoner.
- (e) The appropriate Temporary Holding Facility Log will be completed showing the date, time, and reason for release, as well as the releasing officer's name.
- (f) The prisoner being released will be escorted from the Temporary Holding Facility and headquarters by a department employee. At no time will a released prisoner be allowed in any secure area of the station without personal supervision by an employee.

900.7 SAFETY, HEALTH AND OTHER PROVISIONS

900.7.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the City of Sunnyvale Department of Public Safety, the custody shall be promptly and properly documented in a custody log, including:

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- (a) Identifying information about the individual, including his/her 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 City of Sunnyvale Department of Public Safety.

The Lieutenant 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 Lieutenant should make periodic checks to ensure all log entries and safety and security checks are made on time.

900.7.2 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220).

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, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the City of Sunnyvale Department of Public Safety. They should be released or transferred to another facility as appropriate.

900.7.3 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 cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, a Patrol supervisor 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).

900.7.4 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

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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 his/her 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 he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her 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 he/she 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 his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

900.7.5 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.

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900.7.6 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. Weapons should be properly secured in the gun lockers 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.

Cell doors are to be locked at all times when prisoners are detained in the facility.

No personnel shall smoke at any time while in the detention area. No prisoner shall be allowed to possess smoking materials in the detention area.

900.7.7 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 On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. A Patrol Lieutenant will retain a record of these reports for inspection purposes (15 CCR 1044).

900.7.8 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).

900.7.9 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).

900.7.10 FOOD SERVICE

Meals will be provided for prisoners detained in excess of six hours.

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900.7.11 SANITATION AND MAINTENANCE

The Desk Officer should inspect the Temporary Holding Facility at the beginning and end of each shift to ensure that the detention area is clean and maintained to an acceptable level of cleanliness. The Temporary Holding Facility shall be cleaned, as necessary, in order to provide a proper custodial and working environment.

Janitors shall not be allowed to enter the facility while occupied with prisoners unless accompanied by an officer.

900.8 EVACUATION

If an evacuation of the Temporary Holding Facility becomes necessary the following should be considered:

- (a) Safety of public
- (b) Safety of department personnel
- (c) Safety of prisoners
- (d) Security of prisoners

900.8.1 EMERGENCY EVACUATION

When time permits, all prisoners will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Temporary Holding Facility.

900.8.2 EVACUATION FORMATION AREA

All prisoners will form in the designated location where they will be held until the Temporary Holding Facility can again be safely occupied, or as in the case of a long duration emergency until they can be transported to another facility.

Only after the safety and security of the prisoners is assured will personnel, not detailed to prisoner security, participate in emergency activities.

900.8.3 CITYWIDE OR REGIONAL DISASTERS

In cases of Citywide or regional disasters, a Command Officer may authorize the release of prisoners detained for misdemeanors or felonies involving property crimes only. Every available effort will be made to continue the custody of violent felons or felons accused of violent crimes to ensure the safety of the public.

900.9 FIRE SAFETY

The Desk Officer as having responsibility for the Temporary Holding Facility should, at the beginning and end of each shift, inspect the Temporary Holding Facility to ensure:

- (a) No flammable materials are stored in the detention area.
- (b) Fire extinguishers are serviceable.
- (c) Cell keys are available in the Desk Officer's office for emergency use.

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- (d) Smoke detectors are operational.

The Fire Marshall should make annual inspections of the Temporary Holding Facility. The inspection record shall be retained for two years (Title 15, California Code of Regulations § 1032).

900.9.1 FIRE PROCEDURES

In the event of a fire in the detention area the discovering employee should immediately:

- (a) Notify Communications of the emergency and nature.
- (b) Initiate rescue procedures as necessary.
 - (a) Two (2) self-contained breathing apparatus (SCBA) are located in the hallway outside the Desk Officer's office. Procedures for operation of the SCBA are kept with the units.
 - (b) Officers in SCBA should generally work as a team; however, independent action may be necessary in life safety situations.
 - (c) A portable fire extinguisher is located in the fire hose cabinet in the jail booking area.
 - (d) A 1 1/2" wet standpipe hose cabinet is located in the jail booking area.
- (c) Initiate movement of all prisoners to an area of safety through the utilization of the evacuation plan.
 - (a) When an emergency exists, rescuers shall take the jail key with them. The jail key shall be available to the Desk Officer without accessing the Knox box. Rescuers should not depend on the electronic system for opening cells.
 - (b) Evacuate prisoners to the sally port and interview rooms.
 - (c) As soon as possible, transfer the prisoners to the prisoner van and to County jail or to the Interview Room in Investigations.
- (d) Prisoner safety and security shall be the highest priority.
- (e) Firefighting prior to the arrival of fire apparatus shall be attempted only after the safety and security of all prisoners has been attained or if needed to rescue prisoners.

Responding patrol officers should be responsible for:

- (a) The evacuation of prisoners.
- (b) Obtaining medical services as needed.
- (c) Securing prisoners in a temporary holding area.
- (d) Arranging transportation of prisoners to County Jail or another Temporary Holding Facility as necessary.
- (e) Initiating an investigation concerning the origin of the fire.

The Administrative Staff Lieutenant, in coordination with the Fire Marshall and EMS Coordinator shall oversee the training of appropriate department personnel and ensure that they are familiar with:

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- (a) The Temporary Holding Facility policy and procedures; and
- (b) Fire safety and evacuation plan.

900.10 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, his/her items of personal property shall be compared with the inventory, and he/she 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 Lieutenant shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Lieutenant shall attempt to prove or disprove the claim.

900.10.1 PRISONER CASH

Cash from prisoners, regardless of the dollar amount, will be removed from the person being booked and stored securely, in the PRISONER CASH storage box located in the Records Unit.

Single keyed prisoner cash boxes will be used for the temporary storage of all prisoner cash.

Note: If storage is a concern, "Safekeeping" should be considered and booked into Property with appropriate paperwork.

900.10.2 PRISONER CASH BOX PROCEDURES

- (a) The booking officer should complete all booking paperwork, to include the Pre/Post and Cash Receipt forms.
- (b) The booking officer must obtain the prisoner's signature and/or initials on all forms, acknowledging the denominations and total amount of prisoner cash taken.
- (c) The booking officer will to Records and advise they have prisoner cash to be secured.
- (d) The Records clerk is responsible for securing the cash in the Prisoner Cash box.
- (e) The Records clerk will conduct a second count of the prisoner cash verifying the amount.
- (f) The Records clerk will initial the Post Booking and Cash Receipt forms verifying the second count. Any discrepancy will be noted on the forms.
- (g) The original copy of the Cash Receipt will remain with the prisoner cash. The second copy is attached to the Post Booking form.

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- (h) The original Cash Receipt and prisoner cash will be placed in a locking cash envelope and then placed in the Prisoner Cash box. The keys will be retained by the Records Unit.
- (i) Upon release or transport to jail the booking or transport officer shall retrieve the prisoner's cash and the original cash receipt from Records.
 - 1. The officer (booking/transporting/releasing) will again verify the prisoner cash total and initial the original prisoner cash receipt.
 - 2. All cash receipts will be retained with the arrest paperwork. And turned into Records.

900.11 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 also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented in an ARS Report..

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 his/her well-being.
 - 4. Individuals who are sleeping or apparently sleeping should be awakened.
 - 5. Requests or concerns of the individual should be logged.

900.11.1 USE OF SOBERING CELL

Inmates 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 inmate in a sobering cell (15 CCR 1056):

- (a) Placement of an inmate into the cell requires approval of the Lieutenant.

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- (b) A cell log shall be initiated every time an inmate is placed in the cell. The log shall be maintained for the entire time the inmate is housed in the cell.
- (c) A safety check consisting of direct visual observation sufficient to assess the inmate's well-being and behavior shall occur at least once every 30 minutes. 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 inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the inmate does not have an urgent medical issue.
- (e) Inmates 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.

900.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Police Services Captain will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the City of Sunnyvale Department of Public Safety. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Lieutenant, Chief 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 Medical Examiner
- (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)

900.12.1 FIRST AID KIT/DEFIBRILLATOR

A first-aid kit and an automatic external defibrillator (AED) are stationed in the Desk Officer area. The Desk Officer will ensure the first aid kit is inspected on an annual basis and those items with past due expiration dates are replaced.

Fire personnel are responsible for placing a defibrillator back in service after use.

The use of a first aid kit or defibrillator is to be documented on a Crime Report, as well as completing an EMS Patient Care Report

900.13 ASSIGNED ADMINISTRATOR

The Police Services Captain will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security

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- (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
- (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 Board of State and Community Corrections 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).

900.14 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 his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the City of Sunnyvale Department of Public Safety 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 he/she is being sent to another facility.

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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. 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 his/her personal needs as reasonable.

900.14.1 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.

900.15 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) Inmate segregation
- (d) Emergency procedures and planning, fire safety, and life safety.
- (e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training Lieutenant shall maintain records of all such training in the member's training file.

Custodial Searches

901.1 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 City of Sunnyvale Department of Public Safety 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.

901.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her 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 or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her 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 his/her underclothing, buttocks, genitalia or female breasts are visible.

Body Fluid Search - The taking of blood, urine or saliva in a medically approved manner.

901.2 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.

901.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her 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.

Custodial Searches

901.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the City of Sunnyvale Department of Public Safety facilities. Whenever practicable, the search should be 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.

901.4.1 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 City of Sunnyvale Department of Public Safety identification number and information regarding how and when the property may be released.

901.5 STRIP SEARCHES

No individual in temporary custody at any City of Sunnyvale Department of Public Safety 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.
- (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).

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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).

901.5.1 STRIP SEARCH PROCEDURES

Strip searches at City of Sunnyvale Department of Public Safety facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from a supervisor shall be obtained prior to the strip search. [J: \DPS\Department-wide\MasterForms\Patrol](#)
- (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 supervisor .
 - 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.
 - 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 his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or

Custodial Searches

changing clothes, unless he/she otherwise qualifies 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 his/her privacy and dignity.

- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the supervisor 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.

901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with supervisor 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 supervisor authorization does not need to be in writing.

901.6 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 supervisor 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).
- (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.

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- (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 supervisor'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.

901.7 BODY FLUID SAMPLES

- (a) Body fluids may only be taken from arrestees under the following circumstances:
 - 1. Alcohol/drug related arrest
 - (a) Excluding Penal Code § 647f
 - (b) Health and Safety Code § 11550 Arrests
 - 1. A forced blood draw is not allowed and a warrant cannot be obtained.
 - 2. Officers should try and obtain consent before obtaining a sample. Because the valid consent must be free and voluntary, officers shall admonish the arrestee using the District Attorneys Office Admonish Card.
 - 2. Major crimes against persons

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- (a) homicide
 - (b) rape
 - (c) kidnapping
 - (d) robbery
 - (e) assault with a deadly weapon
 - (f) mayhem
- 3. Whenever a supervisor deems that the fluid would be necessary in proving an associated offense.
 - (b) If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond. The guidelines set forth in P504.7.2 (Forced Blood Sample) shall be followed.

901.8 TRAINING

The Police Training Lieutenant 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.

Adult Booking

902.1 DEFINITIONS

Arrest # Taking a person into custody in a case and in the manner authorized by law. An arrest may be made by a Peace Officer or a private person (Penal Code 834).

Booking # To book signifies the recordation of an arrest in official police records and the taking, by the police, of fingerprints and photographs of the person arrested, or any of these acts following an arrest (Penal Code 7 (21)).

902.2 BOOKING POLICY

Whenever an adult is arrested pursuant to sections 836, 837, or 838 and their respective Subsections of the Penal Code, and is taken to the Department of Public Safety, County Jail or any other criminal detention facility, the arrested person is to be booked prior to any type of release, including own recognizance, 849b, bail, citation, etc. The booking shall be conducted as soon as is reasonably possible at the facility.

An arrested person is not to be held in custody unless required or permitted by law. In instances when custody is discretionary, efforts will be made to examine reasonable alternatives toward avoiding unnecessary custody.

A Public Safety Officer shall either personally conduct or supervise and approve the booking of any arrested individual, and no booking shall be conducted except as permitted or required by this manual.

902.3 BOOKING PROCEDURES

All booking procedures come under one or more of the following categories. Booking Officers shall be responsible for completing all booking related reports, fingerprint cards, and photographs prior to any release or transfer of the arrested person.

902.3.1 BOOKING AND RELEASE FROM SUNNYVALE DETENTION FACILITY

Applies to all releases except field citation bookings and letter bookings.

The following are required for arrested/detained persons booked and released from the Sunnyvale detention facility:

- (a) AFIS number and CEN number
- (b) Mug photograph on file in database
- (c) SVDPS post#booking form
- (d) County pre#booking form
- (e) Release form (bail receipt, or form, etc.)
- (f) PC 296(a)(2)(C) DNA collection on adult felony arrestees.

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902.3.2 TRANSFERS TO COUNTY JAIL

The following are required for all persons arrested and transferred to the County Jail from the Sunnyvale detention facility:

- (a) AFIS number and CEN number
- (b) County Pre#Booking Form
- (c) SVDPS Post Booking Form
- (d) Mug Photograph on file in database
- (e) Felony affidavit or copy of warrant
- (f) County medical form

902.3.3 40304.5 VC WARRANT ARRESTS

- (a) To comply with State law, any person arrested on two or fewer outstanding warrants for failure to appear on a citation for a parking offense or a traffic infraction, shall not be booked, photographed, or fingerprinted; nor shall any arrest record be made unless and until all the following requirements have been exhausted:
 - 1. The person does not have sufficient cash on his/her person to post bail.
 - 2. The person has made not less than three (3) completed telephone calls to obtain bail.
 - 3. The person has had not less than three (3) hours in which to arrange for bail.
- (b) Booking Procedure # Persons arrested under the criteria for 40304.5 VC shall be processed as follows:
 - 1. The person should be transported to the Sunnyvale detention facility and placed in an interview room or holding cell away from other law violators.
 - 2. No property is to be taken from the arrestee and no booking form completed until a three (3) hour waiting period has elapsed.
 - 3. The arrestee shall be permitted to post bail immediately, or make three (3) completed telephone calls during the three hour period in order to arrange for bail.
 - 4. If the arrestee cannot arrange for bail and three hours have elapsed, he/she shall be released on a Notice to Appear pursuant to P906.
 - 5. If bail is posted, the following reports are required:
 - (a) SVDPS Post Booking Form # Used as a file report for information only.
 - (b) No prints, photographs, or other booking related reports are to be completed.

902.3.4 FIELD CITATION BOOKING (853.6 PC)

Whenever an adult who has previously been arrested, cited, and released in the field on a Notice to Appear, returns to Public Safety Headquarters for an update booking as required by the Notice

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to Appear, or in response to a letter from SVDPS notifying the person that booking is required prior to court appearance on the citation, the following procedures shall apply:

- (a) Obtain an AFIS number and CEN number
- (b) Ensure a mug photograph on file in database
- (c) Fill-out a SVDPS Post Booking Form
 - 1. In Section II of the form (Release Info), check box "N"; and in the space for the Judge, write "booking letter".
- (d) Sign the booking letter to verify that booking has been conducted. Make one copy for the general file and give the original to the person.

902.4 CASE NUMBER USE

902.4.1 ON-VIEW ARREST

Use original case number of the offense report which was used to initiate the arrest charges.

902.4.2 ARREST WARRANT

Use the original case number of the offense report which was used to initiate the charges.

902.4.3 BENCH WARRANT

Use the original case number for the warrant. Bench Warrants are issued by a Judge for offenses against the Court (FTA, FTP, etc.), and are to be booked under the original case number, if any, of the offense report.

902.4.4 CITATION BOOKING

Use the original case number of the offense report which was used to initiate the arrest charges.

902.4.5 NON-SUNNYVALE ARREST WARRANT

Use a new case number.

902.5 REQUIRED SUPPLEMENTAL REPORTS

Use whenever an arrest changes the status of an existing Sunnyvale case to "cleared by arrest".

Use the case number of the original offense report which was used to initiate the arrest charges.

Identification - Use of Arrest Number

903.1 PURPOSE

An arrest number is to be used to identify an incident of taking a person into custody, even though the arrest may result in multiple charges, some of which may be cited and some booked. The primary purpose of an arrest number is to numerically identify an individual's arrest where there may be multiple individuals arrested on a single case. A Sunnyvale arrest number is an internally issued number that has no value outside the agency, except that it can be used to quantify the total number of arrests in a certain period.

903.2 REQUIREMENTS

903.2.1 JUVENILE ARRESTEE

- (a) A juvenile is placed in the custody of the Juvenile Probation Department pursuant to 602 W&I Code.
- (b) A juvenile is arrested or cited for a traffic violation which provides for their mandatory appearance or optional appearance according to 40302 VC and 40303 VC.
 - 1. Not required when charged with a traffic offense which requires their release on a Notice to Appear pursuant to 40500 VC.
- (c) An arrest number is not required when a juvenile is transported to the children's shelter.

903.2.2 ADULT ARRESTEE

- (a) An adult is arrested and thereafter transported to a vehicle, cell, or room for the purpose of detention (even though subsequently released pursuant to 849b PC).
 - 1. Does not apply to a lawful detention in the field when no arrest is made.
- (b) An adult is arrested pursuant to 836, 837, 838 PC, and is charged with an offense even though subsequently released on a Notice to Appear citation, pursuant to 853.6 PC.
 - 1. For persons released on a Notice to Appear in the field, Records personnel will assign and add arrest numbers to reports and citations as required. Officers need not obtain an arrest number prior to release in the field.
- (c) An adult is arrested or cited for a traffic violation which provides for their mandatory appearance or optional appearance according to 40302 VC and 40303 VC.
 - 1. Not required when charged with a traffic offense which requires their release on a Notice to Appear pursuant to 40500 VC.

903.3 RESPONSIBILITIES

903.3.1 BOOKING OFFICER

Officers are to obtain an arrest number from the Records Unit and record it on all related reports whenever:

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Identification - Use of Arrest Number

- (a) Adults are arrested and transported to a detention facility regardless of their final disposition.
- (b) A juvenile is transferred to Juvenile Hall.

903.3.2 RECORDS UNIT

Except when Officers have already obtained arrest numbers, according to this policy, Records personnel will add arrest numbers to citations and reports as required to comply with this policy.

Medical Care (CRITICAL)

904.1 POLICY

The purpose of this policy is to ensure sick or injured individuals in Public Safety care, custody, and control are provided the opportunity to obtain medical attention.

904.2 MEDICAL EXAMINATION/TREATMENT OF PRISONERS

When a prisoner's behavior, appearance, or expressed complaint indicates he/she may be suffering from a physical illness or injury, whether the condition was pre#existing or caused/aggravated by the arrest or custody, and the ailment seems to be of a nature or severity which would cause a "reasonable person" who is not in custody to seek immediate medical attention, the Officer shall provide appropriate medical attention and shall promptly notify his/her supervisor.

Any serious injury or illness is to be examined at a medical facility.

Minor irritations, scrapes, scratches, abrasions, bruises, or complaint of pain are to be evaluated by a supervisor and a determination made as to the need for medical attention.

904.3 PRE-RELEASE EXAMINATION/TREATMENT REQUIREMENTS

Citation Releases # Generally, a prisoner having suffered any serious injury, or injury incident to his/her arrest, should not be released from custody on a citation release without medical examination as described in this policy.

Other Releases # Generally, a prisoner having suffered an injury incident to his/her arrest, who is to be released from custody by virtue of, having deposited bail, being released to parents, deemed not arrested, etc., is entitled to medical treatment/examination either prior to, or subsequent to, release from custody. Whenever such a person declines examination/treatment, a signed waiver is to be requested. A waiver refusal should be noted and verified by a witness.

904.4 TRANSPORTATION

Emergencies # Severely ill or injured prisoners are to be transported to Valley Medical Center (VMC) (or the nearest suitable facility under exigent circumstances). An ambulance will be used for transport.

Non#Emergencies # When ambulance transportation is not required, prisoners are to be transported to the medical facility by patrol car.

Violent Suspects – Officers transporting a violent suspect to a medical facility for treatment will stay with the suspect until medical treatment is completed or until the suspect is booked in accordance with the "Hospital Booking" procedure (P903.7).

Medical Care (CRITICAL)

904.5 TREATMENT CONSIDERATIONS

Medical treatment for adult prisoners transported by DPS, who are subsequently booked into a county detention facility, may be obtained at VMC or El Camino Hospital, unless the injury requires the use of the nearest medical facility.

Medical treatment for juvenile prisoners, transported by DPS, must be obtained at VMC.

Medical treatment for prisoners in our custody, not subsequently booked into a county detention facility, must be obtained at VMC, to avoid the City receiving the bill for medical services.

Whenever post-release, including citation releases, or non-custody treatment is provided to an injured person, be certain the treating facility is aware it is a “non-custody” treatment, so the patient can be billed for expenses.

Whenever a person declines or refuses medical treatment/examination, a signed waiver of refusal on the SVDPS post booking form is to be requested. If a person refuses to sign the waiver, “REFUSED” should be written in the signature space and witnessed by a second person.

904.6 HOSPITAL PROCEDURES

Officers transporting a prisoner to a medical facility will adhere to the following preliminary procedures:

- (a) Advise hospital emergency room of the prisoner's presence.
- (b) Complete all hospital forms in accordance with hospital procedures.
- (c) Ensure the prisoner remains under control.
- (d) Determine if the suspect is going to be admitted or treated and released.

904.6.1 MISDEMEANOR - NOT ADMITTED

The officer having custody of a suspect will gather sufficient information to accurately identify the suspect. The officer may issue a citation in accordance with the Cite and Release policy unless the circumstances of the incident and/or the need to further identify the suspect indicate that booking is appropriate. If the suspect is issued a citation, the appropriate hospital personnel will be advised the suspect may be released upon completion of medical treatment. If the suspect is to be booked, the officer having custody will stand by at the medical facility until medical treatment is completed and then book the suspect in accordance with established procedures.

904.6.2 MISDEMEANOR - ADMITTED

The officer having custody of a conscious suspect will gather sufficient information to accurately identify the suspect and may then issue a citation in accordance with the Cite and Release policy.

When a suspect is unconscious and unable to sign the citation, information will be obtained about the suspect's identity and a complaint may be obtained. If circumstance indicate booking is appropriate, (e.g., a No Bail warrant or high bail warrant on a non-citable warrant) the officer will adhere to the “Hospital Booking” procedure.

Medical Care (CRITICAL)

904.6.3 FELONY - NOT ADMITTED

The officer having custody of the suspect will stand by until completion of medical treatment and then book the suspect in accordance with established procedures.

904.6.4 FELONY - ADMITTED

All felony suspects will be booked in accordance with the "Hospital Booking" procedure unless directed otherwise by a supervisor.

904.7 HOSPITAL BOOKING

When a suspect has been admitted to VMC, or other medical facility when necessary, and it is determined booking is appropriate, the following procedures will be adhered to:

- (a) Notification – the officer having custody of the suspect will contact the Sheriff's Department Booking Control Desk and advise a supervisor of the circumstances.
- (b) Determining Extent of Security Required – The Sheriff's Department supervisor will determine based on the crime, if a guard is necessary. When it is determined a guard is necessary, the officer having custody of the suspect will stand by with the suspect until arrival of the Sheriff's Department personnel. If the Sheriff's Department determines a guard is not necessary, the Sheriff's Department supervisor making the decision will place a "custody hold" on the suspect.
- (c) Officer's Responsibilities Prior to Leaving the Hospital:
 - 1. Conduct any investigative steps necessary.
 - 2. Obtain clothing and personal property of the suspect unless the person's medical condition prevents removal and/or collection (The Sheriff's Department requires all clothing and property at time of booking).
 - 3. Ensure physical evidence from suspect's person or belongings are collected, properly marked, and packaged for booking.
 - 4. Notify Supervisor
- (d) Officer's Responsibilities After Leaving Hospital - The officer booking the suspect shall perform those tasks necessary and required of a normal booking.

904.8 USE OF FORCE MEDICAL EXAMINATION GUIDELINES

Any prisoner who is injured as a result of actions by DPS personnel shall be medically cleared per this policy.

Prison Rape Elimination

905.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against detainees or prisoners in the City of Sunnyvale Department of Public Safety Temporary Holding Facilities (28 CFR 115.111).

905.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the detainee, prisoner or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a detainee, prisoner or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one detainee, prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

905.2 POLICY

The City of Sunnyvale Department of Public Safety has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The City of Sunnyvale Department of Public Safety will take immediate action to protect detainees and prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

905.3 PREA COORDINATOR

The Chief shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the City of Sunnyvale Department of Public Safety Temporary Holding Facilities (28 CFR 115.111). The Patrol Staff Lieutenant responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of detainees or prisoners includes the requirement to adopt and comply with applicable PREA and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees and prisoners from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

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- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees and prisoners (28 CFR 115.151).
- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
 - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
 - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
 - 3. A process to document all referrals to other law enforcement agencies.
 - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
 - 5. In accordance with security needs, provisions to permit, to the extent available, detainee and prisoner access to victim advocacy services if the detainee or prisoner is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that detainees and prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
 - 1. The agency shall not rely on other detainees or prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's or prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:

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1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee or prisoner (28 CFR 115.154).
2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
 1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
 2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees or prisoners overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

905.4 REPORTING SEXUAL ABUSE AND HARASSMENT

Detainees or prisoners may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees and prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee or prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the detainee or prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

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905.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from detainees, prisoners and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Lieutenant any knowledge, suspicion or information regarding:

- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against detainees or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

905.4.2 CAPTAIN RESPONSIBILITIES

The Lieutenant shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Lieutenant shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee or prisoner was sexually abused while confined at another facility, the Lieutenant shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Lieutenant shall document such notification (28 CFR 115.163).

If an alleged detainee or prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

905.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

905.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.

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- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

905.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the City of Sunnyvale Department of Public Safety.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a detainee or prisoner sexually abused another detainee or prisoner in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

905.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment

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or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

905.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No detainee or prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Detainee or prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

905.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief, or if the allegations may reasonably involve the Chief, to the City Manager. The Chief or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees or prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief shall take appropriate remedial measures and consider whether to prohibit further contact with detainees or prisoners by a contractor or volunteer.

905.6 RETALIATION PROHIBITED

All detainees, prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Patrol Staff Lieutenant or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee or prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees, prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

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The Lieutenant or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees, prisoners or members who have reported sexual abuse and of detainees or prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees or prisoners, such monitoring shall also include periodic status checks.

905.7 REVIEWS AND AUDITS

905.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief and the PREA Coordinator. The Chief or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

905.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

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- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

The report shall be approved by the Chief and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from City of Sunnyvale Department of Public Safety facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

905.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

905.9 TRAINING

All employees, volunteers and contractors who may have contact with detainees or prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Patrol Training Lieutenant shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of detainees and prisoners to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees and prisoners are most vulnerable.
- The right of detainees, prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.

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- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees and prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Lieutenant shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees or prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

Chapter 10 - Personnel

Maintaining Acceptable Performance

1000.1 MAINTAINING ACCEPTABLE PERFORMANCE STANDARDS

To act in the best interests of employees, as well as the community as a whole, supervisors and command staff must continuously assess and monitor the performance and effectiveness of employees in relation to established standards, and recognize any need which may exist concerning the employee's technical performance, adherence to rules and regulations, or other work related behavior.

The orders that follow describe the duties and responsibilities of supervisors and command staff, as well as the methods which are to be used to provide necessary training, counseling, and supervisory practices so that employees may meet and comply with the standards of acceptable performance.

1000.2 POLICY

To ensure all employees maintain acceptable performance, supervisors and command staff should through counseling, training, and employee evaluations, and/or through disciplinary actions avail themselves of every reasonable opportunity to identify and resolve those instances of an employee's unacceptable performance.

Supervisors/managers are to ensure those employees whose performance and/or behavior are determined to be unacceptable are made aware of the expected standard of performance, and are given the requisite training and an opportunity to meet that standard.

- (a) This policy shall not apply to those instances where the supervisor/manager has determined that the employee's unacceptable performance or misconduct is so severe as to require immediate disciplinary action.
- (b) This policy shall not apply to those instances where supervisory efforts, such as counseling, training, and/or admonition fail to remedy a serious or chronically unacceptable performance.

The supervisor who is most directly responsible for an employee is responsible for recognizing an employee's unacceptable performance and initiating corrective action as outlined in this policy.

1000.3 DEFINITIONS

Unacceptable Performance - Any performance involving misconduct, incompetence, inefficiency, unauthorized absence/patterns of absence, failure to complete work assignments, or failure to observe City or Department rules and regulations.

Documented Oral Counseling " is a written confirmation, in the form of a memo, of a discussion with the employee about the need for improvement in job performance or behavior. The memo should document the discussion between the supervisor and the employee and specifically state what expectations were communicated to the employee. The supervisor is to retain a copy of

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the memo in the supervisor's file. A Documented Oral Counseling memo is not retained in the employee's official personnel file.

Performance Improvement Plan (PIP) €" A performance improvement plan (PIP) is a tool that may be used by a manager/supervisor to address an employee's specific job performance deficiencies. The PIP describes the areas of concern and needed improvements, as well as related performance expectations and strategies for achieving success. A key element of the PIP is regular, on-going feedback to the employee regarding his/her progress in achieving the objectives set in the plan.

A PIP is a written document that is typically in place for a three or six month time period, and is an official document that is placed in the employee's personnel file. A PIP is not a disciplinary document. A PIP can be issued at any time during an evaluation cycle and is not always issued in conjunction with a performance evaluation. Reference Administrative Policy Manual Chapter 3, Article 19.

PIP Final Progress Report €" The PIP Final Progress Report is an evaluation completed by the supervisor documenting the employee's performance at the completion of the PIP.

1000.4 CORRECTING UNACCEPTABLE PERFORMANCE

When a supervisor becomes aware of an employee's unacceptable performance and recognizes the need to provide the employee with guidance and/or training in order to achieve an acceptable level of performance, the supervisor/manager may take one of the following actions:

- (a) Oral counseling with the employee.
- (b) Issuance of Documented Oral Counseling.
- (c) Issuance of a Performance Improvement Plan.

NOTE: Certain conduct may be serious enough that the first incident may warrant disciplinary action in accordance with the City's Disciplinary and Appeal Policy (Administrative Policy Manual, Chapter 3, Article 25).

1000.4.1 ORAL COUNSELING

Oral counseling may be the appropriate action for unacceptable performance. Many employees learn by their mistakes, correct their behavior, and never have subsequent violations. The discussion is informal.

1000.4.2 DOCUMENTED ORAL COUNSELING

Whenever a supervisor feels that oral counseling is not likely to correct (or has not previously corrected) unacceptable performance, or the supervisor would like to clarify their expectations of the employee, the reporting supervisor may prepare and submit a Documented Oral Counseling memo in order to properly document the circumstances of unacceptable performance and the related discussions, and identify what is acceptable performance. At the time of serving the

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Documented Oral Counseling, the supervisor should be prepared to orally counsel the employee. Examples of reasons to issue Documented Oral Counseling are listed below but not limited to:

- (a) Minor vehicle collision
- (b) Loss of issued property (flashlight, etc.)
- (c) Lack of self-initiated activity

Documented Oral Counseling shall contain the following:

- (a) A brief description of the employee's unacceptable performance.
- (b) A statement of acceptable performance standards.

Distribution - There shall be the original and only one (1) copy of the Documented Oral Counseling. Those shall be distributed as follows:

- (a) Original - Given to the employee.
- (b) Supervisor Copy - Maintained by the issuing supervisor for one year from date of issuance. In the event the employee's assignment changes within the one year, the incident that lead to the documented oral counseling along with the expectations that were communicated to the employee shall be documented in the employee's regular performance evaluation as they change assignments.

Documented Oral Counseling is not a document that is placed in an employee's Personnel File. The behavior/performance issue will be documented in the end of the year evaluation without reference to the DOC. It may however, be used as supporting documentation for disciplinary action should the employee's unacceptable performance continue and, as such, become a part of a Personnel File. If an employee changes assignments prior to annual change over, the new supervisor shall review the performance evaluation. The employee's two supervisors shall review the content of the Documented Oral Counseling so the new Supervisor is aware of the nature of the counseling and the duration of the one year period.

NOTE: The Department of Human Resources shall be consulted prior to the issuance of the Documented Oral Counseling. (Administrative Policy Manual Chapter 3, Article 25, Section 2, Subdivision 5)

1000.4.3 PERFORMANCE IMPROVEMENT PLAN (PIP)

An employee may be placed on a PIP at any time. The PIP shall contain the following in accordance with the Administrative Policy Manual, Chapter 3, Article 19 - Performance Evaluations:

- (a) A brief description of the employee's unacceptable performance.
- (b) A statement of acceptable performance standards.

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- (c) A corrective action plan specifying what is to be done to correct the unacceptable performance, and a time period in which acceptable performance is to be achieved (Time period is typically 90 days).
- (d) A statement regarding weekly meetings with the issuing supervisor to monitor progress, obtain feedback from the employee, and provide further guidance or training needs.
- (e) A statement of consequences for failing to improve performance.

A draft of the PIP shall be reviewed by the Division Captain, Deputy Chief and Chief prior to finalizing it. A copy is provided for review to Human Resources to ensure compliance with City policy prior to presenting it to the employee.

In the event the employee's assignment changes during the PIP evaluation period, the PIP shall be given to the employee's new supervisor. The new supervisor will be responsible for the PIP final progress report.

1000.4.4 PIP FINAL PROGRESS REPORT

At the end of the designated time frame as specified in a Performance Improvement Plan, the supervisor must evaluate the employee's progress towards achieving acceptable performance standards and determine the appropriate course of action.

Employee achieves acceptable performance.

- (a) The supervisor shall document in the PIP final progress report how the employee met the acceptable performance standards.

If the employee has shown signs of improved performance but still has not achieved an acceptable level, a PIP may be extended. A PIP may be extended for another 90 days.

- (a) A draft of the PIP extension memo shall be reviewed by the Division Captain and Deputy Chief and the Department of Human Resources prior to finalizing and presenting the PIP to the employee.

Employee fails to achieve acceptable performance.

- (a) The supervisor shall document in the PIP final progress report a detailed description of how the employee has failed to meet the acceptable performance standards.
- (b) A detailed description of training, assistance, and guidance that was provided to the employee during the specified time period.

A draft of the PIP final progress report shall be reviewed by the Division Captain, Deputy Chief, Chief of Public Safety, and the Department of Human Resources prior to finalizing and presenting it to the employee.

Distribution:

- (a) Original: Attached to personnel file at Human Resources
- (b) Copy to Employee

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Disciplinary Action Recommendations shall be forwarded through the Chain of Command to the Office of the Chief for disposition.

Employee Performance Program for PSOA/COA

1001.1 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.

1001.2 POLICY

The City of Sunnyvale Department of Public Safety 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.

1001.3 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 in accordance with the City of Sunnyvale Administrative Policy Manual, Chapter 3-Personnel, Article 19-Performance Evaluations. 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 professional 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.

Employee Performance Program for PSOA/COA

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.

1001.4 PROBATIONARY PERSONNEL

Professional personnel are on probation for 6-12 months before being eligible for certification as permanent employees. An evaluation is completed mid-point for all professional personnel during the probationary period.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

The probationary evaluation will include specific and measurable performance objectives for the next rating period if the employee is being retained for regular employment status at the conclusion of the probationary period.

1001.4.1 PERFORMANCE GOALS

The performance goals are the major components of the employee's expected work performance for the rating period..

Performance goals are rated at the end of the rating period as either "Outstanding", "Above Average", "Satisfactory", "Needs Improvement", or "Unsatisfactory"..

1001.4.2 STANDARD PERFORMANCE GOALS

- (a) Job Expertise
- (b) Productivity and Reliability
- (c) Interpersonal Abilities
- (d) Commitment to the Organization/Adaptability
- (e) Accountability/Professionalism
- (f) Community Engagement/Customer Service

The listed additional Performance Goals are related to specific duties associated with a specialty assignment or supervisor.

- Specialty Assignment
- Supervisor and Leadership Skills - for supervisors only

1001.4.3 TWO AND FIVE YEAR CAREER GOALS

Two and five year career goals are used to document any development or training goals the employee may have for those periods.

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1001.4.4 PLAN ACKNOWLEDGEMENT/SIGNATURE BLOCK

This section documents receipt of the performance plan and represents the principal work assignment and goals for the employee.

Once all signatures are obtained, a copy shall be furnished to the employee.

The performance Plan shall remain in effect from the date signed until superseded by a new plan.

1001.5 PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor based the assigned rating period for the employee group. The annual evaluation is intended to document the employee's performance for a one-year rating period and will include specific and measurable performance objectives for the next rating period.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1001.6 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. 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. Employees may also write comments in the Employee Comments section of the performance evaluation report.

1001.7 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. If the employee submits any written response or statement pertaining to the evaluation, that will also be forwarded to the Captain for review.

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1001.7.1 DISAGREEMENT WITH RATINGS/CONTENT OF PERFORMANCE EVALUATION.

If the employee disagrees with the ratings or content of the performance evaluation, the employee may submit any comments to their supervisor/manager regarding the content or ratings on the performance evaluation with ten (10) business days of the meeting with their supervisor/manager to discuss the performance evaluation. Such comments may be made directly on the a copy of the evaluation or the employee may submit a separate written statement regarding their performance evaluation.

The employee may also, with ten (10) business, request a meeting with their manager to review the evaluation and their concerns. The manager will conduct the meeting and may make revisions to the evaluation, if the manager determines that such revision are appropriate. Once the evaluations has been finalized, the manager will hold a second meeting with the employee to review the final evaluation and obtain signatures.

Within ten (10) business days of the final meeting with the manager, the employee may submit a written statement, which will be placed in the employee's personnel file along with the final version of the evaluation or the employee can make comments on a copy of the evaluation for placement in the personnel file.

In addition, the employee may, with ten (10) business days of receipt of the final version of their performance evaluation, request a meeting the department director or designee to discuss any issues related to the ratings or content of the performance evaluation. The department director or designee shall meet with the employee and, at their discretion, may make an modifications or edits to the performance evaluation the director deems necessary and appropriate. The decision by the department director or designee regarding whether or not to make any modifications or edits to the final version of the employee's performance evaluations is final. Performance evaluation content and performance evaluation ratings are not subject to any appeal or grievance procedure.

1001.7.2 BASED ON WORK PERIOD

The period starts with the first day of the team year, or when the employee was first assigned to the supervisor writing the evaluation.

For Special Performance Evaluations this period starts when the exceptional/unacceptable performance began and ends with the inception of the Special Performance Evaluation.

1001.7.3 KEY ELEMENTS OF JOB PERFORMANCE

The key elements are specific duties related to the tasks assigned. The performance goals are rated at the end of the rating period.

1001.7.4 EVALUATOR'S (SUPERVISOR'S) SIGNATURE

The officially recognized signature of the evaluating supervisor shall be written on the line provided. This signature and date should be completed in the evaluated employee's presence during the presentation of the evaluation to the employee.

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1001.7.5 REVIEWER SIGNATURE BLOCKS

This section will be completed by the designated reviewers. The officially recognized signature of the reviewer shall be written on the line provided. The date at which the review took place shall be inserted on the line provided.

1001.7.6 EMPLOYEE COMMENTS

These lines are provided for the evaluated employee to make comments about the evaluation. An additional page(s) may be used if necessary. The format shall be in memo format addressed to the appropriate bureau Deputy Chief. The Subject line shall state; "Employee comments to Performance Evaluation".

1001.7.7 EMPLOYEE SIGNATURE

The officially recognized signature of the evaluated employee shall be written on the line provided. The supervisor shall make it clear to the employee when signing that the employee has ten (10) working days - (thirty (30) days for public safety officers (3306 § Government Code)) - to submit a written statement if desired. The supervisor shall also inform the employee that signing this form simply states that the employee has seen the evaluation. No agreement needs to be reached. If the employee refuses to sign, the supervisor shall notify the appropriate Captain for remedy. If after intervention by the Captain the employee still refuses to sign the evaluation, the supervisor shall write in "Refused". This will be initialed by the supervisor and Captain.

1001.7.8 SUMMARY OF ASSIGNMENT

This section shall include the employee's rated assignment (e.g., patrol/fire team and squad/station). It shall also include any specialty or collateral assignments the employee worked in. The summary shall provide the reader an overview of the assignments and additional training for the rated period. This section shall be written in the third person.

Sample: PSO Blank was assigned to Fire Station 5, A-team for this rated period.

1001.7.9 NARRATIVE

The narrative section is an opportunity for the evaluator to make comments about the specific rated functional performance goals. All ratings must have an accompanied narrative. The narrative should include specific examples including dates, times or case numbers if appropriate. While writing the narrative, the evaluator shall not use slang terms or phrases (i.e.: "a cop's cop", "dig up crime"). Except PSO, acronyms shall be kept to a minimum and should be written out the first time used (e.g., Police Training Officer (PTO)). The standard writing format and font for the City of Sunnyvale is "Arial 12". This shall be used on all evaluations with the paragraphs justified. Line spacing justifications should be watched to ensure that paragraphs do not break on separate pages. The narrative shall be written in the second person and personalized to the employee.

Sample: John, you consistently find opportunities to work cooperatively with peers and superiors in the attainment of both Division and Department outcomes as seen by your participation in the planning of the Stars and Stripes employee recognition parade.

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1001.7.10 AREAS OF GROWTH

In this section the evaluator will list or describe reasonable performance targets that the evaluator feels the employee can improve upon or set as a goal for the following rating period.

1001.7.11 PREVIOUSLY SET PERFORMANCE TARGETS

This section the rater will state the performance targets that were set in the previous evaluation. The evaluator will provide a narrative description and evaluation of the previous performance targets.

1001.7.12 OVERALL COMMENTS

The evaluator sums up the employee's performance and discusses future career challenges, opportunities and suggestions. The format shall follow that of the narrative sections.

1001.7.13 FUTURE PERFORMANCE TARGETS

In this section, the evaluator can list the reasonable performance targets for the next evaluation period that the evaluator and employee mutually agreed upon.

1001.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's official personnel file with the City Department of Human Resources and a copy will be given to the employee.

End of Probation Interview

1002.1 POLICY

It is the intent of this Department to provide efficient and effective basic training to all employees, both sworn and non sworn. To assure this, it is important to constantly evaluate all phases of training that are provided to new employees. The vehicle for conducting this assessment shall be the End of Probation Interview (EOPI).

1002.2 PURPOSE

The Purpose of conducting an EOPI is to provide information for program evaluation. A new employee who has completed the basic and in service training, and who is now relying on the skills obtained in the process, will be able to provide valuable information. This data will be used to alter the program for excellence and efficiency.

1002.3 RESPONSIBILITY

The responsibility for conducting the EOPI shall rest with a Bureau manager. The interview shall be conducted as soon as possible, preferably within one (1) month after the employee's end of probation date.

1002.4 INTERVIEW CONTENT

The employee shall be encouraged to speak candidly and is to be assured that the purpose of the interview is for improving the process. The following areas shall be reviewed in the EOPI to determine the employee's impressions on each:

- (a) City and Department orientation
- (b) Job recruitment and selection process
- (c) Basic police academy (if applicable)
- (d) Basic fire academy (if applicable)
- (e) PTO or In-service training program
- (f) EMT academy (if applicable)
- (g) Training staff

1002.5 DISPOSITION

The Bureau manager will present an oral report to Command Staff of each EOPI conducted.

The EOPI is not a part of the employee audit process and will not become a part of the employee's permanent records. After management review and evaluation of the EOPI, the document may be destroyed when it no longer serves a business purpose.

Specialty/Collateral Assignment Rotation/ Selection

1003.1 PURPOSE AND SCOPE

To provide opportunities for diversified work, professional experience, and development to the largest number of employees possible based upon merit, ability, and Departmental resources, the following policy has been established.

1003.2 SPECIALTY ASSIGNMENTS

Specialty Assignments are the following:

- Canine Handler Officer*
- Crime Prevention Lieutenant
- Crime Scene Investigator Officer
- Desk Officer (excludes secondary desk officer on light duty)
- EMS Training Lieutenant
- Fire Team Coordinator Lieutenant
- Fire Training Lieutenant
- Police Field Training Officer (PFTO)*
- Fire Field Training Officer (FFTO)*
- (12) Hazardous Material Team Officers* and (3) Lieutenants
- Internal Affairs (IA) Lieutenant
- Investigations Officer and Lieutenant
- Neighborhood Resource Officer
- Police Training Lieutenant
- Patrol Administrative Staff Lieutenant
- Recruitment and Selection Officer and Lieutenant
- Rangemaster/Armorer Officer
- Traffic Safety Unit Officer and Lieutenant
- Office of Emergency Services Lieutenant
- Truck Trainers
- Staff Maintenance Officer
- Patrol Scheduling Lieutenant

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Specialty/Collateral Assignment Rotation/Selection

- HAZMAT*/Truck Trainer
- Police Academy Recruit Training Officer

*Specialty assignment pay eligibility for full pay periods contingent upon appointment to assignment and the following requirements having been met upon completion of required training:

- (a) Canine Handler Officer- upon assignment of dog
- (b) Police Field Training Officer- upon completion of 1-week (40 hour) school OR has a trainee assigned (with school pending completion)
- (c) Fire Field Training Officer- upon completion of 1-week (40 hour) school OR has a trainee assigned (with school pending completion)
- (d) Hazardous Materials Team Officer(s) (including those in the HazMat/Truck Trainer assignment)- are required to successfully complete the Hazardous Materials Course of instruction components A-G (Specialist). Specialty pay will commence upon successful completion of Hazardous Materials Specialist course of instruction A-D (Technician) **and** selected and assigned to the Hazardous Materials Team specialty position at Station 2.

1003.2.1 STANDARD PERIOD

Except as provided below, the standard period for a specialty assignment shall normally be for three (3) years with a possibility of up to five (5) years at the discretion of the Chief. However, if the assignment to the specialty assignment position is not of the employee's choosing, the assignment will not be more than one year increments. An employee may not be assigned to more than two consecutive one year increments. Employees in a specialty assignment shall be evaluated annually in the manner described within this policy.

An employee can work two consecutive specialty assignments but cannot work in the same specialty assignment consecutively. Specialty Assignments shall be considered consecutive if there is less than a six-month break between specialty assignments. Upon completion of two consecutive standard periods in any specialty assignment, the employee shall complete a minimum of one year in a non-specialty assignment.

Each Division Captain shall meet with each specialty assigned employee and his/her immediate Supervisor annually, during the month of August. This meeting will afford the Captain, supervisor, and employee the opportunity to re-evaluate the assignment and the appropriateness of continuing in the position.

1003.2.2 STANDARD PERIOD EXCEPTIONS

The exceptions to the standard period set forth above are:

- (a) Professional Standards (Internal Affairs) Lieutenant and Office of Emergency Services Lieutenant - will be determined by the Chief.
- (b) Canine Handler Officer - more than the five (5) year standard, shall be for the working life of the Police Service Dog.

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- (c) Desk Officer - shall be one year unless specifically requested by the Officer and approved by the Bureau Deputy Chief, with a maximum of three (3) consecutive one year assignments.
- (d) Police Academy Recruit Training Officer - Assignment shall be for one (1) year with a possibility of up to two (2) years at the discretion of the Chief.
- (e) Temporary Duty Assignment - will be defined by the length of the assignment as stated in the selection announcement and will not be counted as a consecutive specialty assignment if the temporary assignment is less than two (2) years.
- (f) If the applicant pool is not sufficient to fill any specialty assignment position(s), the incumbent(s) shall have the option of applying for a one year extension.
- (g) For extenuating circumstances, and with Command Staff approval, a one-time, one-year extension may be granted to an individual assigned to a specialty position.

1003.3 SPECIAL ASSIGNMENT MINIMUM QUALIFICATIONS

The minimum qualifications for any specialty assignment shall be:

- (a) Possess the rank specified for job assignment.
- (b) One year in classification of a PSO II. (PSO II is established upon completion of the Police Academy, Fire Academy, and PTO Program)
- (c) Lieutenants must have successfully completed probation at the time of appointment to the specialty assignment.
- (d) If an employee is selected for a specialty assignment and has not completed the Fire Field Training Program, the employee shall complete the program in accordance with the standard published training time line. The employee shall not receive specialty pay and additional benefits associated with that specialty assignment during completion of the fire field training program, nor shall this period of time count against the employee's standard period of assignment.
- (e) It is the responsibility of the Division Captain to establish the "Desired Qualifications" for each specialty assignment. These "Desired Qualities" shall include, but is not limited to:
 - 1. Minimum level of experience
 - 2. Minimum level of skills and standards
 - 3. Additional skills and qualifications

1003.3.1 SPECIAL ASSIGNMENT ANNOUNCEMENT AND APPLICATION

Public Safety personnel shall be afforded a minimum of a 21 day filing period from the date the announcement is posted. When possible, the specialty assignment position shall be selected at least 14 days prior to the "shift bid by seniority" date.

Under direction of the Division Captain, a job announcement for each specialty assignment will be posted that contains the qualifications, the timing, and the selection process for that position.

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No employee shall be considered for appointment to a specialty assignment if their current Performance Evaluation has an overall rating of "Needs Improvement."

Public Safety personnel interested in applying for the specialty assignment shall send a memo of interest to the applicable Division Captain addressing how the applicant meets the minimum and desired qualifications listed on the job announcement.

1003.3.2 SPECIAL ASSIGNMENT SELECTION PROCESS

Personnel applying for specialty assignments shall participate in the following process:

- (a) The Selection Board will consist of a minimum of two Public Safety members. Participating members shall hold a permanent position of a minimum of one rank above that of the vacant specialty position. When available, the Selection Board members shall have current or past experience in that specialty assignment. If a member of the Selection Board is from an allied agency, that member's rank shall be equivalent to the other participating members of the Selection Board.
- (b) Public Safety Selection Board Members shall review the candidate's personnel files for the past two years.

The Selection Board will forward a list of acceptable candidates to the Deputy Chief, who will make the selection with the concurrence of the Chief.

Upon request, the Deputy Chief will provide an opportunity for specific feedback to individual candidates following the completion of the process.

The assignment of the Professional Standards (Internal Affairs) Lieutenant and Office of Emergency Services Lieutenant are made by the Chief and not subject to this selection process.

1003.4 COLLATERAL ASSIGNMENTS

Collateral assignments include, but may not be limited to, the following assignments. Note: An employee may hold multiple concurrent collateral assignments.

- Firearms Instructor
- EMS Instructors
- Urban Search and Rescue
- Designated Exposure Control Officer/ Infectious Disease Officers
- Background Investigators
- Assistant Armorer
- EVOC (Police & Fire) Instructors
- Motor Instructors
- SCBA Technicians
- Mobile Field Force

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- Bike Officers
- MAIT Investigators
- OSI/Defensive Tactics Instructors
- Crisis Negotiators
- SWAT Team
- Truck Operators In-Training
- Certified Truck Operators
- Terrorism Liaison Officer - Coordinator
- Terrorism Liaison Officer
- Fire/Arson Investigator
- Gang Enforcement Team
- Crisis Intervention Team
- Critical Incident Stress Management Team
- Tactical Medic
- Unmanned Aerial System Operator

1003.4.1 STANDARD PERIOD

With the exception of SWAT Team members and Lieutenant, Crisis Negotiation Team members and Lieutenants, and Certified Truck Operators, the standard period for a collateral assignment shall normally be up to five years. There is no limit to the number of consecutive collateral assignments that an employee may work, except as provided below. Employees in collateral assignments shall be evaluated annually in the manner described below. An employee may not hold concurrent collateral assignments on the SWAT team, MFF team, and the Crisis Negotiation Team, but may hold other collateral assignments while on those teams.

Each Division Captain shall meet with each collateral duty assigned employee annually. This meeting will afford the captain and employee the opportunity to re-evaluate the assignment and the appropriateness of continuing in the position.

1003.4.2 STANDARD PERIOD EXCEPTIONS

The exceptions to the standard period are:

- (a) SWAT Team members and Crisis Negotiation Team members may not be assigned for more than two (2) consecutive standard periods.
 1. Assignments shall be considered consecutive if there is less than a six month break between assignments.
 2. Upon completion of two consecutive standard periods, the employee shall not be assigned to either of the assignments for a minimum of one year.

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- (b) If the applicant pool is not sufficient to fill the position(s), the incumbent(s) shall have the option of applying for a one year extension.
- (c) For extenuating circumstances as determined by the Sunnyvale Department of Public Safety, a one time, one year extension may be granted to an individual.
- (d) Certified Truck Operators will maintain the collateral assignment as long as they maintain their certification, or promote to the rank of lieutenant.

1003.5 COLLATERAL ASSIGNMENT MINIMUM QUALIFICATIONS

The minimum qualifications for any collateral assignment shall be:

- (a) Possess the rank specified in the job assignment.
- (b) It is the responsibility of the Division Captain to establish the "Desired Qualifications" for each collateral assignment. These "Desired Qualities" can include:
 - 1. Minimum level of experience
 - 2. Minimum level of skills and standards
 - 3. Additional skills and qualifications

1003.5.1 COLLATERAL ASSIGNMENT ANNOUNCEMENT AND APPLICATION

Public Safety personnel shall be afforded a minimum of a 21 day filing period from the date the announcement is posted.

The minimum selection process for all Collateral Assignments shall include:

- (a) Under direction of the Division Captain, a job announcement for each collateral assignment will be posted that contains the qualifications, the timing, and the selection process for that position.
- (b) No employee shall be considered for appointment to a collateral assignment if their current Performance Evaluation has an overall rating of "Needs Improvement."
- (c) Public Safety personnel interested in applying for the collateral assignment shall send a memo of interest to the applicable Division Captain addressing how the applicant meets the minimum and desired qualifications listed on the job announcement.
- (d) Based on a review of the memos submitted, a selection will be made by the Division Captain.

1003.5.2 COLLATERAL ASSIGNMENT SELECTION PROCESS

Personnel applying for collateral assignments may be required to participate in any or all the following processes as determined by the Division Captain:

- (a) The Selection Board will consist of a minimum of two Public Safety members. Participating members shall hold a permanent position of a minimum of one rank above that of the vacant collateral position. When available, the Selection Board

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members shall have current or past experience in that collateral assignment. If a member of the Selection Board is from an allied agency, that member's rank shall be equivalent to the other participating members of the Selection Board.

- (b) Public Safety Selection Board Members shall review the candidate's personnel files for the past two years.
- (c) Individual Collateral assignments may require additional selection criteria. Additional criteria shall be established by the Division Captain and detailed in the announcement.
- (d) The Selection Board will forward a ranked list of acceptable candidates to the Deputy Chief, who will make the selection with the concurrence of the Chief.

Upon request, the Deputy Chief will provide an opportunity for specific feedback to individual candidates following the completion of the process.

1003.6 REMOVAL FOR CAUSE

The Bureau Deputy Chief may recommend that the Chief remove an employee from a specialty/collateral assignment for cause. Appeals of such removal shall be processed through the Personnel Board in accordance with Chapter III, Article X, Section 6 of the Administrative Policy.

1003.6.1 REMOVAL NOT FOR CAUSE

When the employee is not being removed for cause, an additional review step will be implemented upon the request of the affected employee. This review will be conducted before the Chief and the current President of the PSOA as outlined below. The Chief will retain the right of final decision, and the employee will retain the right to pursue other options as appropriate and desired. The Chief and current PSOA President will act as a committee to two, in which neither may advocate a position or represent a party directly involved in the action. The committee shall hold a meeting to hear the dispute. The only parties to be present are:

- (a) Chief
- (b) President of the PSOA
- (c) Employee
- (d) Employee Representative (optional)
- (e) Bureau Deputy Chief
- (f) Captain or Supervisor (optional)

The committee will receive a presentation of the issue and concerns from the employee or his/her representative, and the Deputy Chief, and his/her Captain or supervisor if needed or desired. The committee will discuss in a closed session. The Chief will issue a decision. Recognizing that time will be a sensitive factor in the overall specialty assignment process, the review process will be conducted in as timely a manner as possible.

Anti-Retaliation

1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1004.2 POLICY

The Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because the person has engaged in protected activity.
- Singling a person out for harsher treatment because of protected activity.

Anti-Retaliation

- Lowering a performance evaluation because of protected activity.
- Condoning hostility and criticism of coworkers and third parties because of protected activity.

1004.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS

An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the Department who has the authority to investigate the violation (Government Code § 7286(b)).

1004.4 COMPLAINTS OF RETALIATION

Any member who feels they have been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Director of Public Safety or the Human Resources Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1004.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

Anti-Retaliation

- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

1004.6 COMMAND STAFF RESPONSIBILITIES

The Chief should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1004.7 WHISTLE-BLOWING

California law and City Administrative Policy protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.; Administrative Policy Ch.3, Art. 32):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command or any supervisor or manager pursuant to City Administrative Policy (Labor Code § 1102.5; Administrative Policy Ch.3, Art. 32).

Anti-Retaliation

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs Unit for investigation pursuant to the Internal Affairs Investigations Manual.

1004.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

1004.8 RECORDS RETENTION AND RELEASE

The Internal Affairs Unit or Human Resources Department shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Employee Convictions

1005.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1005.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. 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 are responsible for ensuring that they have not been disqualified from possessing a firearm 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.

1005.3 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 an employee'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.

Moreover, 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.

1005.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently 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 immediate supervisor (or the Chief in the case of retired officers) in

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writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but 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 his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1005.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1005.5.1 NOTIFICATION REQUIREMENTS

The Strategic Services Captain shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony 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).

The Strategic Services Captain shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this department (11 CCR 1003).

Employee Wellness

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to promote a safe and healthy work environment at the Department of Public Safety through a collaborative effort of all Public Safety members. We will emphasize, through clear expectations, employee health, training and safe work practices in an effort to reduce employee injury, illness and the impact thereof on the Department of Public Safety. 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.) and 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).

1006.2 GENERAL WELLNESS

The Department of Public Safety will encourage and support employee fitness and health. Public Safety employees work in a variety of demanding and difficult assignments on shifts covering twenty four hours each day. This type of work, and the associated stress and long hours, can place employees at risk for illness and injury. It is important employees make every effort to stay fit and that the Department actively supports that effort.

1006.3 SAFE WORKPLACE

The Department of Public Safety has taken precautions, implemented policy, rules and regulations and training in an effort to provide as safe a working environment as possible. It is incumbent that employees actively participate in identifying hazards, following safety precautions and reporting unsafe conditions or practices to their supervisor. They are also encouraged to take action and rectify hazardous or unsafe conditions, if they are able, as soon as reasonable. Supervisors, upon being informed of a hazard or unsafe condition, are expected to take corrective action and notify their Team Captain or Manager when appropriate.

1006.3.1 DECON AFTER A FIRE

Members involved in firefighting duties should use wipes to remove as much soot as possible from head, neck, jaw, throat, under arms and hands immediately and while still on fire scene. Hand sanitizing wipes are available at Central Stores.

Members should shower thoroughly as well as change and wash clothes immediately after a fire.

1006.4 WORK RELATED INJURY OR ILLNESS

Work Related injuries represent a significant impact on the employee, their family, their coworkers and the department. It is important the employee reports and documents the injury, receives

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prompt and appropriate medical care (when needed) and the employee understands the Department's expectations when they are off work due to a work related injury. It is the goal of the Department that the employee recovers and returns to work as soon as practical thereby reducing the impact on the employee's day to day life. When an employee is off because of a work-related injury, they are only eligible to work outside employment if the work to be performed is in compliance with all work restrictions imposed by the treating physician.

- (a) Minor Injury - An employee who reports a minor work related injury, that does not require immediate medical treatment at a medical facility and does not result in time off, shall have his/her supervisor document the injury on the Minor Injury and Accident/ Injury Report forms.
- (b) Serious Injury - An employee who suffers a serious injury which requires immediate medical treatment and/or results in time off, shall document the injury utilizing the City of Sunnyvale Workers Compensation claim forms. The employee will seek medical treatment at the City's contracted industrial care provider's office when appropriate or closest hospital as needed dependent upon the type of injury and time of day.
- (c) Employee Expectations - Employees may not take themselves off work when their injury or illness is work-related. The employee must be seen by a doctor in a clinical environment in order to be taken off work. It is not sufficient to call or e-mail the doctor to be taken off work. This applies to extensions of total temporary disability status or work restrictions. Failure to follow these requirements will result in time off being charged to the employee's accrued leaves (PTO, etc.) or Leave Without Pay if the employee has no accrued leave balances. Paid Time Off (PTO)/Paid Medical Leave may only be used for non-work related injury or illness and cannot be substituted for workers' compensation leave. (Refer to the City Administrative Policy)

While an employee is off due to a work related injury, the employee shall be available for and go to all scheduled medical appointments. The Department expects the employee to be proactive in managing their injury by maintaining positive and frequent contact with their Doctor, the Nurse Case Manager assigned to their claim and the Department of Public Safety in an effort to facilitate prompt and appropriate care. The employee is also responsible for providing the doctor with the "Patient Status Report" form. The form should be filled out by the doctor and the employee shall return the completed form, or an equivalent form provided by the doctor, to the Department Personnel Representative. This should increase the likelihood that the employee will return to modified or full duty as soon as practical and minimize the impact on the employee's day to day life. Employees shall abide by the limitations their Doctor has set for them while they are working or off duty.

Additionally:

1. Every Monday during normal business hours, the employee shall contact their assigned supervisor and the Department Personnel Representative to provide their current status (ability to return to work) and the date of their next doctor's appointment. The employee shall also submit any requested paperwork at that time.

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2. The Department Personnel Representative shall provide updates of the employee's work status to the Special Operations Deputy Chief, the Deputy Chief and Captain of the employee's assigned Bureau, the Patrol Staff Lieutenant and Human Resources.

1006.4.1 AUTHORIZED PHYSICAL FITNESS ACTIVITIES

It is important that each Department member be in excellent physical condition so that they may accomplish the physically demanding aspects associated with Department operations.

- (a) Injuries arising while participating in the following activities may be included for workers compensation coverage:
 - 1. Aerobic classes;
 - 2. Fitness club workouts;
 - 3. Jogging;
 - 4. Road bicycling;
 - 5. Other pre-authorized physical fitness activities.
- (b) Injuries arising while participating in the following activities are excluded from workers compensation coverage:
 - 1. Recreational activities with family and friends;
 - 2. Roller-blading/Roller-skating/Skateboarding;
 - 3. Skiing/Snowboarding;
 - 4. Mountain biking;
 - 5. Basketball/Volleyball or any other competitive sport; and
 - 6. All other activities of a recreational nature.

If a Department member cannot participate in one of the authorized physical fitness activities listed in #a, and wishes to propose an alternate physical fitness activity, a Pre-Authorization of Physical Activity form should be completed and submitted through the chain of command to the Chief of Public Safety for consideration. [Pre-Authorization Form for Physical Activity \(Rev. 4/20\)](#)

1006.5 NON-WORK RELATED INJURY OR ILLNESS

The Department of Public Safety wants to assist employees who are on short term paid leave as a result of a non-work related injury or illness in returning to work as soon as medically possible. When an employee is off because of an injury or illness, they are only eligible to work outside employment if the work to be performed is in compliance with all work restrictions imposed by the treating physician.

Employees on leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

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1006.5.1 EMPLOYEE EXPECTATIONS FOR ABSENCES LASTING LESS THAN TWO WEEKS

Pursuant to the City of Sunnyvale Administrative Policy, "The employee must notify his/her supervisor of his/her inability to work due to illness or injury at or before the start of the employee's work shift.", or as soon as practical. The disclosure of the nature of the employee's illness or injury to his/her supervisor is at the employee's discretion as the employee is only required to provide his/her status (inability to work) and expected date of return to work. However, the employee is required to disclose the nature of the illness or injury to the Department of Human Resources.

If the employee's supervisor is unavailable or not currently on-duty, the employee must notify an on-duty supervisor of his/her inability to work. If no supervisor is available, the desk officer will ensure the on-duty supervisor is notified of the absence as soon as possible. Upon notification, the on-duty supervisor will contact the employee to determine the employee's expected date of return to work and to provide any assistance. The supervisor shall then notify the appropriate work scheduling coordinator as well as the employee's supervisor regarding the absence.

Upon the first day of their return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

1006.5.2 EMPLOYEE EXPECTATIONS FOR ABSENCES LASTING GREATER THAN TWO WEEKS

While employees are off due to an extended non-work related illness or injury the Department of Public Safety expects employees to stay in regular contact with their assigned supervisor, and the Department Personnel Representative. Employees are required to submit a doctor's note for extended absences. (Refer to the City Administrative Policy) This will allow the Department to plan during the employee's absence and offer whatever assistance we can while the employee is off.

- (a) Every Monday during normal business hours, the employee shall contact their assigned supervisor and the Department Personnel Representative to provide their current status (ability to return to work) and the date of their next doctor's appointment. The employee shall also submit any requested paperwork at that time.
- (b) The Department Personnel Representative shall provide updates of the employee's work status to the Special Operations Deputy Chief, the Deputy Chief and Captain of the employee's assigned Bureau, the Patrol Staff Lieutenant and Human Resources.
- (c) Employees on an extended absence require a note from a medical doctor allowing them to return to work (Refer to the City Administrative Policy). The note shall be submitted to their assigned supervisor or Department Personnel Representative on or before their first day back to work.
- (d) Upon return to work, members are responsible for insuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

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1006.6 SUPERVISOR RESPONSIBILITIES

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 is consistent with this City policy.
- (b) For non-work related medical absence of 3 days or more (scheduled or unscheduled), notify the Administration Divisions of HR by email or phone to evaluate eligibility for protected leave under the Family and Medical Leave Act (FMLA).
- (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 the Employee Assistance Program when appropriate.

1006.7 COURT APPEARANCES

The Department of Public Safety will make efforts to continue (reschedule at a later date) court cases that require the presence of an officer who is off on a work related illness or injury or non-work related illness or injury. However, in some cases it may be necessary for an officer to appear in court. When this occurs, the employee shall appear as ordered by the court. Employees off work as a result of a work related illness or injury, who are subpoenaed to attend court must:

- (a) Notify the Patrol Staff Lieutenant immediately.
- (b) Obtain a medical note, from their doctor, which prescribes whether or not an employee's limitations will allow them to appear (testify) in court.
- (c) Notify the Patrol Staff Lieutenant if the employee's limitations preclude the employee from carrying their duty weapon.
- (d) Wear appropriate civilian attire for their court appearance per DGOM.

If the employee's limitations preclude them from carrying their duty weapon the Deputy Chief may assign an officer to attend court to provide security for the employee.

Supervisors who receive a subpoena for an officer who is off due to a work related or non-work related illness or injury shall notify the court office and their Captain or Deputy Chief immediately.

1006.8 ATTENDING TRAINING CLASSES

Employees who desire to attend department training and/or departmental related classes must be cleared by their physician for modified duty. The employee's work limitations must be compatible with the training or class they wish to attend.

Temporary Modified-Duty Assignments

1007.1 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.

1007.2 POLICY

Subject to operational considerations, the City of Sunnyvale Department of Public Safety 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.

1007.3 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 City of Sunnyvale Department of Public Safety 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 Department may also temporarily assign an employee to another department within the City, if there are not limited duty assignments available within the Department.

The Chief 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.

With the exception of pregnancies, modified duty assignments shall last a maximum of ninety (90) calendar days. Thirty (30) calendar day extensions can be made to the ninety day maximum

Temporary Modified-Duty Assignments

based upon the benefit to the department, medical treatment needs or standards, and a definitive prognosis for recovery and return to full duty within a reasonable amount of time

1007.4 PROCEDURE

The Captain of Strategic Services will be responsible for the oversight of the Modified Duty Program. Direct supervision and coordination will be handled by the Patrol Staff Lieutenant. The Patrol Staff Lieutenant will coordinate the modified duty assignments based on input or request from Command Staff and Supervisors of the Department of Public Safety.

Employees being released to modified duty are expected to advise the Patrol Staff Lieutenant of their areas of expertise or interest so that they may be best utilized during their temporary assignment.

Employees qualified for a temporary modified-duty assignment shall submit a certification from the treating medical professional to Department Personnel Representative or the authorized designee. The certification should, as applicable, include:

- (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 Patrol Staff Lieutenant will make a recommendation through the chain of command to the Chief regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief or the authorized designee shall confer with the Department of Human Resources or the City Attorney as appropriate.

It is incumbent upon Command Staff to continually communicate the priorities to the Patrol Administrative Staff Lieutenant to ensure the need for modified duty assignments is current.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Lieutenant or Captain, with notice to the Chief.

1007.5 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.

City of Sunnyvale Department of Public Safety

Department Policies

Temporary Modified-Duty Assignments

1007.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Maintain a high level of performance while assigned to temporary modified duty.
- (b) Employees assigned to modified duty shall adhere to their specific limitations both on and off-duty.
- (c) Communicating and coordinating any required medical and physical therapy appointments in advance with their assigned supervisor.
- (d) Promptly notifying the Patrol Staff Lieutenant of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (e) Communicating a status update to Patrol Staff Lieutenant no less than once every 30 days while assigned to temporary modified duty.
- (f) Submitting a written status report to the Deputy Chief that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 30 days.

1007.5.2 MODIFIED DUTY ATTIRE

Lieutenants and Officers assigned to modified duty will wear business casual attire or the Fire Services utility uniform when appropriate. All other field-based personnel assigned to modified duty will wear business casual attire. All other employees will adhere to departmental standards for their normal duty assignment.

1007.5.3 PATROL STAFF LIEUTENANT RESPONSIBILITIES

The Patrol Staff Lieutenant shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of the Patrol Staff Lieutenant shall include, but not be limited to:

- (a) Advise an employee who is assigned to temporary modified duty whom they report to.
- (b) Periodically apprising the Captain of the status and performance of employees assigned to temporary modified duty.
- (c) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (d) Ensuring that employees returning to full duty have completed any required training and certification.

1007.5.4 SCHEDULE

Employees assigned to modified duty (due to either workers compensation or illness or injury) will generally work Monday through Friday (forty hours a week) during normal business hours. The Patrol Staff Lieutenant, or the employee's Supervisor while they are on modified duty, with approval from the Captain of Strategic Services, can alter the schedule to meet the needs of the

Temporary Modified-Duty Assignments

assignment and/or to accommodate the employee. While assigned to a modified duty schedule an employee is prohibited from working overtime unless authorized by Command Staff.

1007.5.5 DUTY WEAPON

Officers assigned to modified duty may carry their duty weapon unless their limitations preclude them from carrying or safely operating their weapon. All limitations will be reviewed by the Special Operations Deputy Chief to ensure the employee can safely carry their duty weapon.

1007.6 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.

1007.7 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.

1007.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

1007.8 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury. The policy will offer direction in achieving the following goals:

- (a) To manage the risks associated with blood borne pathogens (BBP), aerosol transmissible diseases, and other potentially infectious substances.
- (b) To assist department personnel in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment (PPE).
- (c) To protect the privacy rights of all department personnel who may be exposed to or contract a communicable disease during the course of their duties.
- (d) To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

1008.2 POLICY

The City of Sunnyvale Department of Public Safety is committed to providing a safe and healthful work environment for its members by providing each member with the best available protection from occupationally acquired communicable disease. Communicable disease is an occupational health hazard and transmission is possible during emergency responses and other department and in-station operations.

1008.3 EXPOSURE CONTROL PLAN

The Department has developed an Exposure Control Plan (ECP) to eliminate or minimize occupational exposure to communicable diseases. The Chief or the authorized designee shall designate an Designated Exposure Control Officer (DDECO), who will be responsible for the administration of the ECP and the designated responsibilities. The responsibilities shall include the establishment, implementation and maintenance of effective written infection control procedures to control and reduce the risk of acquiring BBPs and aerosol transmissible diseases.

The ECP shall include the following core elements:

- Provide fire, rescue, and emergency medical services to the public without regard to known or suspected existence of communicable diseases.
- Regard all patient contacts as potentially infectious. Universal precautions will be observed at all times and will be expanded to include all bodily fluids and other potentially infectious material.
- Provide all at-risk department members with training, immunizations, TB skin testing and PPE necessary for protection from communicable diseases.

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- Provide any department member sustaining a communicable disease exposure a post-exposure follow-up in compliance with State standards.

The ECP shall be in writing, comply with all legal requirements and shall (8 CCR 5193 et seq.):

- (a) Determine and note positions with the potential for exposure and whether the positions require respiratory protection.
- (b) Establish a schedule and method for implementing the plan.
- (c) Establish source control measures and the method of informing members of the source control measures.
- (d) Establish procedures of evaluation of the circumstances of exposure incidents and for appropriate follow-up.
- (e) Address the distribution and use of PPE related to communicable diseases.
- (f) Establish an effective procedure to track the frequency of use and the types and brands of sharps involved in exposure incidents; the information should be documented on a sharps injury log.
- (g) Establish a process for vaccinating members.
- (h) Establish an effective procedure and method to identify currently available engineering controls and selecting such controls, where appropriate, for the procedures performed by department members in their respective work areas.
- (i) Establish a training program to educate department members on the ECP.
- (j) Be accessible to department members (8 CCR 3204(e)).
- (k) Annual review by the DECO, to include the input of members from various work areas.
- (l) Review new or modified tasks and procedures affecting occupational exposures.
- (m) Reflect changes in technology that eliminate or reduce exposure.
- (n) Consider and/or implement any appropriate, commercially available needle-less systems and needle devices and sharps with engineered sharps injury protection.
- (o) Include new or revised member positions with occupational exposures.
- (p) Be available to the National Institute of Occupational Safety and Health (NIOSH) or the respective designee upon a request.

1008.4 EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOLTRANSMISSIBLE DISEASES

All department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease shall follow the ECP procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any other qualifying exposure (Health and Safety Code § 121060.1 or 8 CCR § 5193).

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Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

- (a) An employee has been exposed to an individual who has or is suspected of having a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.
- (b) The exposure occurred without the benefit of applicable exposure controls required by this policy.
- (c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

1008.4.1 DESIGNATED EXPOSURE CONTROL OFFICER (DECO)

The DECO shall be responsible for the following:

- (a) Establishing and maintaining written procedures and a training program related to BBPs (8 CCR 5193).
- (b) Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.
- (c) Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan.
- (d) Investigating all reports of exposures or suspected exposures to communicable disease.
- (e) Providing guidance and follow-up instructions when an exposure occurs.
- (f) Communicating with hospital infection control personnel.
- (g) Coordinating the collection, management, security and maintaining the confidentiality of all exposure rDECORds (8 CCR 5193).
- (h) Remaining current on all legal requirements concerning BBPs and other communicable diseases (8 CCR 5193).
- (i) Coordinating the immunization and vaccination of department members.
- (j) Acting as a liaison during Occupational Safety and Health Administration (OSHA) inspections, conducting program audits to maintain an up-to-date ECP and ensuring exposure report forms are available and adequate for members to properly report incidents of exposure.
- (k) Working with the Training Lieutenants and the EMS Coordinator to maintain an up-to-date list of department members requiring training.

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- (l) Coordinating with the Training Lieutenants in developing and implementing a training program, maintaining class rosters and quizzes, and periodically reviewing and updating the training program.
- (m) Reviewing and updating the ECP annually, on or before January 1st of each year.

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the DECO and any affected employees to ensure that the proper exposure control procedures are followed.

1008.4.2 EXPOSURE DETERMINATION

The Department shall actively involve members in the preparation of an exposure determination that identifies the job classifications with potential for exposure to occupational BBPs. Exposure determination shall be made without regard to the PPE worn (8 CCR 5193(c)(1)(B)(8)).

1008.4.3 STANDARD PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

The minimum number of members required to complete a task safely will be used for all on-scene operations. Members who are not immediately needed will remain a safe distance (at least 6 feet) from operations when a communicable disease exposure is possible or anticipated. When transporting a patient with a potential aerosol transmissible disease, members should notify hospital staff prior to arrival to allow for the proper isolation of the patient immediately upon arrival.

Universal precautions extend beyond the emergency incident and should be observed in the communal living environment of the fire station as follows:

- (a) Members shall not report to work with signs or symptoms of a febrile aerosol transmissible disease or any wounds that cannot be completely covered or in which exudates from wounds cannot be contained with dressings.
- (b) Members shall wash their hands thoroughly for a minimum of 15 seconds with soap and water:
 - 1. Before and after handling or preparing food.
 - 2. Before eating.
 - 3. After using the restroom.
 - 4. After sneezing or coughing into ones hands and/or handling contaminated facial tissue.
 - 5. After each patient contact.
 - 6. After removing PPE.
 - 7. After handling potentially infectious materials.
 - 8. After cleaning and/or decontaminating equipment.

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- (c) If hand washing with soap and water is not possible, germicidal hand wipes or a waterless hand cleanser shall be used.
- (d) Exercise equipment shall be wiped down with germicidal cleaner between users.
- (e) Members shall not share utensils, towels, bedding or personal care items (e.g., razors, toothbrushes, nail clippers).
- (f) Members shall cover the mouth and nose with a tissue when coughing or sneezing. If tissue is not readily available, members should avoid coughing or sneezing into their hands and cover their mouth and nose with their arm.
- (g) All eating, drinking, smoking, applying of cosmetics or lip balm, or handling of contact lenses is prohibited in areas where there is an expectation of communicable disease exposure.
- (h) Food and drink shall not be stored in areas where there is an expectation of communicable disease exposure.
- (i) Perishable food that requires cold storage shall be kept at a temperature of 3 degrees Celsius or 38 degrees Fahrenheit or lower.
- (j) Perishable food that requires freezer storage shall be kept at a temperature of -18 degrees Celsius or 0 degrees Fahrenheit or lower.
- (k) All food that is removed from original manufacturer packaging shall be kept in a tightly sealed food container or shall be wrapped with plastic food wrap.

1008.4.4 PERSONAL PROTECTIVE EQUIPMENT

PPE is the last line of defense against communicable disease. Therefore the following procedures should be followed:

- (a) Department-issued disposable latex or nitrile gloves shall be worn prior to initiating any patient contact. If the situation dictates reusable gloves (i.e., structural or wildland gloves), and the risk of communicable disease is also present, disposable gloves shall be worn under the utility gloves.
- (b) Medical aide eye protection shall be worn prior to initiating any patient contact.
- (c) Disposable gloves shall be replaced as soon as practicable when contaminated, torn, punctured or any time the ability to function as a barrier is compromised and before contact with any other person.
- (d) When possible, gloves should be changed between patients in multiple casualty situations and hands should be cleaned with disinfectant wipes.
- (e) Disposable gloves shall not be washed or decontaminated for reuse.
- (f) Approved masks or full face shields are mandatory whenever splashes, spray or droplets of bodily fluid may be generated and eye, nose or mouth contamination can be reasonably anticipated. Procedures that put the member at risk for splash or spray exposure include, but are not limited to, inserting airways, suctioning, childbirth procedures and the treatment of a patient who is bleeding, vomiting or spitting.

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- (g) An P100 respirator mask shall be worn when encountering an individual who is actively coughing or has a suspected or known aerosol transmissible pathogen.
- (h) A disposable mask may be placed on a patient with a potential aerosol transmissible pathogen only when the patient has not exhibited respiratory distress or potential respiratory compromise and pulse oximetry confirms that the patient is not hypoxic.
- (i) An approved spit hood may be placed over a patient's head who is attempting to bite or intentionally spit at the care providers. The use of a spit hood shall not replace the donning of a mask and goggles for the care provider when indicated. The spit hood should not be used if the patient:
 - 1. Is or has the potential of developing respiratory distress.
 - 2. Has a clinical indication for supplemental oxygen administration, oral suctioning or insertion of an airway adjunct.
 - 3. Has a condition that indicates the need to closely monitor skin signs.
- (j) If the circumstances dictate head and foot covering are needed, firefighting gear, boots and helmets shall be worn.
- (k) It is the responsibility of the company officer to ensure that all appropriate PPE measures are utilized, as soon as it is apparent that PPE is appropriate.
- (l) A mechanical breathing mask or a mask with a one-way valve will be used when providing respiratory assistance. Mouth-to-mouth ventilation may be performed only as a last resort if the needed equipment is not available.
- (m) Disposable resuscitation devices will be immediately available at all times when on-duty. The airway bag is to be brought to the patient's side for all medical emergency calls to ensure that all equipment necessary to ventilate the patient is accessible.
- (n) When in public, but not assigned to a medical aid call (e.g., grocery shopping or inspections), one member of the company should carry a mask with a one-way valve, gloves, goggles and an P100 mask.
- (o) A fluid resistant gown or turnout shall be worn when bodily fluid splashes and sprays to clothing are possible.
- (p) Refer to the chart in the ECP as a guide for the situation and PPE required.

1008.4.5 IMMUNIZATIONS

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

1008.4.6 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on **all** medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items soiled with blood or other body fluids. Disposable gloves that become contaminated with blood or other bodily

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fluids shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

When possible, open the back or side windows of an ambulance and turn on ventilation systems when transporting a patient with a potential aerosol transmissible pathogen. The window between the patient care compartment and the driver compartment must remain closed.

All procedures involving blood or other potentially infectious materials shall be done in a manner that will minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

1008.4.7 EBOLA ASSESSMENT AND TREATMENT PROCEDURES

Patient assessment begins with scene safety and proper personal protective equipment (PPE) on every patient encounter (Refer to P1016.4.4)

- (a) Personnel shall maintain a minimum distance of three (3) feet from the patient in order to limit any exposure. The following "Health Screening Questions" shall be asked prior to patient contact:
 - (a) Has the patient traveled to or had contact with anyone who has traveled to Sierra Leone, Guinea, Liberia, or Mali in the last twenty-one (21) days?
 - (b) Does the patient have any of the following symptoms?
 - 1. Fever
 - 2. Body aches
 - 3. Headache
 - 4. Weakness
 - 5. Vomiting and/or diarrhea
 - 6. Unexplained hemorrhage
- (b) If the patient answers "**YES**" to **BOTH** questions, personnel will immediately inform the patient they are considered to be at high risk for Ebola.
 - 1. Personnel will exit the patient's environment and proceed to a safe refuge. If the patient requires life saving treatment personnel will don High Risk PPE as listed below before re-entering and providing care. Personnel will initiate a full HAZMAT response and make the appropriate notifications.
 - 2. The on-duty Battalion Chief (BC) shall be notified by telephone and provided case specific information. The BC will then contact County Communications for the EMS Duty Chief notification.

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3. The following positions will be designated by the Incident Commander (IC):
 1. Safety Officer – to assist and monitor the donning/doffing of high risk PPE.
 2. Communications – ideally should be the IC. The officer assigned to Communications needs to remain readily available via phone and radio at all times.
 4. High Risk PPE at a minimum will be a HAZMAT Level C suit. The High Risk PPE will include, but is not limited to the following equipment:
 1. Splach protection suit that meets CDC/NFPA specifications.
 2. Air Purifying Respirator (Department issued gas masks):
 1. 3M FR-M40 with an FR-15 canister or
 2. MSA Millennium with a CBRN canister
 3. Both respirators are P100 compliant.
 3. Protective rubber boots
 4. Nitrile gloves - inner and outer layers
 5. Chemtape
- (c) Due to the need for a specialized "Ebola-Ready" transport unit, there may be an extended arrival time for the transport unit. Onscene personnel must constantly evaluate the patient's needs, while actively minimizing potential exposure.
- (d) Personnel who have donned the appropriate High Risk PPE and are in contact with the patient may be required to assist with patient care as needed based on the needs of the transport provider. This will minimize the unnecessary exposure of other EMS personnel. **NOTE: A coordinated effort between Department personnel and ambulance personnel is essential to minimize the number of EMS personnel in the exclusion zone next to the patient.**
- (e) **Department personnel will not accompany transport unless he/she is wearing the appropriate High Risk PPE.**
- (f) Treat the patient according to the appropriate protocol. Invasive procedures (e.g. intubation, IV placement, suction, chest compressions) will be limited whenever possible for patients considered to be high risk, unless clinically necessary. While Ebola is transmitted through bodily secretions, prehospital providers must be aware that some procedures such as nebulization treatments, the use of suction devices, and CPAP can aerosolize bodily fluid such as saliva, causing the virus to be transmitted through aerosols. If it is clinically necessary to perform these treatments, always wear the high risk PPE as described above.
- (g) If personnel do not accompany the ambulance to the hospital, personnel will stand by in a Safe Refuge Area away from other personnel until a Decontamination Corridor/Zone is set up ready for doffing procedures of their contaminated PPE. Once

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decontaminated, personnel will await further instructions from the on-duty BC/TC & the EMS Duty Chief. The Public Health Officer will provide specific guidance to personnel via the EMS Duty Chief. Any biohazard waste generated by the event will be packaged and disposed of according to infectious disease protocols and coordinated for disposal by HAZMAT team personnel.

If the patient answers “**NO**” to the Health Screening Questions , continue treating the patient per appropriate treatment protocol(s) and policy(ies) as necessary.

1008.5 SHARPS AND ITEMS THAT CUT OR PUNCTURE

Members should take care when handling needles or sharps at all times, using the following guidelines:

- (a) A needle-free or self-sheathing device or a sharps with engineered sharps protection will be utilized to start intravenous (IV) medications or obtain a blood sample at all times except when:
 - 1. A needle-free or self-sheathing device or a sharp with engineered sharps.
 - 2. The use of a needle-free or self-sheathing device or a sharp with engineered sharps protection would jeopardize the patient's safety or the success of the intervention.
- (b) When a needle-free or self-sheathing device or a sharp with engineered sharps protection is not available, the sharps shall be placed into the authorized needle guard device using a one-hand technique prior to placement in the sharps container.
- (c) After use, all sharps must be immediately placed into a sharps container. This includes those devices that are self-sheathing.
- (d) The sharps containers are located in the CSI lab and HQ booking cage. A sharps container shall be easily accessible to members and located as close as possible to the immediate area where sharps are used.
- (e) The sharps container shall be stored in the upright position at all times. At no time shall department members reach into a sharps container.
- (f) Once a sharps container is half full, the container's lid will be secured and the sharps taken to the hospital for disposal. Disposal will follow the hospital's policies and procedures.
- (g) Sharps containers will be inspected daily to ensure the container is not more than half full.
- (h) Broken glass shall not be picked up by hand. It shall be cleaned up with utility gloves, structural or wildland gloves and using mechanical means, such as a bush dust pan or tongs.

1008.5.1 SHARPS INJURY LOG

The EMS Coordinator shall maintain a sharps injury log that records all exposure incidents involving a sharp. Entries into this log shall be recorded within fourteen (14) working days the date the incident is reported to the EMS Coordinator. The information in the log will include the following information, if it is known or reasonably available (8 CCR 5193(c)(2)):

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- (a) Date and time of the exposure
- (b) Type and brand of the sharp involved
- (c) Description of the exposure shall include the following:
 - 1. Job classification of the member involved.
 - 2. Work location where the exposure occurred.
 - 3. Procedure the member was performing at the time of the exposure.
 - 4. How the exposure occurred.
 - 5. The body part involved.
 - 6. Whether the sharp had engineered sharp-injury protection, whether protection mechanism was activated and whether the injury occurred before the mechanism was activated, during activation or after activation, if applicable.
 - 7. The member's opinion as to how or whether the mechanism could have prevented the injury.
- (d) Each member incident shall be recorded on the sharps injury log within 14 working days of the date the incident is reported to the Department.
- (e) The information in the sharps injury log shall be recorded and maintained in a manner that protects the confidentiality of the member.

1008.6 DISPOSAL AND DECONTAMINATION

Refer to the Exposure Control Plan for proper disposal and decontamination procedures.

1008.7 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the member. The priority shall be to provide the exposed member with the appropriate medical care, testing and counseling to prevent or minimize the risk of contracting or spreading the disease (Health and Safety Code § 120260, Health and Safety Code § 120261, Health and Safety Code § 120262 and Health and Safety Code § 120263).

1008.7.1 EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE

To provide appropriate and timely treatment should exposure occur, all members shall verbally report the exposure to their immediate supervisor and complete a written exposure report as soon as possible following the exposure or suspected exposure. That report shall be submitted to the member's immediate supervisor. Additionally, members should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

In addition, the exposure or suspected exposure should be reported to the Paramedic Receiving Center (PRC), and to the EMS Coordinator.

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If the EMS Coordinator is notified of a potential exposure to an aerosol transmissible disease by the hospital staff or county public health, the EMS Coordinator shall notify the exposed member as soon as practicable but no later than 72 hours after becoming aware of the exposure.

1008.7.2 SUPERVISOR REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

- (a) Name and social security number of the employee(s) exposed.
- (b) Date and time of incident.
- (c) Location of incident.
- (d) What potentially infectious materials were involved.
- (e) Source of material or person.
- (f) Current location of material or person.
- (g) Work being done during exposure.
- (h) How the incident occurred or was caused.
- (i) PPE in use at the time of the incident.
- (j) Actions taken post-event (e.g., clean-up, notifications).

The supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source.,

If the DECO is unavailable to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to ensure testing is sought pursuant to this policy.

1008.7.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Any employee who was exposed or who suspects he/she was exposed to Human Immunodeficiency Virus (HIV) or to hepatitis B or C should be seen by a physician or qualified health care provider as soon as possible. The doctor or qualified health care provider should be provided with the supervisor's report and the employee's medical rDECORds relevant to the visit and examination. The blood of the exposed employee shall be tested.

The health care professional will provide the DECO and/or the City's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should only contain the following information:

- If a post-exposure treatment is indicated for the employee.
- If the employee received a post-exposure treatment.
- Confirmation that the employee received the evaluation results.

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- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required.
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

1008.7.4 COUNSELING

The Department shall provide the exposed employee (and his/her family if necessary) the opportunity for counseling and consultation.

1008.7.5 CONFIDENTIALITY OF REPORTS

Most of the information involved in this process must remain confidential. The ECO shall ensure that all records and reports are kept in the strictest confidence.

The ECO shall be responsible for maintaining records containing the employee's treatment status and the results of examinations, medical testing and follow-up procedures.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional.

This information is confidential and shall not be disclosed to anyone without the employee'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.

1008.8 SOURCE TESTING

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five methods to obtain such testing. It is the responsibility of the ECO to ensure that the proper testing and reporting occur. These methods are:

- (a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.
- (b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).
- (c) Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).
- (d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.

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- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the City of Sunnyvale Department of Public Safety qualifies as a crime victim (Penal Code § 1524.1).

When the risk is a BBP, the source patient must be tested for hepatitis B, hepatitis C and HIV, with a rapid HIV test being the preferred method and a hepatitis B surface antibody titer used to evaluate the member's immunity. If other contact transmissible or aerosol transmissible disease possibilities exist, other tests may be indicated and shall be determined by the treating emergency room physician.

1008.8.1 EXPOSURE FROM A NON-ARRESTEE

Upon notification of an employee's exposure to a person who was not arrested, the ECO should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

- (a) A licensed health care provider should notify the person to be tested of the exposure and make a good faith effort to obtain voluntary informed consent from the person or his/her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.
- (b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three specimens of blood for testing. The ECO should document the consent as a supplement to the Exposure Control Report.
- (c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the ECO should promptly consult with City Attorney and consider requesting that a court order be sought for appropriate testing.

1008.8.2 EXPOSURE FROM AN ARRESTEE

Upon notification of an exposure to an employee by a person who was arrested, the ECO should take the following steps:

- (a) Comply 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.
- (b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (c) In all cases, comply with the reporting and testing scheme of Penal Code § 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not

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practicable, it must occur as soon as possible but no later than two days after the incident. The exposed employee's name should not appear on this form.

- (d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.
- (e) The results of the tests should be made available to the donor and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the ECO is responsible for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event that the exposed employee is not covered by either statutory scheme, the ECO should seek consent or a court order in the same manner as for a non-arrestee.

1008.9 TRAINING

Any member whose duties place them at risk for exposure to BBPs shall receive department-provided, no-cost training during working hours that shall include all of the state requirements (see the Bloodborne Pathogen Training Policy) (8 CCR 5193).

1008.10 MEDICAL RECORDS

The Department shall establish and maintain an accurate medical record for each member who has the potential for occupational exposure to BBPs as follows (8 CCR 3204):

- (a) Member status regarding all required vaccinations.
- (b) Results of TB skin tests.
- (c) Copies of information regarding exposures.

Medical records that are required by this policy are to be kept confidential and shall be retained for the duration of the member's employment with the Department, plus 30 years (8 CCR 3204(d)(1)(A)).

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in City of Sunnyvale Department of Public Safety facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The City of Sunnyvale Department of Public Safety recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the City of Sunnyvale Department of Public Safety.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1009.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products 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.).

1009.4.1 NOTICE

The Chief or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

Seat Belts

1011.1 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).

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1011.2 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.

1011.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1011.4 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.

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.

1011.5 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

Seat Belts

1011.6 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1011.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Body Armor

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1012.2 POLICY

It is the policy of the Sunnyvale Department of Public Safety to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of proper officer safety procedures.

1012.3 ISSUANCE OF BODY ARMOR

The Recruitment Lieutenant shall ensure that body armor is issued to all officers when the officer begins service at the Sunnyvale Department of Public Safety.

The Strategic Services Captain shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule, maintained by Property, or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised. The body armor must meet or exceed the standards of the National Institute of Justice.

1012.3.1 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 law enforcement action or taking part in Department range training.
- (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) 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.

1012.3.2 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.

Body Armor

1012.3.3 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.

1012.4 ARMORER RESPONSIBILITIES

The Uniform and Equipment Committee and the Rangemaster/Armorer 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

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual employee's name.

1013.2 POLICY

It is the policy of this department to preserve the confidentiality of any sworn personnel records maintained pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1013.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

Supervisor File - Any file which is maintained internally by an employee's supervisor(s) within an assigned bureau for the purpose of completing timely performance evaluations.

Training File - Any file which documents the training records of an employee.

Internal Affairs Files - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

1013.4 SUPERVISOR FILE

Supervisor files may be separately maintained internally by an employee's supervisor for the purpose of completing timely performance evaluations. The Supervisor file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of performance evaluations.

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 Government Code § 3306.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Training Unit for each employee. 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 employee is responsible for providing the Training Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.

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- (b) The Training Lieutenant or supervisor shall ensure that copies of such training records are placed in the employee's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Director. Access to these files may only be approved by the Director or the Internal Affairs Unit 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
- (d) No Finding
- (e) Complaint withdrawn

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, for sworn personnel. 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 a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least six years (Penal Code § 832.5).

1013.7 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.

1013.7.1 REQUESTS FOR DISCLOSURE

Any employee receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

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Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to an employee's personnel records shall be logged in the corresponding file.

1013.7.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

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).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows 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).

1013.7.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1013.8 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 or the Internal Affairs Unit 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.

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.

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- 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.
- (b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:
 - 1. A sustained finding involving a complaint that alleges unreasonable or excessive force.
 - 2. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.
 - 3. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 - 4. 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.
 - 5. 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, 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.
 - 6. 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 City or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

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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)).

1013.8.1 REDACTION

The Custodian of Records, in consultation with the Chief 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)).

1013.8.2 DELAY OF RELEASE

Unless otherwise directed by the Chief, 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
 - 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

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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

1013.8.3 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.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, 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)).

Request for Change of Assignment

1014.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to complete a Request for Change of Assignment memo and submit the memo to their immediate supervisor. The memo should then be forwarded through the chain of command to their Captain.

The Request for Change of Assignment form will remain in effect until the end of the calendar year in which it was submitted. The memo will be retained by the Department Personnel Representative.

Awards and Recognition

1015.1 PURPOSE AND SCOPE

An awards and recognition policy is hereby established for the purpose of awarding commendations to employees of the Public Safety Department, city employees, or to private citizens who distinguish themselves by service, achievement or actions that are recognized as exemplary.

1015.2 WHO MAY MAKE COMMENDATIONS

All Public Safety Department employees are encouraged to submit the name of any Public Safety employee, city employee, or private citizen who they feel have distinguished themselves by exemplary service, achievement or actions.

The name of the citizen or employee to be considered shall be submitted to a command level officer either directly or through their immediate supervisor. It is important that this recommendation be made as soon as possible following the event to facilitate timely recognition.

1015.3 AWARDS CATEGORIES

Public Safety Officers may be commended for exemplary service in the following categories:

1015.3.1 SWORN PERSONNEL

- (a) Certificate of Recognition
- (b) Lifesaving Ribbon
- (c) Distinguished Service Award
- (d) Bronze Medal of Distinction
- (e) Silver Medal of Honor
- (f) Gold Medal of Valor
- (g) Officer of the Year

1015.3.2 PROFESSIONAL STAFF

- (a) Certificate of Recognition
- (b) Lifesaving Ribbon
- (c) Distinguished Service Award
- (d) Professional of the Year
- (e) Dispatcher of the Year

1015.3.3 PRIVATE CITIZEN

- (a) Certificate of Recognition
- (b) Lifesaving Ribbon

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- (c) Citizen Award of Valor
- (d) Volunteer of the Year

1015.4 RECOGNITION PROCEDURE

The recommendation shall be in written memo with sufficient details to describe the service, achievement or action to be recognized. These details should include:

1. Name of all citizens/personnel involved
2. Date, time and location of incident
3. Case or Event number (if applicable)
4. Synopsis of the relevant details supporting the recommendation

This procedure is intended to give meaning to the incident by recognizing the citizen or employee of his/her act or conduct in a timely manner

1015.5 AWARDS AND RECOGNITION COMMITTEE

Prior to the start of each team year a memo requesting volunteers for the Awards and Recognition Committee shall be posted. A memo of interest will be submitted to the Chair of the Committee. The Chair will send recommendations to the Captain of Strategic Services, who will submit the list to the Chief. The Chief will appoint new members from the list. The Chair of the Committee will be appointed by the Chief or designee as needed.. The committee should consist of employees from each Bureau.

The Chair of the Awards and Recognition Committee will be responsible for collecting and maintaining a file of all Certificates of Recognitions. The Chair will also be tasked with evaluating the circumstances of each, selecting those which need additional review and consideration for an elevated award. Meetings of the entire committee will be called as needed, but will meet at the end of the team year to conduct its review of the elevated awards.

1015.5.1 DUTIES OF THE AWARDS AND RECOGNITION COMMITTEE

- (a) The Committee shall evaluate all recommendations submitted for elevated awards and prepare a detailed report of the incident(s) to be submitted along with the Committee's recommendation to the Chief for approval of the appropriate award(s).
- (b) The Committee's recommendation to the Chief shall include an appropriate composition to accompany the award(s) to aid in the formal presentation.
- (c) Whenever a Department member or citizen receives the Award of Valor, the Awards and Recognition Committee shall ensure that the recipient's name, along with the date of the incident to be recognized, is placed on a commemorative plaque prominently displayed within Public Safety Headquarters.

1015.6 CATEGORIES OF ACKNOWLEDGEMENT

Awards and Recognition

1015.6.1 CERTIFICATE OF RECOGNITION

The "Certificate of Recognition" is the first level of acknowledgment in the Award and Recognition process. It can be awarded to Public Safety employees, city employees, or private citizens who have distinguished themselves by meeting one or more of the following criteria.

The Certificate of Recognition may be awarded under any of the following conditions:

- (a) Public Safety employees, city employees, or private citizens who have volunteered their time for a worthwhile Public Safety program benefiting the community
- (b) Public Safety employees who have distinguished themselves by going above and beyond the call of duty. Examples would be an excellent arrest, investigation or exemplary work
- (c) Public Safety employees, city employees, or private citizens who distinguish themselves under emergency conditions through their actions in rescue, EMS or life saving efforts
- (d) Public Safety employees, city employees, or private citizens, who faced with an emergency situation, take a personal risk for the benefit of another

A written memo meeting the recommendation procedures will be submitted to the employee's immediate supervisor. The supervisor will review the memo and submit the memo to their captain. The captain will review the circumstances surrounding the incident with the Operations Group. The Operations Group will determine if the incident meets the criteria for a Certificate of Recognition.

If the incident meets the criteria the memo will be submitted to the Chair of the Awards Committee for a Certificate of Recognition to be prepared.

If the incident does not meet the criteria the captain will inform the supervisor of the decision. who will inform the submitting party.

Ideally, the Certificate of Recognition should be presented to the employee or citizen at a Management Team meeting.

1015.6.2 LIFESAVING RIBBON

The "Lifesaving Ribbon" may be given to Public Safety employees, city employees, or private citizens for recognition, who aggressively and actively work to achieve an early defibrillation and/or CPR resulting in the saving of a life.

Examples for consideration for this award:

- (a) The arriving Public Safety employee, city employee, or private citizen, who:
 - 1. applies the automated external defibrillator, and if indicated, properly delivers a shock and is actively involved in the resuscitation of the patient, including CPR, and
 - 2. resuscitation efforts result in the saving of the patient's life where they are returned to their residence following their hospitalization with minimal or no noticeable mental or physical deficit.

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- (b) A Public Safety Dispatcher who properly initiates dispatch assisted early defibrillation and/or CPR instructions over the telephone to bystanders resulting in the saving of the patient's life where they are returned to their residence following their hospitalization with minimal or no noticeable mental or physical deficit.

Confirmation of the patient's status, as well as the roles played by the involved parties, will be confirmed by the EMS Coordinator. This will involve, but not be limited to, the review of patient care records, in person visit to the patient, as well as discussions with on scene participants.

1015.6.3 DISTINGUISHED SERVICE AWARD

The "Distinguished Service Award" is the second level of acknowledgement in the award and recognition process. This award may be given to Public Safety employees, city employees, or private citizen for recognition of going **well above the call of duty** or for significant efforts and/or contributions to the Public Safety mission. This could stem from a single event or an accumulation of events showing that the employee or private citizen continually excelled in any one particular area.

Examples for consideration for this award:

- (a) Duties performed in an exemplary manner resulting in a positive outcome for the community.
- (b) The analyzing of information, predicting or anticipating behavior resulting in the identification or apprehension of a felonious suspect.
- (c) Multiple drug or DUI arrests throughout the team year.
- (d) Actions taken in the attempt to save a life, such as water rescue, AED application, auto extrication/rescue or any other like incidents.

The officer, city employee, or private citizen will be nominated by the Awards and Recognition Committee with the endorsement of the Chief. The award will be presented annually at a City Council meeting as part of the Department of Public Safety Awards and Recognition Program.

1015.6.4 BRONZE MEDAL OF DISTINCTION

The "Bronze Medal of Distinction" is the third level of acknowledgement in the award and recognition process. This award may be given to any Public Safety Officer, for recognition, who when faced with a **dangerous situation**, took the proper action(s).

Examples for consideration for this award:

- (a) The rescue or attempted rescue of a person from a hazardous environment
- (b) Taking actions to prevent injury or loss of life

The candidate for this award will be nominated by the Awards and Recognition Committee with the endorsement of the Chief. The award will be presented annually at a City Council meeting as part of the Department of Public Safety Awards and Recognition Program.

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1015.6.5 SILVER MEDAL OF HONOR

The "Silver Medal of Honor" is the fourth level of acknowledgement in the award and recognition process. This award may be given to any Public Safety Officer, for recognition, who when faced with a **life threatening situation**, took the proper action(s), while placing him/herself in harms way.

Examples for consideration for this award:

- (a) The rescue or attempted rescue of a victim from a burning building/vehicle
- (b) The rescue of a person from a life threatening situation
- (c) Overcoming a confrontation with an armed suspect

The candidate for this award will be nominated by the Awards and Recognition Committee with the endorsement of the Chief. The award will be presented annually at a City Council meeting as part of the Department of Public Safety Awards and Recognition Program.

1015.6.6 GOLD MEDAL OF VALOR

The "Gold Medal of Valor" is the highest level of acknowledgement in the award and recognition process. This award may be given to any Public Safety Officer, for recognition, who when faced with a **life-threatening situation**, took the appropriate action(s) **while taking an enormous risk**, placing him/herself in harms way.

Examples for consideration for this award:

- (a) Using heroic measures to try and protect the life of another or apprehend a violent criminal
- (b) Confrontation with an armed suspect where force was used
- (c) The rescue of a downed officer or citizen from a hot zone
- (d) The rescue of a victim or victims from a burning building/vehicle (Increased risk level)

The candidate for this award will be nominated by the Awards and Recognition Committee with the endorsement of the Chief. The award will be presented annually at a City Council meeting as part of the Department of Public Safety Awards and Recognition Program.

1015.6.7 CITIZEN AWARD OF VALOR

The Award of Valor for private citizens shall consist of a plaque and certificate. The design, material, and wording will be determined by the Awards and Recognition Committee.

The Award of Valor will be awarded to private citizens under the following conditions:

- (a) The Award of Valor may be awarded to any citizen for an act of heroism when such act is performed within the City of Sunnyvale or when the act occurs elsewhere and involves a citizen of Sunnyvale.
- (b) An act of heroism by a citizen must conform to the criteria established for the Gold Medal of Valor.

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The candidate for this award will be nominated by the Awards and Recognition Committee with the endorsement of the Chief. The time and location for the presentation of the award will be determined by the Chief.

It will be the responsibility of the Awards and Recognition Committee to have a bronzed name tag of the recipient placed in the Commemorative Plaque in Public Safety Headquarters.

1015.6.8 OFFICER OF THE YEAR

The "Officer of the Year" award is meant to recognize outstanding performance or service to the community by a non-management Public Safety Officer. This could stem from a single event or an accumulation of exemplary service, achievement or actions.

Candidates for this award may be nominated by any city employee or private citizen. Nominations will be reviewed by the Awards and Recognition Committee for sufficient detail. If additional research is needed it will be the committee's responsibility to acquire the information needed. Once complete, the recommendations will be forwarded to the Chief for his consideration.

If an officer is selected to receive this award, the award will be presented during the annual Awards and Recognition Ceremony.

The recipient will receive a commemorative award. The design, material, and wording will be determined by the Awards and Recognition Committee.

1015.6.9 DISPATCHER OF THE YEAR

The "Dispatcher of the Year" award is meant to recognize outstanding performance or service to the community by a dispatcher. This could stem from a single event or an accumulation of exemplary service, achievement, or actions.

The process for the nomination, selection, and awarding of the "Dispatcher of the Year" award shall be the same as the "Officer of the Year".

1015.6.10 PROFESSIONAL OF THE YEAR

The "Professional of the Year" award is meant to recognize outstanding performance or service to the community or the Department by a non-sworn Public Safety employee. This could stem from a single event or an accumulation of exemplary service, achievement or actions.

The process for the nomination, selection and awarding of "Employee of the Year" shall be the same as "Officer of the Year".

1015.6.11 VOLUNTEER OF THE YEAR

The "Volunteer of the Year" award is meant to recognize outstanding performance or service to the community or Department by a volunteer. This could stem from a single event or an accumulation of exemplary service, achievement, or actions.

The process for the nomination, selection, and awarding of the "Volunteer of the Year" award shall be the same as the "Officer of the Year".

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1015.7 MEMORIAL DISPLAY

A public memorial display is located outside in front off Public Safety Headquarters to honor Sunnyvale Public Safety Officers killed in the line of duty. A private memorial display is located on the wall outside of Patrol briefing.

The Awards and Recognition Committee shall meet upon the death of a Public Safety Officer to determine if a plaque shall be dedicated in the memorial to the Officer.

Only Officers who are killed in a manner that distinguishes the Officer as being an outstanding example of public service shall be entered into the memorial. An Officer who may die on#duty of natural causes shall not be memorialized.

1015.8 PRESENTATION OF AWARDS

The Lifesaving Ribbon, Distinguished Service, Officer of the Year, Professional of the Year, Citizen Award of Valor, Dispatcher of the Year, Volunteer of the Year, and the Medal Awards bring a high level of recognition to officers, employees, citizens, the Department and the City. These awards will be presented during a scheduled City Council meeting.

Fitness for Duty

1016.1 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).

1016.2 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 an on-duty supervisor prior to or during their work shift.
- (e) 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.

1016.3 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 Lieutenant 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 shall be promptly notified in the event that any employee is relieved from duty.

Fitness for Duty

1016.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a relief from duty is required to use approved leave for their absence.

1016.5 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 Lieutenant 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.

1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of 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.

1016.7 LIMITATION ON HOURS WORKED

Adhere to MOU language.

1016.8 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.

Lactation Break Policy

1017.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

1017.2 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 employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; 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 employee'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).

Employees 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.

1017.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees 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 employee'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 § 207; Labor Code § 1031).

Employees 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 employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Lactation Break Policy

1017.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

1017.5.1 STATE REQUIREMENTS

Employees 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.

Employees 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).

Supervisor Approved Leaves

1018.1 POLICY

These regulations and procedures are intended to provide all full time, regular employees with an equitable opportunity to take earned leaves while, at the same time, assures that the Department maintain an uncompromised capacity to fulfill the Public Safety requirements of the community and an adequate level of support for the safety of Public Safety personnel as established by "minimum staffing standards". Type of leaves and accruals are outlined in the Administrative Policy and bargaining unit Memorandum of Understandings (MOU's). Leaves as defined in this policy include paid time off (PTO), floating holiday, and compensatory time off (CTO). The below guidelines are Department specific.

1018.2 AUTHORITY TO GRANT LEAVES

A supervisor must approve all of the above listed leaves before the leaves are taken.

The Bureau Deputy Chief has overall responsibility for leave management of the Bureau to ensure proper staffing.

Annual PTO bid is normally selected at the beginning of the Team Year in conformance with policy herein and MOU's.

After the annual PTO bid has occurred, all employees must complete and submit the appropriate leave request form to their direct supervisor for approval.

1018.3 GENERAL PROVISIONS

Leave Accumulation - Employees may accrue and use leaves in accordance with the provisions in their current MOU, Special Schedule and/or Administrative Policy.

Annual Leave Selection - Initially, all employees may schedule a period of PTO leave not to exceed their "earned annual PTO leave". Earned annual PTO leave shall be based upon pay periods of service for the employee as of the beginning of the team year.

Assignment Transfers - Any employee who has an approved PTO period and is subsequently transferred to another assignment other than the one held where the original PTO bid was approved, shall retain the PTO period as originally approved.

Short Term Leave or one day PTO may be authorized by the supervisor, or designee, provided that 24 hours notice is given prior to the start of the leave.

Compensatory Time Off (CTO) - Time is not earned for use until the end of a pay period. Only that total time which has accumulated at the end of the previous pay period may be used as the basis for a request for CTO. Refer to applicable MOU's for specific guidelines for accrual and usage.

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Supervisor Approved Leaves

1018.4 PTO SCHEDULING POLICIES

The general provisions of this section shall apply to all sworn personnel assigned to Public Safety. Specific scheduling policies and procedures are adopted and published by management as necessary to accomplish each Unit's mission.

Patrol Shift Personnel - Refer to PSOA MOU.

Fire Shift Personnel - Refer to PSOA MOU.

Overtime Compensation Requests

1019.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt employees who work authorized overtime either by payment of wages or by the allowance of accrued compensatory time off (as agreed and in effect through the Memorandum of Understanding (MOU)). In order to qualify for compensation, the employee must complete an Overtime Card as soon as practical prior to the end of the pay period.

1019.1.1 DEPARTMENT POLICY

Because of the nature of public safety work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

All requests to work overtime shall be authorized in advance by a supervisor. 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.

Pursuant to their applicable MOU, a qualified employee may request compensatory time off (CTO) in lieu of cash compensation for overtime payment.

With supervisory approval and within the parameters of the applicable MOU, a non-line employee may flex their work schedule rather than incurring overtime compensation. Flex scheduling is defined as an occasional adjustment to an employee's work schedule which does not alter the total number of hours scheduled to be worked per week, but simply alters the time of day those hours are worked.

1019.2 REQUEST FOR OVERTIME COMPENSATION

Subsequent to working authorized overtime, employees shall submit overtime cards for verification by the authorizing supervisor or manager. The supervisor or manager shall verify that the overtime was worked prior to approving the request for payment. Approved overtime cards should be forwarded to the Department Personnel Representative as soon as practical prior to the end of the pay period.

1019.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status, rounding up to the nearest tenth (0.1) of an hour. In some cases, the applicable MOU provides that a minimum number of hours will be compensated for certain activities. A supervisor or manager will validate the actual time worked and ensure MOU provisions for that activity are accurately documented.

Outside Employment

1020.1 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 prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief in accordance with the provisions of this policy.

1020.1.1 DEFINITIONS

The City Administrative Policy Manual defines an employee's responsibilities related to outside employment, including self-employment, in accordance with Civil Service Rules and Regulations Section 21.05 and Government Code Section 1126. The City has established certain procedures related to requesting and obtaining permission to engage in outside employment or business activities which are defined in the policy. Additionally the Department has also established rules in addition to the Administrative Policy.

- (a) Such employment does not conflict or interfere with prescribed City duties.
- (b) The Chief is notified.

1020.2 OBTAINING APPROVAL

Prior to accepting any employment outside of the Department, an employee shall notify the Chief using the City of Sunnyvale Request for Authorization of Outside Employment form and shall have obtained the written acknowledgment of the Chief that the intended employment is not in conflict with employment at the Department or the City. The Request for Authorization of Outside Employment is valid until January 15th of the following calendar year. Any employee desiring to retain approval for outside employment shall submit a new Request for Authorization of Outside Employment between January 1st and January 15th of each year.

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)).

1020.2.1 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 within ten days of the date of denial.

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).

1020.2.2 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 may, at his or her discretion, revoke any previously approved

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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

1020.3 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

1020.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief in advance of the

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desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 - 1. The officer(s) shall wear the departmental uniform/identification.
 - 2. The officer(s) shall be subject to the rules and regulations of this department.
 - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 - 5. Outside security services shall not be subject to the collective bargaining process.
 - 6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief.

1020.3.2 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.

1020.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Bureau 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.

1020.4 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.

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1020.4.1 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.

1020.5 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 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 any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1020.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor 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 immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief whether such outside employment should continue.

In the event the Chief 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.

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- (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 City of Sunnyvale Department of Public Safety, a request (in writing) may be made to the Chief to restore the permit.

1020.7 EXAMPLES OUTSIDE EMPLOYMENT WHICH ARE CONFLICTS OF INTEREST

Examples of outside employment which are conflicts of interest include, but are not limited to:

- (a) Bartender
- (b) Bouncer
- (c) Sales clerk position in liquor store or gun dealership
- (d) Process server
- (e) Debt collector
- (f) Legal practice of criminal defense
- (g) Card dealer, handicapper, change maker, machine repair person, keno runner, pit boss, table server, or employment in any gaming establishment where the employment is directly related to the primary purpose of the employer
- (h) Bodyguard
- (i) Employment as a "keeper"
- (j) Funeral escort where traffic control or the wearing of a uniform which resembles that of a peace officer is required

1020.8 OUTSIDE EMPLOYMENT VIOLATION

Employees who engage in outside employment in violation of any provision of City Administrative Manual policy and this policy shall be subject to disciplinary action up to and including termination of employment. Approval of outside employment may be rescinded if an employee is in violation of any of the City's Administrative Manual policy or this policy's provisions.

Public Activities

1021.1 PUBLICITY

Employees shall not seek personal publicity in the course of their employment, nor pose for any publicity photographs while on duty or in uniform without the consent of the Chief.

1021.2 COMMERCIAL TESTIMONY

Employees shall not permit their names or photographs to be used to endorse any product or service which is in any way connected with Public Safety without the permission of the Chief. They shall not, without the permission of the Chief, allow their names or photographs to be used in any commercial or political testimonial which alludes to their position or employment with the Department.

1021.3 PUBLIC APPEARANCES/PRESENTATIONS

The primary purpose of Public Safety presentations is community education of Police/Fire Services and safety education. Presentations and tours are for Sunnyvale citizens, businesses, and service organizations.

All requests for Public Safety presentations are to be directed to the Community Services Bureau. Presentations are to be coordinated by a Community Services supervisor. If divisions outside of the Community Services Bureau are affected, the Community Services supervisor will route presentation information to the appropriate division for approval.

Personnel and equipment may be allocated only for Official City or Department sanctioned events as authorized by the Chief or designee.

Employees may participate in public speaking engagements as a representative of the Department or the City of Sunnyvale with approval of the Chief or the Chief's designee.

1021.4 MEMBERSHIP IN ORGANIZATIONS

Except for the Armed Forces Reserve components enumerated in the California Veterans Code, employees shall not affiliate themselves with any organization or group, the constitution or by laws of which exact prior consideration in any way, or which would prevent its employees from rendering proper and efficient service to the Department.

Personal Appearance Standards

1021.1 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.

1021.2 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 has granted exception.

1021.2.1 HAIR

Hairstyles of all members shall be neat in appearance.

When in uniform, hair must not extend beyond the top edge of the uniform collar while assuming a normal stance. Hair that extends beyond the top edge of the uniform collar must be worn up.

1021.2.2 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.

1021.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1021.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief or his or her designee.

1021.2.5 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.

1021.3 TATTOOS

While on-duty or representing the Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art 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.

Personal Appearance Standards

1021.3.1 DEFINITIONS

Tattoo - the act or practice of marking the skin with indelible designs, forms, figures, art, etc., by making punctures in the skin and inserting pigment.

Scarification - the act of intentional cutting of the skin for the purpose of creating design, form, figure, or art.

Branding - the act of intentional burning of the skin for the purpose of creating a design, form, figure, or art.

Uniformed personnel - includes sworn Public Safety Officers, Community Service Officers, Records Specialists and Supervisors, Property and Facilities personnel, Cadets and Explorers regardless of Division assignment.

Non-uniformed personnel - includes investigative, administrative and all other non-uniformed assignments.

Unauthorized - defined as any tattoo, scarification, or brands considered inappropriate, unprofessional, or offensive.

1021.3.2 UNIFORMED PERSONNEL

Except as stated in the Exceptions section of this policy, any tattoos, scarifications or brands worn by uniformed Department of Public Safety personnel shall NOT be visible while on duty or representing the Department in any official capacity. Tattoos, scarifications or brands must be covered with a Department approved uniform including but not limited to a long-sleeve shirt, jacket, sweater, turtleneck sweater, pants, or if necessary Department approved body cosmetics of an employee's natural skin color.

1021.3.3 NON-UNIFORMED SWORN PERSONNEL

Except as stated in the Exceptions section of this policy, any tattoos, scarifications or brands, worn by sworn personnel working plain-clothes assignments shall not be visible while on duty or representing the Department in any official capacity. Tattoos, scarifications or brands will be covered with approved clothing.

1021.3.4 NON-UNIFORMED PROFESSIONAL OR VOLUNTEER PERSONNEL

Civilian and volunteer personnel may not display tattoos, scarifications or brands, except as outlined in this policy.

1021.3.5 ALL DEPARTMENT PERSONNEL

The display of an unauthorized tattoo, scarification or brand considered inappropriate, unprofessional or offensive, regardless of its location, by any member of the Department while on duty, or representing the Department in any official capacity is prohibited.

The following includes, but is not limited to, the types of unauthorized tattoos, scarifications or brands prohibited by this order:

- Depictions of nudity and/or violence

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- Sexually explicit, vulgar, and/or profane art, words, phrases, or language.
- Symbols likely to incite a strong reaction in the workplace (i.e., swastikas, pentagrams, or similar symbols).
- Initials, acronyms, or numbers that represent criminal or historically oppressive organizations, any street gang names, numbers and/or symbols (i.e., AB, KKK, SS, MM, BGF, HA (81), 666).

Any member of the Department who obtains an unauthorized tattoo, scarification or brand considered inappropriate, unprofessional or offensive, shall:

- (a) Remove the tattoo, scarification, and/or brand at their own expense; or,
- (b) Cover the tattoo, scarification, and/or brand with a Department approved uniform, business, or casual attire, as appropriate.

1021.4 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. 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
- (d) Branding or scarification.

1021.5 EXCEPTIONS

When operationally necessary, Department members in special assignments may display tattoos, scarifications, brands or jewelry otherwise prohibited by this order with the approval of their commanding officer or manager.

Jewelry, tattoos, scarifications or brands that are a required part of a recognized religious organization or practice of which the employee is a verified member.

1021.6 EXEMPTIONS

Uniformed personnel and non-uniformed personnel who have been granted an exemption will be allowed to wear a short sleeved shirt as appropriate.

1021.7 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 should be advised any time a request for such an

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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

1023.1 PURPOSE AND SCOPE

The uniform policy of the City of Sunnyvale Department of Public Safety is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated policies:

Department Owned and Personal Property

Body Armor

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The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

The City of Sunnyvale Department of Public Safety will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

1023.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Employees are issued a complete set of uniforms and service equipment which are described and inventoried on a property receipt record. All issued uniforms and equipment are to be maintained in good repair, properly fitted, clean, and in proper working order.

Sworn personnel 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 and 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.
- (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.

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- (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, florescent or bright colored frames, and bright colored eyeglass retainer cords will not be worn with any Department uniform.

Employees shall not wear any of the prescribed uniforms or any part of their uniform while off duty except while traveling to and from their place of duty, or as authorized by the Bureau Deputy Chief. In no instance shall fire turnout clothing be worn while off duty except as authorized by the Bureau Deputy Chief. Personally owned outerwear shall not be worn with the uniform while on duty. Department issued outerwear may be worn to accommodate temperature fluctuations within buildings and during cold weather.

1023.2.1 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.

1023.2.2 AUTHORIZED UNIFORM ATTIRE

This subsection describes the authorized wearing/use of individual items of uniform attire, and personal clothing worn on-duty:

- (a) Badge - To be worn on the outermost garment by all sworn and non-sworn uniformed personnel who have badge issued as part of the uniform.
- (b) Name Tag - All employees shall wear the Department issued name tag or identification badge on their outermost garment while on duty unless special exemption is granted by the Chief. It shall contain the employee's last name and first initial.
- (c) Uniform Hat - To be worn when the formal uniform is worn, required for maximum recognition, visibility, or safety or as directed by a supervisor.
- (d) Baseball/Watch Cap - Only Department issued navy blue caps with the approved DPS lettering or patch may be worn with the patrol duty or fire utility uniform. The Baseball caps shall be worn in an appropriate manner with the bill forward and horizontal to the ground. All caps should be removed while indoors. Baseball/Watch caps shall not be worn routinely with the duty or utility uniform. The caps are specifically designed to protect personnel from inclement weather and/or UV exposure. Supervisors may

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authorize the wearing of baseball/Watch caps for purposes commensurate with operational needs.

- (e) Safari Hat - Only the Department issued navy blue Safari hat with approved DPS lettering may be worn with fire utility uniform. All hats should be removed while indoors. The Safari hat shall not be worn routinely with the fire utility uniform. The hats are specifically designed to protect personnel from inclement weather and/or UV exposure.
- (f) Utility Jacket - Department issued nylon jacket may be worn as part of the duty uniform, non sworn uniform, or utility uniform.
- (g) EMS Jacket – Department issued, waterproof, blood borne pathogen resistant, ANSI 107 Class 3 visibility shell may be worn as part of the fire uniform.
- (h) Formal Jacket - May be worn as part of the formal uniform and may be worn in lieu of the utility jacket as part of the duty uniform.
- (i) Uniform Shirt - Duty uniform shirts are midnight blue in color and can either be short or long sleeve.
- (j) Tie - MUST be worn when the formal jacket is worn and on other occasions when directed by a supervisor.
- (k) Undershirt - When the duty uniform or non-sworn uniform is worn without a necktie, a black t-shirt is authorized to be worn under the uniform shirt and shall be purchased at the employee's expense.
- (l) Trouser Belt - Only Department issued trouser belts may be worn as part of the duty uniform or formal uniform. A belt shall be worn with uniform trousers.
- (m) Socks - When likely to be visible, socks shall be black or navy blue in color.
- (n) Authorized Uniform Footwear -
 - (a) Design - A field use boot designed for law enforcement/military use with a smooth finish and a toe area which is capable of being highly polished. Center lacing and a sole and heel that are non-contrasting. Solid black in color by the manufacturer, including all portions of the upper, toe, heel, outsole, tongue, laces, eyelets, stitching, and any manufacturer's logos. "Cowboy boots" are not permitted.
 - (b) Material
 - (a) Boot Upper: Leather, synthetic leather, cordura, or a combination of these materials.
 - (b) Outsole: Oil and slip-resistant rubber or carbon rubber
 - (c) Color - Black
 - (d) Construction
 - (a) Toe: Plain toe, which is capable of being highly polished.
 - (b) Eyelets: Any reinforced eyelet or exposed hardware must be black in color.
 - (c) Laces: Black leather, cloth or synthetic blend.

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- (d) Sole: Black, slip and oil resistant.
- (e) Heel: Black
 - 1. Maximum height 1 1/2 inches.
- (f) Zipper: Integrated zipper in laces or inner side of boot is permitted.
- (e) Traffic Officers riding motorcycles on-duty must wear Department issued motor boots.
- (f) Canine handlers are authorized to purchase and receive reimbursement for two pairs of uniform boots.
- (o) Rain Gear - Only Department issued rain gear shall be worn while on duty.
- (p) Reflective Vest - When uniformed law enforcement personnel are used to direct traffic, to investigate crashes, or to handle lane closures, obstructed roadways, and disasters, a reflective vest shall be worn by the law enforcement personnel. The EMS Jacket may be worn in place of the reflective vest by personnel assigned to the Division of Fire Operations.
- (q) American Flag Insignia - An American Flag insignia may be worn on the duty uniform. The wearing of the American flag insignia is optional. The insignia shall be a metal, single pin, American Flag only, and may be no larger than 1/2" by 3/4" or a double-pin American Flag ribbon no larger than 1 1/2" by 3/4". The insignia shall be worn 1/4" above, and centered on, the name tag.
- (r) Other Insignia - As approved by the Chief or designee.

Optional Equipment/Accessories

- (a) Sunglasses - Florescent or bright colored frames, bright colored eyeglass retainer cords, and mirrored lenses are prohibited.
- (b) Knives - Only knives not restricted by law are to be carried by members in the performance of their official duties.
- (c) Tie Clasps/Tacks - City service awards, Police/Fire insignia or plain styles are acceptable. Designs indicating political or social organizations are prohibited for on duty apparel.
- (d) Cellphones - Cellphones shall be worn on the duty belt while in uniform. At no time shall any cell phone be worn on the uniform shirt epaulet.
- (e) Gloves - Possession or use of weighted gloves commonly known as sap gloves is prohibited.

1023.2.3 SERVICE EQUIPMENT

This subsection describes the authorized protective clothing and issued equipment:

Service Equipment

- (a) Firearm with duty holster
- (b) Duty belt with spare magazines in case.

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- (c) Handcuffs (minimum of 1 pair either hinges or linked) in a case with key.
- (d) Flashlight
- (e) Collapsible Baton - The expandable baton with scabbard is the Department issued baton.
- (f) Wooden Straight Baton (Optional) - Personally owned solid wood 26 or 29 inch straight baton and black or brown in color. Must be worn at all times when engaged in patrol activities. Officers will be responsible for the purchase, maintenance, and replacement costs.
- (g) Conducted Energy Weapon
- (h) Oleoresin Capsicum Spray (O.C. Spray)
- (i) Body Worn Camera

The service equipment shall be carried as part of the prescribed police uniform as follows:

Police Service Division Personnel

- (a) Patrol - shall carry all service equipment while on duty.
- (b) Traffic Unit - Shall carry all service equipment while on duty plus other items as directed by the Patrol Services Deputy Chief.
- (c) Other assignments - Shall carry all service equipment as directed by the Patrol Services Deputy Chief.

1023.2.4 PATROL LOAD BEARING VEST AND UNDERSHIRT

Only the Department approved Patrol load bearing vest and vest pouches from the approved manufacture along with the approved undershirt shall be worn on-duty.

1023.2.5 PROTECTIVE CLOTHING AND EQUIPMENT

Turnouts

Turnouts shall be worn by all Patrol or Fire Suppression personnel who enter into or remain within a fire area or IDLH environment, providing that the wearing of protective clothing might lessen the likelihood or severity of an injury.

The prescribed set of "turnout" protective clothing includes the following issued articles:

- (a) Helmet with face shield
- (b) Coat with standard inner lining
- (c) Pants with standard inner lining
- (d) Boots (Leather safety boots are not an authorized option.)
- (e) Nomex Hood
- (f) Fire gloves
- (g) Flashlight/Helmet light

EMS Jacket

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The EMS jacket should be worn:

- (a) on EMS calls
- (b) while engaged in hazardous traffic situations

The EMS jacket may be worn:

- (a) as an everyday utility jacket

The inner-liner maybe worn by itself to provide warmth in the public or during apparatus checks, in training, at tower, on the drill grounds or in station. With the implementation of this practice, no other personally owned outer wear, such as, but not limited to sweatshirts or mechanics jackets are permitted.

Reflective Vest

The issued reflective vest, or the EMS jacket in the absence of the requirement for firefighting PPE, shall be worn by personnel at all times while engaged in traffic control or accident investigation or otherwise engaged in potentially hazardous traffic situations on the freeway, unless actively involved in fire suppression operations. The reflective vest shall be donned upon arrival or as soon as practical thereafter, at an incident required by this order.

Task Force 3 Footwear

Task Force 3 personnel are authorized to purchase the type of boot that is required for the assignment.

Wildland Boots

Wildland boots are authorized for purchase, if the boots meet the minimum standards of protection as outlined by NFPA 1977 Standard on Protective Clothing and Equipment for Wildland Firefighting, latest edition.

1023.2.6 RANK AND SPECIAL ASSIGNMENT INSIGNIA

The following describes the rank/special assignment insignia and the correct placement when worn as part of the uniform:

Patrol Rank Insignia

- (a) Chief - four (4) gold colored stars
- (b) Deputy Chief - two (2) gold colored stars
- (c) Captain - two (2) gold colored bars
- (d) Lieutenant - one (1) gold colored bar

Correct Collar Placement

- (a) Chief and Deputy Chiefs rank insignias shall be worn on the collar of the uniform shirt, centered on the collar 1/2" from the leading edge and parallel to the neck fold.
- (b) Captain and Lieutenant rank insignias shall be worn on the collar of the uniform shirt, centered on the collar 1/2" from the leading edge and parallel to the neck fold.

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Correct Epaulet Placement

- (a) Chief and Deputy Chiefs rank insignias shall be worn on the epaulet of the formal and utility jacket, centered on the epaulet 1" from and perpendicular to the shoulder seam.
- (b) Captain and Lieutenant rank insignias shall be worn on the epaulet of the formal and utility jacket, centered on the epaulet 1" from and perpendicular to the shoulder seam.

Fire Rank Insignia

- (a) Chief - five gold bugles
- (b) Deputy Chief - four gold bugles
- (c) Captain (Battalion Chief) - two cross gold bugles
- (d) Lieutenant (Captain) - pair of parallel silver bugles

Correct Collar Placement

- (a) The collar insignia should be oriented along the axis that intersects with the point of the collar and with the base of the insignia perpendicular to the axis. The base should also be positioned approximately 1 1/4" inch up from the point of the collar.

Special Assignment Insignias

Special assignments will often have insignias associated with them. Upon authorization by the Chief, special assignment insignias will be provided and may be worn by employees while in that special assignment. When so authorized, special assignment insignias shall only be worn on the uniform shirt, 1/4" above and centered on the name tag. Employees with more than one specialty assignment insignia, shall wear the insignias in a stacked fashion, with the smaller insignia placed above the larger insignia.

The following special assignments are authorized by the Chief to wear insignias:

- (a) PTO
- (b) K9
- (c) Motor Officers
- (d) SWAT
- (e) CNT
- (f) CIT
- (g) CISM

1023.3 UNIFORM CLASSES

1023.3.1 CLASS A (FORMAL) UNIFORM

The formal uniform shall be worn by all sworn personnel when directed to do so by a Command Officer. The formal uniform shall consist of the following Department -issued or authorized clothing and equipment:

Uniform Regulations

- (a) Trousers-wool
- (b) Long sleeve uniform shirt-wool
- (c) Tie
- (d) Authorized footwear
- (e) Badge
- (f) Duty belt with firearm and duty holster only.
- (g) Uniform Hat (when specified or required)
- (h) Formal jacket (when specified or required)

1023.3.2 CLASS B (DUTY) UNIFORM

The duty uniform shall be worn by all sworn personnel whose duties involve public education and other public contact duties. However, selected personnel, because of their duty assignment, may be authorized by a Command Officer to wear civilian attire while on duty. The duty uniform must be available at all times. The duty uniform shall consist of the following Department issued or authorized clothing and equipment:

- (a) Trousers and belt-wool or poly/cotton
- (b) Short or long sleeve uniform shirt-wool or poly/cotton
- (c) Tie (as required)
- (d) Authorized footwear
- (e) Badge
- (f) Ballistic Vest
- (g) Service Equipment
- (h) Utility Jacket (as desired)
- (i) Reflective Vest (as required)

An officer may choose to wear either the authorized wool or poly/cotton uniforms when working an assignment that involves public education and other public contact duties. However, the officer must choose one or the other. These types of uniforms are not to mixed and matched (wool trouser with wool shirt or poly/cotton trousers with poly/cotton shirt). Supervisors or Command Staff may require an officer to wear one uniform or the other as needed.

Under certain circumstances Command Staff may approve modifications to the listed Class B authorized clothing and equipment.

1023.3.3 FIRE UTILITY UNIFORM

The fire utility uniform shall consist of the following Department issued or authorized clothing and equipment:

- (a) Nomex short/long sleeve shirt and trousers

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- (b) A navy blue t-shirt
- (c) Authorized Fire Station Work Boot (not including fire structure boots) -
 - (a) Design - A field use boot with a smooth finish. The boot will have center lacing and a plain, military round toe. Sole and heel will be non-contrasting. Solid black in color by the manufacturer, including all portions of the upper, toe, heel, outsole, tongue, laces, eyelets, stitching, and any manufacturer's logos.
 - (b) Material
 - (a) Boot Upper: Leather, synthetic leather, cordura, or a combination of these materials.
 - (b) Outsole: Oil and slip-resistant rubber or carbon rubber.
 - (c) Color - Black
 - (d) Construction
 - (a) Height: Above the ankle
 - (a) Maximum 15 inches
 - (b) Toe: Plain toe
 - 1. Steel or reinforced toe safety cap.
 - (c) Eyelets: Any reinforced eyelet or exposed hardware must be black in color.
 - (d) Laces: Black leather, cloth or synthetic blend.
 - 1. Slip-on style permitted.
 - (e) Sole: Black, slip and oil resistant.
 - (f) Heel: Black
 - (g) Zipper: Integrated zipper in laces or inner side of boot is permitted.
 - (h) Shank: Steel or composite shank.
- (d) Optional Clothing such as baseball caps and belt buckles with insignias/patches designating specialized Fire training or assignment (e.g. Sunnyvale Fire, Hazmat, Heavy rescue, etc.) may be worn with the specific approval of the Station Supervisor. All optional clothing items shall not reflect any commercial names, products or endorsements.
- (e) Firearm - May carry a Department approved firearm in a Department approved personally owned black holster concealed on their person.

The fire utility uniform shall be worn by personnel while conducting daily Fire Operations duties, such as but not limited to:

- (a) Company inspections
- (b) Refueling
- (c) Errands
- (d) Training

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- (e) EMS emergency calls
- (f) Public education
- (g) And other public contact duties.

Personnel may wear the wool patrol uniform shirt/pants as an option but not in routine replacement of the fire utility uniform. Personnel shall not mix patrol duty pants with the fire utility duty shirt or vice versa.

Officers assigned to the same fire apparatus shall wear the same uniform when out of the station.

1023.3.4 SPECIALIZED UNIT UNIFORMS

A Command Officer 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.

1023.3.5 FIRE WORKOUT UNIFORM

The workout uniform may be worn by Fire Station based personnel only during exercising and the cool down period following exercise. It shall consist of the following authorized clothing and equipment:

- (a) Navy blue shorts or sweatpants in appropriate condition
- (b) Navy blue or white t-shirts in appropriate condition
- (c) Running type shoes in appropriate condition

Workout attire should not be worn on calls for service, unless worn underneath turnouts. Workout attire shall not routinely be worn around the station. After 5 pm, navy blue shorts or sweatpants, blue or white t-shirt, and running shoes may be worn.

1023.3.6 RETIRED OFFICER UNIFORM

Upon being honorably retired from the Department of Public Safety, sworn employees may request from the Chief that they be permitted to retain possession of the following items of uniform apparel which will constitute a formal uniform when combined with the appropriate shoes.

- (a) One pair of uniform trousers
- (b) One long sleeve uniform shirt
- (c) One formal jacket
- (d) One uniform hat with cap piece
- (e) One uniform belt
- (f) One uniform tie

The formal uniform shall be worn by honorably retired sworn employees only on the following occasions:

- (a) Public Safety employee recognition celebration.

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- (b) Funeral detail for a Public Safety employee where the formal uniform is the appropriate attire.
- (c) Other special occasions as may be specifically designated by the Chief.

1023.3.7 TRAINING INSTRUCTOR UNIFORM

Department Instructors shall wear the following uniform when manipulative skills training are being provided:

- (a) Red Department issued polo shirt (visually identifies all instructors)
- (b) Black or khaki utility pants with belt
- (c) Authorized footwear

The above uniform shall be worn by the following instructors:

- (a) CPR Instructors
- (b) Defensive Tactic Instructors
- (c) Emergency Vehicle Operator Course Instructors
- (d) Firearms Instructors
- (e) Other manipulative skills instructors as designated by Command personnel

1023.4 INSIGNIA AND PATCHES

- (a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.
- (b) Service stripes, stars, etc. - Service stripes and other indicators for length of service are authorized for all uniform personnel. The wearing of a service insignia is optional, but if worn, shall be affixed on long sleeved shirts and formal uniform jackets. They are to be machine stitched onto the uniform. The insignia worn on the long sleeve uniform shirt by all sworn personnel shall be a service "stripe." For officers each stripe shall be royal blue in color, trimmed in gold and shall represent a period of five (5) years of current/prior full-time, paid service with a police, fire, or public safety department. For lieutenants, captains and above the stripe will be gold in color. The stripe shall be located on the left sleeve, 1/2" above the cuff, in a row diagonal to the cuff hem. The stripe on the formal jacket shall be located on the left sleeve, 1/2" above the cuff braid and in a row diagonal to the cuff braid. The stripes are to be worn on the left sleeve only.
- (c) Nameplate - The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first initial and last name. The nameplate shall be worn and placed above the right

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pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket. When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.

- (d) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief.
- (e) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.
- (f) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief may authorize exceptions.

1023.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge shoulder to heart (open space to point) as directed by the Chief.

1023.5 CIVILIAN (PROFESSIONAL STAFF) ATTIRE

For most full time professional staff and selected sworn employees are expected to wear professional attire suitable for their particular classification and assignment. Employees should exercise good judgment related to their appearance and the image presented to the public. Clothing and footwear should contribute to a safe work environment, particularly in areas where risk of injury is present. Questions regarding the appropriateness of specific attire should be directed to the individual department director or designee.

No item of civilian attire may be worn on duty that would adversely affect the reputation of the Sunnyvale Department of Public Safety or the morale of the employees.

1023.5.1 CIVILIAN (PROFESSIONAL STAFF)/DISPATCH FORMAL UNIFORM

Selected employees assigned to duties which are more easily accomplished by the wearing of a uniform. For these employees, their uniform shall consist of the following:

- (a) Navy blue uniform trousers or skirt
- (b) Short or long sleeve white uniform shirt
- (c) Tie
- (d) Navy blue uniform sweater worn over uniform shirt.
- (e) Black or navy blue solid color closed toed style shoes
- (f) City issued name badge worn on outermost garment.

Records and Property staff have other uniform options as noted in this policy.

1023.5.2 RECORDS/DISPATCH CASUAL UNIFORM

- (a) Navy blue BDU trousers
- (b) Short or long sleeve white or navy blue polo shirt embroidered with name.

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- (c) Authorized footwear
- (d) Optional jacket/sweater

1023.5.3 PROPERTY AND MAINTENANCE PERSONNEL UNIFORM

Selected employees of the Department are assigned to duties which are more easily accomplished by the wearing of a uniform. For these employees, their uniform will consist of the following:

- (a) Black trousers with belt
- (b) Gray polo shirt
- (c) Authorized footwear
- (d) City issued name badge worn on outermost garment or name embroidered on shirt.
- (e) Optional jacket/sweater

1023.5.4 ANIMAL CONTROL UNIFORM

Selected employees of the Department are assigned to duties which are more easily accomplished by the wearing of a uniform. For these employees, their uniform will consist of the following:

- (a) Black trousers and belt
- (b) Short or long sleeve khaki uniform shirt
- (c) Tie (when specified or required)
- (d) Utility jacket
- (e) Authorized footwear
- (f) Authorized badge

1023.5.5 CADET UNIFORM

Selected employees of the Department are assigned to duties which are more easily accomplished by the wearing of a uniform. For these employees, their uniform will consist of the following:

- (a) Khaki trousers with belt
- (b) Short or long sleeve khaki uniform shirt
- (c) Tie (when specified or required)
- (d) Utility jacket
- (e) Authorized footwear
- (f) Authorized badge or City identification card worn on the outermost garment

1023.5.6 COMMUNITY SERVICE OFFICER (CSO) AND VEHICLE ABATEMENT OFFICER (VAO) UNIFORM

Selected employees assigned to duties which are more easily accomplished by the wearing of a uniform. For these employees, their uniform shall consist of the following:

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- (a) Navy blue uniform trousers
- (b) Short or long sleeve light blue uniform shirt
- (c) Tie (when specified or required)
- (d) Utility jacket
- (e) Authorized footwear
- (f) Authorized badge worn on the outermost garment

1023.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief, Sunnyvale Department of Public Safety 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 Sunnyvale Department of Public Safety 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.

1023.7 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).

1023.7.1 RETIREE BADGES

The Chief may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the City

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of Sunnyvale Department of Public Safety. 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 retiree shall be instructed that any such badge will remain the property of the City of Sunnyvale Department of Public Safety and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1023.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Sunnyvale Department of Public Safety employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief or designee.

Sunnyvale Department of Public Safety 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 or designee.

Nepotism and Conflicting Relationships

1024.1 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.

1024.1.1 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.

1024.2 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) Employees are prohibited from directly supervising or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship. This prohibition does not apply to temporary supervision at an emergency scene or unforeseen circumstances.

Nepotism and Conflicting Relationships

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) FTOs/PTOs and other trainers shall not be assigned to train relatives. FTOs/PTOs 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.

1024.2.1 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 against any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify an uninvolved supervisor. In the event that no uninvolved supervisor is 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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Nepotism and Conflicting Relationships

1024.2.2 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 such actual or potential violations through the chain of command.

Department Badges

1025.1 PURPOSE AND SCOPE

The City of Sunnyvale Department of Public Safety badge and uniform patch as well as the likeness of these items and the name of the City of Sunnyvale Department of Public Safety are property of the Department and their use shall be restricted as set forth in this policy.

1025.2 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.

1025.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) The authorization to purchase personally-owned badges shall be made after an officer has successfully completed his/her probationary period.
- (b) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the City of Sunnyvale Department of Public Safety with the written approval of the Chief.
- (c) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Property and Equipment section in this manual.
- (d) Except as approved by the Chief, personally-owned badges shall be surrendered to the Chief upon separation (other than retirement) from the department.
- (e) An honorably retired officer may keep his/her flat badge upon retirement.
- (f) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1025.2.2 PROFESSIONAL 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.

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- (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.

1025.2.3 RETIREE UNIFORM BADGE

"Honorably retired" officers are those retired for service or industrial disability under the Public Employees Retirement System (PERS), or those who resign after having been employed as a sworn officer of the Department for a period of 20 or more years.

Upon being honorably retired from the service of the Department, officers are to be issued an Identification Card which attests to their status and which bears an endorsement of the Chief indicating whether or not the privilege of carrying a concealed weapon has been granted pursuant to 12027(a)(1)(A) P.C.

- (a) Each identification card will note an expiration date of five (5) years from the date of issue and is to be renewed at that time.
- (b) Identification Cards remain the property of the City of Sunnyvale and as such are to be immediately surrendered for replacement or modification upon request of the Department.

Honorably retired sworn personnel may possess a replica of the badge which they possessed at the time of retirement.

1025.3 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 professional 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.

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.

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.

1025.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief 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

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representation of the association and not the Sunnyvale Department of Public Safety. 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.

Employee Speech, Expression and Social Networking

1026.1 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.

1026.1.1 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.

1026.2 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 City of Sunnyvale Department of Public Safety 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.

1026.3 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 City of Sunnyvale Department of Public Safety 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

Employee Speech, Expression and Social Networking

family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- 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.

1026.4 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 City of Sunnyvale Department of Public Safety or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the City of Sunnyvale Department of Public Safety and tends to compromise or damage the mission, function, reputation or professionalism of the City of Sunnyvale Department of Public Safety 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 City of Sunnyvale Department of Public Safety.
- (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

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for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief 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 City of Sunnyvale Department of Public Safety on any personal or social networking or other website or web page, without the express authorization of the Chief.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

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).

1026.4.1 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 City of Sunnyvale Department of Public Safety or identify themselves in any way that could be reasonably perceived as representing the City of Sunnyvale Department of Public Safety in order to do any of the following, unless specifically authorized by the Chief (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 City of Sunnyvale Department of Public Safety.

Employee Speech, Expression and Social Networking

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).

1026.5 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 may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1026.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief 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.

1026.7 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.

Serious Injury or Line-of-Duty Death

1027.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Department in the event of a life-threatening injury or the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's family.

1027.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a professional member during the course of performing their assigned duties.

Family - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered family for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1027.2 POLICY

It is the policy of the Department to make appropriate notifications and to provide assistance and support to family and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the family when they conflict with these guidelines, as appropriate.

1027.3 INITIAL ACTIONS

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Bureau Lieutenant.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Bureau Lieutenant should ensure that notifications are made to Command Staff.
- (c) If the member has been transported to the hospital, the Bureau Lieutenant or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

Serious Injury or Line-of-Duty Death

1027.4 NOTIFYING FAMILY

Family should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

To maintain accurate emergency medical and notification request records, members and employees are encouraged to complete and submit forms to the Department Principal Office Assistant and submit changes in information promptly.

The Chief or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying family. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief, Lieutenant or the authorized designee should select at least two members to conduct notification of family. The following individuals should be considered as appropriate personnel to be assigned:

- (a) Captain or Lieutenant
- (b) Close friend of the member.
- (c) Department Chaplain
- (d) Pastor, if known association with church
- (e) Supportive peer
- (f) Mental health professional

While it is imperative that these individuals are assembled as soon as possible to notify the members family, it is far better to make timely notification with a partial team than to delay the notification by waiting for the ideal team. Additionally, a large group may be intimidating and heighten the trauma of the situation for family members.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying children by consulting with other family members and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of family members or language barriers.
- (d) Offer to transport family to the hospital, if appropriate. Family should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the family is on their way to the hospital and should remain at the hospital while the family is present.

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Serious Injury or Line-of-Duty Death

- (e) When family members are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a family member's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the family member. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other family members, friends or clergy to support the family and to avoid leaving family alone after notification.
- (h) Assist the family with meeting childcare or other immediate needs.
- (i) Provide other assistance to family and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to family that cannot be met.
- (j) Inform the family of the name and phone number of the Family Support Liaison (see the Family Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the family before departing.
- (l) Document the family member's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief or the authorized designee once family notifications have been made so that other City of Sunnyvale Department of Public Safety members may be apprised that family notifications are complete.

1027.4.1 OUT-OF-AREA NOTIFICATIONS

If the family lives in another city contact should be made with the outside agency and have an officer stand-by near the residence, pending the arrival of the notification team.

If the family lives in another state the Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the family can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's family, but will not obligate the Department to pay travel expenses without the authorization of the Chief.

Serious Injury or Line-of-Duty Death

1027.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief are responsible for notifying all department members (on and off-duty) of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

1027.6 CITY EMPLOYEES OF OTHER DEPARTMENTS

Whenever it is determined that an on-duty employee has been seriously injured or killed, the Supervisor shall immediately initiate a Command Staff notification.

1027.7 LIAISONS AND COORDINATORS

The Chief or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Officer in Charge.
- (b) Hospital Liaison.
- (c) Family Contact.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1027.7.1 OFFICER IN CHARGE

The Officer in Charge should be the member's Captain or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the member's family and the Department. The Officer in Charge reports directly to the Chief. The Officer in Charge's responsibilities include, but are not limited to:

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Serious Injury or Line-of-Duty Death

- (a) Directing the other liaisons and coordinators in fulfilling family's needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with family within 24 hours of the incident and providing them contact information.
- (c) Advising family of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Coordinating all official law enforcement notifications and arrangements.
- (e) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (f) Coordinating security checks of the member's residence as necessary and reasonable.

The Officer in Charge will refer to the Department's Funeral Procedures Manual for a line-of-duty death.

1027.7.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
 - 1. Family and others whose presence is requested by the family.
 - 2. Department members and friends of the deceased member.
 - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's family or City of Sunnyvale Department of Public Safety members (except for members who may be guarding the suspect).
- (c) Ensure that family receive timely updates regarding the member before information is released to others.
- (d) Arrange for family to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the family to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the family into the room, if requested.
- (e) Stay with family and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the family why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the family are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

City of Sunnyvale Department of Public Safety

Department Policies

Serious Injury or Line-of-Duty Death

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the family back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1027.7.3 FAMILY CONTACT

The Family Contact should work with the Officer in Charge to fulfill the immediate needs and requests of the family of any member who has life-threatening injuries or has died in the line of duty, and serve as the long-term department contact for the family.

The Family Contact should be selected by the Officer in Charge . The following should be considered when selecting the Family Contact:

- The contact should be an individual the family knows and with whom they are comfortable working.
- If the family has no preference, the selection may be made from names recommended by the /injured/deceased member's supervisor and/or coworkers. The injured/deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or family may impair their ability to conduct adequate contact duties.
- The contact must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Family Contact include, but are not limited to:

- (a) Arranging for Department transportation for the family to hospital, place of worship, funeral home and other locations, as appropriate.
 1. While it is recommended that family members not drive themselves, some will wish to have their vehicle available. In that case, a driver will be provided to take them in their own vehicle.
 2. If transporting in a Department vehicle, avoid allowing family members to overhear radio transmissions.
 3. Transportation officer(s) should always notify the Hospital Liaison prior to transporting family members. Notification should be made by phone to avoid eavesdropping by the press.
- (b) Communicating with the Office in Charge regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the family, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town family.

Serious Injury or Line-of-Duty Death

- (e) Returning the injured/deceased member's personal effects from the Department and the hospital to the family. The following should be considered when returning the personal effects:
 - 1. Items should not be delivered to the family until they are ready to receive the items.
 - 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 - 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 - 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
 - 1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Public Information Officer (PIO) to brief the family on pending press releases related to the incident and to assist the family with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing family on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
- (j) Informing family of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing family to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with the family and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting family to department activities, memorial services or other functions as appropriate.

Family Contacts providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Family Contact will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Family Contact should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

Serious Injury or Line-of-Duty Death

1027.7.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Family Contact to ensure family members are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Family Contact in the months following the incident to determine if additional CISM or counseling services are needed.

1027.8 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Officer in Charge to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's family with media inquiries.

Serious Injury or Line-of-Duty Death

1. Brief the family on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the family, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's family have been notified. If the media has obtained identifying information for the deceased member prior to family notification, the PIO should request that the media withhold the information from release until proper notification can be made to the family. The PIO should ensure that media are notified when family notifications have been made.

1027.9 DEPARTMENT CHAPLAIN

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with family notifications and assisting the family with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1027.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty. Refer to the Department Funeral Procedures Manual.

1027.11 NON-LINE-OF-DUTY DEATH

The Chief may authorize certain support services for the death of a member not occurring in the line of duty. Refer to the Department Funeral Procedures Manual.

1027.12 MEMBERS OF OTHER AGENCIES

Upon receipt of notice, the on-duty Captain will refer to the Department Funeral Procedures Manual.

1027.12.1 OTHER PUBLIC OFFICIALS

Department participation shall be determined by the Chief or designee using the Funeral Schedule matrix.

Sunnyvale DPS Policy Manual

Department Policies

Attachments

**06-DomesticViolence
ProtocolforLawEnforcement_2018.pdf**

DOMESTIC VIOLENCE PROTOCOL
FOR
LAW ENFORCEMENT
2018

POLICE CHIEFS' ASSOCIATION
OF
SANTA CLARA COUNTY

ADOPTED MARCH 2018

POLICY STATEMENT

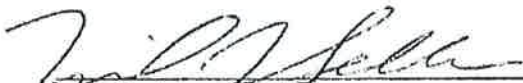
Domestic violence is a serious community problem which affects individuals of all races, religions, sexual orientations, gender identities, and socio-economic backgrounds. It impacts people of all ages including seniors and juveniles.

Santa Clara County Law Enforcement Agencies, in conjunction with the Santa Clara County District Attorney's Office, agree to respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law enforcement personnel responding to an incident of domestic violence.

The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for public safety call-takers, dispatchers, first responders and investigators in handling domestic violence incidents. The Protocol seeks to interpret and apply statutory and case law relating to domestic violence incident response and investigation. Particular attention is given to protecting victims of domestic violence, including children, other members of the household and pets, through enforcement of restraining orders, medical care, and working with support agencies to provide alternate shelter, relocation services, counseling and legal services. Local agency training programs and materials will supplement information provided in the Protocol.


All Law Enforcement Agencies must have written policies and standards for officers' responses to domestic violence calls (PC 13701).

This protocol will be updated annually as new legislation, research and best practices are reviewed periodically by the Domestic Violence Council Protocol sub-committee in order to maintain an effective and sensitive response by the law enforcement community to this serious problem. The College and University Police Chiefs also support this protocol. Significant changes in the protocol for **2018** are highlighted in **bold** text.



Chief Michael Sellers
Chair, Police Chiefs' Assoc. of Santa Clara County

3-8-18
Date



Chief Kenneth Tanaka
Chair, College and University Police Chiefs' Assoc.
of Santa Clara County

3-16-18
Date

POLICE CHIEFS' ASSOCIATION OF SANTA CLARA COUNTY
MEMBERSHIP

- **CALIFORNIA HIGHWAY PATROL**
Captain Ceto Ortiz
- **CAMPBELL POLICE DEPARTMENT**
Chief David Carmichael
- **GILROY POLICE DEPARTMENT**
Interim Chief Scot Smithee
- **LOS ALTOS POLICE DEPARTMENT**
Chief Andy Galea
- **LOS GATOS- MONTE SERENO
POLICE DEPARTMENT**
Chief Michael D'Antonio
- **MILPITAS POLICE DEPARTMENT**
Chief Armando Corpuz
- **MORGAN HILL POLICE DEPARTMENT**
Chief David Swing
- **SUNNYVALE DEPARTMENT OF
PUBLIC SAFETY**
Chief Phan Ngo
- **MOUNTAIN VIEW
POLICE DEPARTMENT**
Chief Max Bosel
- **PALO ALTO POLICE DEPARTMENT**
Chief Robert Jonsen
- **SAN JOSE POLICE DEPARTMENT**
Chief Edgardo Garcia
- **SAN JOSE STATE UNIVERSITY
POLICE DEPARTMENT**
Chief Peter Decena
- **SANTA CLARA COUNTY
DISTRICT ATTORNEY'S OFFICE**
D.A. Jeffrey Rosen
- **SANTA CLARA COUNTY
SHERIFF'S OFFICE**
Sheriff Laurie Smith
- **SANTA CLARA POLICE DEPARTMENT**
Chief Michael Sellers

COLLEGE AND UNIVERSITY POLICE CHIEFS' ASSOCIATION
OF SANTA CLARA COUNTY
MEMBERSHIP

- **FOOTHILL- DE ANZA COLLEGE
POLICE DEPARTMENT**
Chief Ronald Levine
- **SAN JOSE CITY AND
EVERGREEN COMMUNITY
COLLEGE POLICE DEPARTMENT**
Chief Thomas Morales
- **SAN JOSE STATE UNIVERSITY
POLICE DEPARTMENT**
Chief Peter Decena
- **STANFORD DEPARTMENT OF
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Chief Laura Wilson
- **WEST VALLEY-MISSION COLLEGE
POLICE DEPARTMENT**
Chief Kenneth Tanaka

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Melanie Bertelsen, Sergeant, San Jose Police Department (retired)
Dave Bliss, Lieutenant, Mountain View Police Department (retired)
Jim Enslen, Captain, Mountain View Police Department (retired)
Karen Hildebrandt, Officer, San Jose Police Department (retired)
John Hughmanick, Sergeant, Los Altos Police Department (retired)
Don Olsen, Commander, Sunnyvale Department of Public Safety (retired)
Brad Zook, Captain, Palo Alto Police Department (retired)

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Det. Brendan Bligh, Campbell Police Department
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DEFINITIONS

- A. Abuse means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or another (13700(a) PC).
- B. Cohabitant means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (includes same gender relationships). Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as spouse/partner, (5) the continuity of the relationship, and (6) the length of the relationship (13700(b) PC).
- C. Cross-Reporting refers to mandated reporting of suspected child abuse as required under 11165, 11166 and 11172(a) PC and mandated reporting of suspected abuse of elders and dependent adults as required under 15610, 15630 and 15640 WI.
- D. Dating Relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.
- E. Deadly Weapon means any weapon, the possession or concealed carrying of which is prohibited by Penal Code 16590.
- F. Domestic Violence is abuse committed against an adult or any minor who is a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has had a child or is having or has had a dating or engagement relationship (13700(b) PC). Same gender relationships are included.
- G. Dominant Aggressor means the person determined to be the most significant, rather than the first aggressor. In identifying the dominant aggressor, the officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense (PC 13701(b)).
- H. Firearm is any device designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.
- I. Officer is defined as any law enforcement officer as defined by Penal Code Sections 830.1 - 830.3 and 830.6.

- J. Pro-Arrest Policy refers to a philosophical position in which physical arrest shall be made in every situation where an arrest is legally permissible; absent exigent circumstances.
- K. Restraining Order is an order which requires a person to refrain from doing a particular act or acts. It is issued by the Court, with or without notice, to the person who is to be restrained.

- 1. Restraining order in a domestic violence case can be a Criminal Protective Order (CPO), Emergency Protective Order (EPRO), Civil Domestic Violence Restraining Order (DVRO), or Juvenile Restraining Order (JRO).

- (a) Criminal Protective Order (CPO) refers to a restraining order issued in a criminal case. CPOs are issued pursuant to Penal Code section 136.2 while a case is pending and they are re-issued at the time of sentencing. A violation of a CPO is prosecuted under PC 166(c)(1). A CPO may require "No Contact" or it may allow "Peaceful Contact".

"No Contact" Order requires a restrained person to have no contact, either direct or indirect, with the protected person(s). It may also require the restrained person to stay away from a particular location.

"Peaceful Contact" Order allows for contact but it must be peaceful. The restrained person is prohibited from molesting, attacking, striking, threatening, stalking, sexually assaulting, battering, harassing, or disturbing the peace of the protected person(s).

- (b) Emergency Protective Order (EPRO) is a type of restraining order issued by a Judge or Commissioner at any time, whether or not Court is in session, under urgent circumstance when either an officer or a victim feels the victim is in immediate and present danger of domestic violence. An EPRO remains in effect for 5 business days. A violation of an EPRO is prosecuted under PC 273.6.

- (c) Domestic Violence Restraining Order (DVRO) is a restraining order issued by a Family Court Judge. DVROs may be temporary (TRO) or permanent (Restraining Order after Hearing). A violation of a DVRO is prosecuted under PC 273.6.

Temporary Restraining Order (TRO) is good for up to 21 days unless there is good cause and then 25 days.

Restraining Order after Hearing is issued after a noticed hearing in Family Court. The duration of a permanent order can vary and is listed on the first page of the order.

Permanent orders can issue for up to 5 years. Permanent orders may also be renewed. If a DVRO is renewed, the duration of the renewed order is either 5 years or permanently, meaning non-expiring. FC 6345(a).

(d) Juvenile Restraining Order (JRO) is an order issued by either a Juvenile Justice or Dependency Judge that protects against domestic violence or civil harassment. The JRO may be temporary or permanent. A violation of a JRO is prosecuted under Penal Code section 273.65.

2. Restraining Order to Preclude Gun and Ammunition Ownership:

Gun Violence Restraining Order (GVRO) (PC 18100-18205): An immediate family member or a law enforcement officer can petition a judge to temporarily remove a person's firearms and ammunition if they fear the person is violent and likely to commit a violent act with a gun. The order is valid for 21 days and can be extended up to a year, after notice and a hearing. (See EPO-002 Firearms Emergency Protective Order, attached to this Protocol at page 67.) The order prohibits a named person from having in his custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. A violation of a GVRO is prosecuted under PC 18205.

Temporary emergency GVRO – Can be obtained by a law enforcement officer. (Daytime orders are handled by judges at the FJCC just like EPROs. (408) 534-5601. After hours, contact the on-duty Magistrate by calling County Communications at (408) 299-2501.) Valid for 21 days. (PC 18125-18145.)

Ex Parte GVRO – Can be obtained by a law enforcement officer or by an immediate family member. (Applications can be filed at the clerk's office on the first floor of the FJCC.) Court shall hold a hearing within 21 days. (PC 18150-18165.)

GVRO after notice and hearing – Can be requested by a law enforcement officer or immediate family member. (Applications can be filed at the clerk's office on the first floor of the FJCC.) Valid for one year. (PC 18170-18197.)

- L. Stalking means willfully, maliciously, and repeatedly following or willfully, maliciously, and repeatedly harassing another person and making a credible threat with the intent to place that person in fear for his or her own safety, or the safety of his or her immediate family. "Repeatedly" means two or more acts. (646.9 PC).
- M. Trafficking is depriving or violating the personal liberty of another person with the intent to effect or maintain a felony violation of PC 266 (procurement for prostitution), PC 266h (pimping), PC 266i (pandering), PC 267 (abduction for

prostitution), PC 311.4 (using a minor to create obscene matter), or P.C. 518 (extortion), or to obtain forced labor or services (PC Section 236.1)

- N. U-Visa - Created by the Victims of Trafficking and Violence Prevention Act, enacted in October 2000. It is available to noncitizens who: 1) have suffered substantial physical or mental abuse resulting from a wide range of criminal activity, and 2) have been helpful, are being helpful or are likely to be helpful with the investigation or prosecution of the crime. The U-visa provides eligible immigrants with authorized stay in the United States and employment authorization. In Santa Clara County, police agencies process requests in cases that were never sent to the District Attorney's Office for review. Requests in cases that were submitted to the DA's office for review should be forwarded to the District Attorney's Office for processing. They should be sent to the attention of : "U-Visa Clerk". PC 679.10 establishes a rebuttable presumption of helpfulness and requires that the certification be processed within 90 days, or within 14 days if the applicant is in deportation proceedings.
- O. Victim means a person who is a victim of domestic violence.

COMMON CHARGES

A situation involving domestic violence may result in a violation of one or more of the following sections of the Penal Code: (This list is not exhaustive.)

1. 136.1 - Intimidating or dissuading a witness. Felony offense (and a strike) if effected by force or threat of force.
2. 148 - Resisting arrest.
3. 166(a)(4) - Violation of a court order.
4. 166(c)(1) - Violation of a CPO.
5. 187 - Murder.
6. 207 - Kidnapping.
7. 236/237 - False imprisonment. Felony offense if effected by violence, menace, fraud or deceit.
8. 236.1 - Human Trafficking.
9. 240 - Assault.
10. 243(a) - Battery.
11. 243(d) - Battery with serious bodily injury.
12. 243(e) - Battery of a spouse, former spouse, cohabitant, parent of suspect's child, or person with whom the suspect has/had a current or previous dating or engagement relationship.
13. 243.25 - Battery of an elder or dependent adult, who knew or should have known that the victim is an elder or dependent adult.
14. 245(a)(1) - Assault with a deadly weapon.
15. 245(a)(4) - Assault by means of force likely to produce great bodily injury. Consider using in cases involving strangulation and blows to the head even absent visible injury.
16. 246(a) - Shooting at an inhabited dwelling.
17. 261.5 - Unlawful sexual intercourse. Possible felony with 3 year age difference.
18. 262 - Spousal rape.
19. 270.6 - Leaving California with the intent to avoid paying spousal support, after having notice that a court has made a temporary or permanent order.
20. 273.5 - Inflicting corporal injury resulting in traumatic condition on a spouse, former spouse, cohabitant, former cohabitant, parent of suspect's child, or person with whom the suspect has/had a current or previous dating or engagement relationship.
21. 273.6 - Violation of an EPRO or of a DVRO.
22. 273a - Child abuse/endangerment.
23. 278 et al. - Child abduction
24. 368 - Crimes against elder or dependent adults.
25. 417 - Brandishing a weapon.
26. 422 - Criminal threats.
27. 459/460(a) - Entering a dwelling with intent to commit a felony (or theft).
28. 528.5m - Knowingly and without consent, credibly impersonating another actual person through or on an Internet Web site or by other electronic means, for purposes of harming, intimidating, threatening, or defrauding another person.
29. 591 - Malicious destruction of a telephone line.

- | | | | |
|--|-----------|---|--|
| 30. | 591.5 | - | Unlawful removal, damage of wireless communication device, or obstructing use of such device to summon law enforcement. |
| <p>Note: When PC 591 or 591.5 conduct is intended to keep someone from reporting a crime, consider PC 136.1.</p> | | | |
| 31. | 594 | - | Vandalism. |
| 32. | 597a | - | Cruelty to Animals. |
| 33. | 602.5 | - | Entering a dwelling without the consent of the owner. If an authorized person is present, it is an aggravated trespass and the suspect faces up to one year in jail. |
| 34. | 603 | - | Forcible entry with damage to property. |
| 35. | 646.9 | - | Stalking. |
| 36. | 647(j)(4) | - | Recording image of intimate body part under circumstances where both parties understand the image is to remain private and then distributing image with the intent to cause serious emotional distress (revenge porn). |
| 37. | 653m(a) | - | Obscene or threatening calls or electronic contacts. |
| 38. | 653m(b) | - | Making repeated, annoying telephone calls or electronic contacts. |
| 39. | 653m(e) | - | 653m (a) and (b) are violated when a person knowingly permits any telephone or electronic communication under the person's control to be used for the purposes prohibited by these subdivisions. |
| 40. | 653.2 | - | Electronically distributing, publishing, e-mailing, or making available for download, personal identifying information of an electronic message of a harassing nature, about another person, with the intent to place the person in reasonable fear for their safety, or their immediate family's safety, and for the purpose of imminently causing the person unwanted physical contact, injury or harassment by a third party. |
| 41. | 664 | - | Attempt of any of the crimes listed. |
| 42. | 18205 | - | Person restrained by GVRO owns/possesses firearm or ammunition. |
| 43. | 18250 | - | Confiscation of firearms (Authority for seizure). |
| 44. | 25400 | - | Possession of a concealed firearm. |
| 45. | 25850(a) | - | Possession of a loaded firearm. |
| 46. | 29825 | - | Person restrained by CPO or DVRO owns/possesses or attempts to own/possess firearm or ammunition. |

FREQUENTLY USED TELEPHONE NUMBERS

Adult Protective Services https://www.sccgov.org/sites/ssa/daas/aps/Pages/aps.aspx	408-975-4900 or 1-800-414-2002
Asian Americans for Community Involvement http://aaci.org/	408-975-2739
Bay Area Legal Aid https://www.baylegal.org/	1-888-330-1940
California Victim Compensation Program (CalVCP) http://vcgcb.ca.gov/victims/counties/santaclara.aspx	1-800-777-9229 or 408-295-2656
Child Protective Services (child abuse hotline) https://www.sccgov.org/sites/ssa/Pages/ssa.aspx	408-299-2071 (ofc) 408-975-5851 (fax)
Community Solutions http://www.communitysolutions.org/	877-363-7238
County Communications (<u>for duty judge after hours</u>) https://www.sccgov.org/sites/911/Pages/9-1-1-Site-Home-Page.aspx	408-299-2501
DFCS Joint Response (Access through individual department dispatch centers) https://www.sccgov.org/sites/ssa/dfcs/Pages/dfcs.aspx	
Family Justice Center Courthouse (FJCC) (<u>M-F, 8 AM to 5 PM</u>) http://www.sccourt.org/court_divisions/family/family_home.shtml	408-534-5702
Family Violence Center http://www.sjpd.org/BOI/fvc/	408-277-3700
Maitri, Santa Clara County, South Asian Hotline http://maitri.org/	1-888-862-4874
Next Door Solutions to DV http://www.nextdoor.org/	408-279-2962
YWCA Silicon Valley Support Services 24-hour Domestic Violence and Sexual Assault Support Line http://ywca-sv.org/our-services/support-services/	1-800-572-2782

Victim Notification Service

1-800-464-3568

<https://vinelink.com/>

(website with the hotline number)

http://www.sjpd.org/ReportingCrime/Domestic_Violence.html

Victim Services Unit – District Attorney’s Office

408-295-2656

<https://www.sccgov.org/sites/da/VictimServices/VSU/Pages/default.aspx>

WomenSV

<http://womensv.org>

650-996-2200

911 CALL-TAKER/DISPATCHER RESPONSE

- A. A 911 recording is often the key piece of evidence in a domestic violence trial and will be played in front of the judge or jury in open court. The 911 recording may end up serving as the only account of what happened if a victim later recants or refuses to testify. Accordingly, extra time and attention should be given to bringing out as many details about the reported incident as possible. Given the nature of these types of incidents the caller may be recanting, minimizing, traumatized or confused. Extra care and patience in handling these calls may be required.
- B. The dispatcher who receives a domestic violence incident call shall dispatch officers to every reported incident. The dispatcher should, when warranted, give a domestic violence incident call the same priority as any other life threatening call and should, whenever possible, dispatch at least two officers to the scene.
- C. No dispatcher or 911 call-taker, in speaking with a victim of domestic violence, should inquire as to the victim's desire to "prosecute," or "press charges". Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.
- D. During the initial call for assistance, the call-taker should ask:
1. Do you need an interpreter? What language?
 2. Where is the emergency? What address? What apartment number?
 3. Is this a gated Community? What is the pass code?
 4. To whom am I speaking (spell name)?
 5. Are you the victim? If no, what is your relationship to the victim?
 6. Who hurt you?
 7. What has happened? Is it occurring now?
 8. Has anyone been injured? If yes, is an ambulance needed?
 9. Has anyone been threatened?
 10. Is the suspect present? Are they in the same room? Can they hear you? What is their name? Please describe the suspect and their clothing, and, if not present, where are they?
 11. Does the suspect have current access to weapons? If yes, what kind? Where are they located?
 12. Is the suspect under the influence of drugs, alcohol or prescription medication? If yes, what?
 13. Does the suspect have any mental health issues?
 14. Are children present? How many? Ages?
 15. Are there previous incidents of domestic violence involving the suspect and victim? Have the police been to this address before? If yes, how many times?
 16. Does the victim have a current restraining order?
 17. **If victim is not the RP: Does the victim need an interpreter?**

18. Is the suspect on probation or parole?
19. Is the suspect a minor? Is the victim a minor?

Additional questions may be appropriate, and the call-taker should always prioritize questions based on training and experience to adapt to the current emergency.

- E. The safety of domestic violence victims, whether the threat of violence is immediate or remote, should be the primary concern of 911 call-takers. The 911 call-taker should advise the victim to ensure their safety. For example, suggest that a victim wait for officers at a neighbor's house or remain on the 911 line.
- F. Upon receipt of a medical report or phone contact made by a medical professional where domestic violence per Penal Code Section 13700 is alleged, the agency of jurisdiction shall respond unless circumstances such as distance or lack of personnel do not allow for quick response. If the agency of jurisdiction cannot respond, the agency shall request a courtesy report be taken by the local jurisdiction and submitted as soon as practical to the agency of jurisdiction (where the domestic violence incident occurred).

PATROL OFFICER RESPONSE/INVESTIGATION

A. ENFORCEMENT OF LAWS IN DOMESTIC VIOLENCE INCIDENTS

Felony

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested should be booked into the County Jail or Juvenile Hall. A pro-arrest policy should be implemented by all agencies.
2. If an officer has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.

Misdemeanor

1. When a misdemeanor assault or battery has been committed outside the officer's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of their child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer shall arrest the suspect without the need of a private person's arrest.

PC 836(d) makes it possible for officers to arrest when the crime does not take place in their presence where both of the following circumstances apply.

- a. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
- b. The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

Note: There is no requirement under PC 836(d) that the assault or battery resulted in visible injury to the victim.

2. An arrest shall be made if the officer has probable cause to believe that the suspect has violated a CPO, DVRO, EPRO, or a juvenile court-issued restraining order in a domestic violence case (W&I 213.5), even when the crime did not occur in the officer's presence (PC 836).
3. In all other misdemeanor domestic violence cases – e.g. PC 594 (when loss < \$400) or PC 653m - where the victim of the crime is the suspect's spouse, former spouse, cohabitant, former cohabitant, parent of their

child, or a person with whom the suspect has/had an engagement or dating relationship - the officer shall make a good faith effort to inform the victim of their right to make a private person's arrest. (PC 836(b).)

4. Once a suspect is arrested on a misdemeanor, they should be booked into the County Jail or Juvenile Hall. A juvenile suspect must be booked into juvenile hall and shall not be cited and released.

Felony or Misdemeanor

1. In situations where mutual protective orders have been issued under subdivision 10 (commencing with Section 6200) of the Family Code, prior to making an arrest, the officers shall make reasonable efforts to identify, and should only arrest without a warrant, the dominant aggressor involved in the incident (PC 836 (c)(3)).
2. Persons (including juveniles) arrested for crimes specified in PC 1270.1, including the following crimes, cannot be released at the scene:
 - PC 243(e)(1) - misdemeanor domestic violence
 - PC 273.5 - domestic violence with corporal injury
 - PC 262 – spousal rape
 - PC 422 – where the offense is punishable as a felony
 - PC 273.6 or 166 – violation of a protective order if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party
 - PC 646.9 – stalking
 - PC 136.1(c) – felony dissuading a witness

Adult arrestees must be taken to jail, after which they may post bail. If they are to be released for more or less than the scheduled bail or on their own recognizance, a hearing must be held in open court pursuant to PC 1270.1. (Note: No cite and release). A judge or magistrate may, with respect to a bailable felony offense or a misdemeanor offense of violating a restraining order, increase bail without a hearing, provided an oral or written declaration of facts justifying the increase is presented under penalty of perjury by a sworn police officer. If the arrestee is a juvenile, they must be taken to Juvenile Hall.

3. If a victim only informs a law enforcement officer of a prior unreported incident and has no complaint of pain or physical injury at the time of the current report, the officer shall make a good faith effort to inform the complainant of their right to make a private person's arrest. (The arrest must fall within the statute of limitations). If the complainant chooses not to exercise that right, the officer shall submit a report to the District Attorney or Juvenile Probation Department for review. The arrest must fall within the statute of limitations and meet the requirements listed above in paragraph (3).

4. If officers are unable to locate the suspect, they should continue diligent efforts to do so, and document all such efforts. In the event the suspect cannot be located, all reasonable means have been exhausted and probable cause to arrest exists, submit the case to the District Attorney's Office for review as a warrant request.

B. HANDLING OF THE INCIDENT

1. The following factors should not influence the officer's decision to investigate or arrest in domestic violence incidents except as they relate to the elements of the crime:
 - a. The relationship or marital status of the suspect and the victim, i.e., not married, separated, or pending divorce;
 - b. The gender identity of either the victim or suspect, the fact that they are gender non-conforming or transgender, or the fact that they share the same gender identity;
 - c. **The fact of who is taller, larger or stronger appearing;**
 - d. Whether or not the suspect lives on the premises with the victim;
 - e. The existence or lack of a temporary or other restraining order;
 - f. The potential financial consequence of arrest;
 - g. Verbal assurances that violence will cease;
 - h. The victim's emotional state or state of sobriety;
 - i. Injuries are not visible; (Visible injury is NOT required for a warrantless arrest for domestic violence assault and battery.)
 - j. The location of the incident, i.e., public or private;
 - k. Speculation that the victim may not follow through with the criminal justice process or the arrest may not lead to a conviction;
 - l. The suspect is a juvenile. (Officers should be aware that Juvenile Court orders can remain in effect until the offender's 21st birthday. Juvenile restraining orders can remain in effect for up to 3 years from the date of issue, whether or not the juvenile proceedings continue);
 - m. The victim is a minor;
 - n. The victim's immigration status;

- o. Whether or not the suspect is present in a restraining order case; and
 - p. Whether or not the victim wants officers to investigate and/or arrest.
2. If the suspect is a law enforcement officer, follow the procedures outlined on page 50.
 3. The officer should interview the victim, suspect, children, roommates, and any available neighbor witnesses. Interviews should be digitally recorded if possible. A warrant check, California Restraining and Protective Order System (CARPOS) check, criminal history check and Juvenile Probation status check should also be conducted.
 4. An officer shall make no statements which would tend to discourage a victim from reporting an act of domestic violence or requesting a private person's arrest. A peace officer who accepts a private person's arrest is immune from civil liability for false arrest or false imprisonment when, 1) at the time of the arrest, the officer had reasonable cause to believe that the arrest was lawful, 2) the arrest was made pursuant to PC 142, i.e., a victim or witness demanded that the officer receive a private person's arrest, or 3) the arrest was made pursuant to a charge, upon reasonable cause, of the commission of a felony by the person to be arrested (PC 847). As noted above, a private person's arrest is not required in cases involving intimate partner assault or battery or in cases involving violations of domestic violence protective or restraining orders where an officer has probable cause to believe that the person to be arrested has committed the offense. (PC 836.)
 5. Pursuant to Penal Code section 13700 et seq., an officer responding to an incident of domestic violence shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim or the presence or absence of the suspect.

C. INVESTIGATION OF DOMESTIC VIOLENCE CASES

1. Jurisdiction and Courtesy Reports

Officers arriving at a domestic violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to domestic violence. If the incident occurred in another jurisdiction, the patrol officer will evaluate the severity and immediacy of the situation and, if appropriate, contact that jurisdiction to determine which agency will take the initial report and/or which agency will investigate. If the other agency (agency of jurisdiction) is not able or willing to respond to the victim's location or meet the victim at an alternate location, the agency that had first contact with the victim will complete a courtesy initial police report. If the initial agency is not doing the follow up investigation, the report will be forwarded to the agency of

jurisdiction for follow up.

2. Arrival at the Scene

- a. Determine location and condition of victim, suspect, children and pets.
- b. Do not let gender appearances affect your determination as to who is the victim and who is the suspect.
- c. Determine if any weapon is involved or in the home. Confiscate and collect as evidence any weapons or firearms used in the incident. If the incident involves any threat to human life or physical assault, officers shall take temporary custody of any firearm or deadly weapon in plain sight or pursuant to a consensual search or other lawful search. If unable to book the weapon (other than firearms) due to size or other extenuating circumstances, photograph the weapon (PC 18250).

Note: There are four instances when a search warrant for weapons can be requested (PC 1524(a)(9)-(11)). (See page 33 under "Follow-up Investigation".)

- d. Provide appropriate level of aid to injured parties.
- e. Separate suspect, victim, and witnesses. (Victim(s) and witness(es) should be out of suspect's immediate presence, hearing and view.)

3. Preliminary Investigation

- a. Interview everyone separately – victim, suspect, children, other witnesses. Officers are strongly encouraged to record these statements. Doing so will increase the chances that the case can still be proven even if a victim does not testify.
- b. If a person being interviewed speaks a language other than English, the interview should be conducted in the individual's primary language by a qualified interpreter. **In cases involving a victim or witness with *limited* English language capacity, officers should ask whether they prefer to be interviewed in their primary language.**

An investigating officer may need to call for another bilingual officer fluent in that language, a telephone interpreter, a qualified civilian interpreter, or arrange for other certified professional translation services. Avoid using third party individuals (children, family members, neighbors, or bystanders) for interpretation except during exigent circumstances. Once the exigent circumstance has passed, the officer should utilize a qualified interpreter. Document the names

and personal information of all witnesses and interpreters.

c. Children present or residing in the home:

- (i) Document names and ages of all children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home. Also document the names, addresses and ages of children present in the home at the time of the incident, who may not be related to the victim and/or suspect AND children who may not reside in the home but whose parents are involved in the domestic violence incident. (Children in this context does not include cases in which the victim or suspect are juveniles.)
- (ii) Contact DFCS in appropriate cases where children's safety appears to be at risk, even if they were not physically abused. See page 9 of the 2018 "Santa Clara County Child Abuse Protocol for Law Enforcement" for examples of when DFCS should be notified of domestic violence incidents while officers are still on-scene, and where child abuse charges might be appropriate.
- (iii) **When making a referral to a domestic violence advocate, advise the advocate whether children were present and/or residing in the home.**

Note: Suspected child abuse or neglect must be cross-reported to DFCS **(408-975-5250)** and officers must follow the Joint Response Protocol. (PC 11166). **Child abuse can include instances where children are endangered or inadvertently struck during an assault on an intimate partner.**

d. Ask victim and suspect if they have pain even if there are no visible injuries. A description of the extent and severity of the pain is also necessary.

- Does the victim have difficulty breathing?
- Does the victim have difficulty standing or moving?
- Is the victim experiencing other restrictions as a result of the injuries?

e. Determine if there are indications of strangulation. Strangulation attempts shall be explicitly described. It should be noted whether hands or a ligature device was used. The force of the attempt should be detailed. Victims shall be encouraged to seek medical attention if there has been strangulation even if there are no visible injuries. (PC 13701(I)).

- **Did their partner use hands or anything else to prevent**

victim from breathing properly?

- Did the victim lose consciousness?
- Did the victim vomit, urinate, or defecate?
- Does the victim have difficulty breathing or swallowing?
- Are there any marks visible on the victim's neck?
- Does the victim complain of a sore throat or hoarse/ raspy voice as a result of the injuries?
- Is there indication of petechiae (rupture of the small capillaries, usually in the eyes, head or neck area above the point of constriction)?
- Does the victim notice any changes in vision?
- Photograph injuries.
- **Officers must** furnish the victim with a Strangulation Resource Card, **informing them that strangulation may cause internal injuries and encouraging them to seek medical attention. (PC 13701(I)).** (Copy attached at page 74, cards available through Office of Women's Policy owp@ceo.sccgov.org.)

- f. Determine if there are indications of traumatic brain injury (TBI). Victims should be encouraged to seek medical attention immediately if there has been possible TBI even if there are no visible injuries. Ask every domestic violence victim, **regardless of gender**, the following:

After anything your partner did to you (tonight, today, etc.) did you black out or lose consciousness?

If yes:

- What happened?
- Do you have trouble remembering anything surrounding the loss of consciousness?
- Have there been any prior instances of strangulation, prior loss of consciousness?

Note: Do *not* ask the victim how long they were unconscious. Their memories are likely to be very unreliable on this point, studies have shown.

After anything your partner did to you (tonight, today, etc.) did you:

- Have any changes in vision, e.g., see stars or spots?
- Feel dizzy?
- Feel dazed or confused?
- Feel stunned or disoriented?
- Have memory loss about what happened?

Note: In cases involving strangulation or TBI, consider charging a violation of felony PC 245 (assault with force likely to produce great bodily injury).

- g. Ask the victims if they have been forced to **participate in sex acts against their will, including victims in same sex relationships**. Encourage the victim to participate in a SART exam in appropriate cases. **If there is a question regarding the appropriateness of a SART exam, please call Santa Clara County Valley Medical Center (408) 885-5000, say “operator” and then ask to speak to the adult nurse examiner on call.**
- h. Ask the victim if suspect has any guns or ammunition.
- i. Document and photograph the victim’s, suspect’s, and child’s condition and demeanor including:
 - Bruises, cuts, marks, pulled hair or other injuries.
 - Torn clothing.
 - Smeared make-up.
 - If victim is pregnant, a senior or juvenile.
 - If any of the parties are under the influence of alcohol, drugs, or prescription medication.
 - Condition and disarray of the **area where the incident occurred.**
- j. Inquire about, elicit details about, and document any allegations of previous reported or unreported acts of domestic violence or child abuse. For example, asking: When was the first time they hit you? What happened then? How often do they hit you?
- k. Document size relation of victim and suspect.
- l. In cases where it appears that both parties have used force against the other, try to determine who was the “dominant aggressor”, that is, the person who is the most significant, rather than the first, aggressor. (See Penal Code 13701(b).) (Dual arrests shall be discouraged, when appropriate, but are not prohibited per Penal Code Section 13701). Please attempt to make the following determinations:
 - Was one party in actual fear of the other?
 - Did one party escalate the level of violence, i.e., did one party react to a slap by beating the other party?
 - Was there a history of violence or pattern of control by one of the parties against the other? Against other people?
 - Who has access to and control of resources?

- Who has injuries that do not appear to be consistent with statements made?
 - Was one party usually the aggressor?
 - Did any injuries appear to be defense wounds?
 - Which party will be in greater danger if nothing is done?
 - Was one party physically larger and stronger than the other?
(Remember that size and strength alone should never be a determining factor. A dominant aggressor is not always bigger or stronger.)
- m. Check for the existence of any restraining orders against the suspect. If victim has a restraining order against suspect, obtain a copy of the order and valid proof of service (proof of service is not necessary if the suspect was in court when the order was issued). If no copy is available, contact the Department of Justice California Restraining and Protective Order System (CARPOS/CLETS) to verify the existence of the order (Family Code Section 6383(d)). If there is no order, inform victim how to get an order.
- n. The officer shall advise the victim of the availability of an EPRO and a DVRO in every case even if the suspect is arrested, and also in non-criminal situations where the victim is fearful. The officer is required to request the EPRO if the officer believes the person requesting the order is in immediate and present danger even if the victim does not want the order. The judge should hear your concerns and will make the decision whether or not the EPRO will issue. (Victim should be out of suspect's immediate presence, hearing and view.) If possible, prepare the form before calling the on-duty judge.
- o. If victim has a DVRO which has not yet been served on suspect, verbally inform the suspect of the order and note in the report including case number of the DVRO. If victim has an extra copy of the DVRO, serve on the suspect and fill out proof of service. If the officer does not have an additional copy of the order, he or she shall give verbal notice of the terms and conditions of the DVRO. This shall constitute service and notice for purposes of PC 273.6 (violation of the DVRO) and PC 29825 (violation of the DVRO weapons restriction). Within one business day of service, the law enforcement agency serving the DVRO order shall enter the proof of service directly into the DOJ California Restraining and Protective Order System (CARPOS), including the officer's name and employing agency, and shall transmit the original proof of service to the issuing court (FC 6380(d)). If a suspect is given verbal notice of the DVRO, the officer must advise the suspect to go to the local Family Court to obtain a copy of the DVRO containing the full terms and conditions of the DVRO (FC 6383(g)).
- p. When serving any protective order, including but not limited to EPROs and DVROs, law enforcement officers shall request the

immediate surrender of firearms and ammunition rather than having to wait 24 hours for the person to self-surrender the firearms and ammunition. The Santa Clara County Protocol for Relinquishment of Firearms and Ammunition Pursuant to Protective/Restraining Orders should be followed. (A copy is attached to this Protocol at page 69.)

- q. Note information concerning the victim's whereabouts for the next few days in the police report. Obtain any emergency/secondary contact information. This should include name, relationship, telephone number(s) and address. If the victim is a juvenile, obtain contact information from the parent(s) or guardian(s).
- r. Request from the victim, information regarding the suspect's media accounts including account identifying information such as user names and passwords.
- s. An officer shall conduct a Lethality Assessment for First Responders and may put the victim in immediate contact with a domestic violence advocate. (See "Lethality Assessment for First Responders" form at page 58 of this Protocol.)

****Lethality factors present should be listed in the felony affidavit.****

- t. If the suspect is taken into custody:
 - i. Document spontaneous statements by the victim and/or suspect.
 - ii. Prevent communication between suspect and victim / witnesses / children.
 - iii. Advise suspect of Miranda rights. The Miranda Admonition should be read to suspects in their primary language by a qualified interpreter.
 - iv. Conduct interviews and document statements of the suspect. If a "violent felony" is alleged, the interview of the suspect will be electronically recorded as outlined in the Santa Clara County Police Chiefs' Association's "Recording of Violent Suspect Statement Protocol". (See PC 667.5(c) for a listing of violent felonies.)
 - v. Evaluate the suspect for danger to self or others under 5150 W&I. If appropriate, complete a 5150 W&I form for jail mental health staff.
- u. Photographs
 - i. Document and photograph the condition of the crime scene (i.e., disarray of physical surroundings), and the suspect and victim,

even if there are no visible injuries.

- ii. Ensure that the victim's and suspect's visible injuries are photographed. Make sure that the photos taken preserve the dignity of the victim as much as possible and photograph their faces for identification purposes.
- iii. Encourage the victim, or parent or guardian if the victim is a juvenile, to contact the investigating agency/follow-up investigator if further bruising appears.

v. Firearms and Ammunition

- i. If necessary for the protection of officers or other persons present, inquire of the victim, alleged abuser, or both, whether a firearm/ammunition or other deadly weapon is present at the location and confiscate any firearm/ammunition or deadly weapon discovered. Note this in the report (13730(3) PC). If an EPRO is issued, request the immediate surrender of firearms once the perpetrator is served. (Family Code 6389). A search warrant can also be obtained. (See Pg. 33 under "Follow-Up Investigation".)
- ii. Check in the Consolidated Firearms System (CFS) and Prohibited Armed Persons (PAP) file to determine if firearms are registered to any involved person or if any involved person is prohibited from owning firearms.
- iii. Seize any firearm/ammunition or other deadly weapon located in plain sight, discovered pursuant to a consensual search or other lawful search, as necessary for the protection of officers or other persons present (18250 PC).
- iv. Seize any firearms possessed in violation of 29800(a) PC – convicted felons, or 29805 PC – other specified misdemeanor convictions.

(See page 37 of this Protocol for information regarding retention and return of confiscated weapons.)

w. Medical treatment

- i. Document extent of injuries or medical treatment, if known.
- ii. Suggest that the victim seek medical attention. (Encourage medical attention if there is any indication of strangulation, TBI or sexual assault.)
- iii. Obtain authorization for release of medical records from victim,

or from parent or guardian if the victim is a minor.

- iv. Transport or call for transport of victim and children to a hospital for treatment when necessary, or stand by until victim or children can safely leave. ("Children" does not include a minor suspect.)
- v. Obtain names, addresses, and phone numbers of fire and emergency medical personnel treating the victim, if possible.

D. COMPLETING CRIME REPORT

1. Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.
2. Ensure that the report includes the victim's preferred name and gender identity.
3. Ensure that elements of all involved crimes are included in the report and document:
 - Any injuries victim and suspect have sustained.
 - That victim received the Domestic Violence Resource Card per Penal Code Section 13701(i).
 - That victim has been offered an EPRO.
 - Past history of violence and check for existence of a restraining order.
 - Prior domestic violence incidents at that address involving the alleged abuser or victim.
 - Statements of victim, suspect, and all witnesses including children.
 - Physical evidence obtained.
 - Probation/parole status.
 - Whether alcohol, illegal drugs or prescription drugs were involved by the alleged abuser or the victim.
 - Names, ages and relationship of children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home AND children who may not reside in the home but whose parents are involved in the domestic violence incident. (Note: the word "children" does not include a juvenile suspect or victim who should be dealt with as the suspect or victim and not as a child witness.)
 - If any pets were threatened, harmed, or there is evidence of animal abuse.
 - Whether the officer found it necessary, for the protection of the officer or other persons present, to inquire of the victim, abuser, or both, whether a firearm or other deadly weapon was present at the location (13730 PC).

- Any emergency/secondary contact information. This should include name, relationship, telephone number(s) and address.
 - All e-mail addresses should be obtained.
 - All cellular and text messaging contact information should be obtained.
4. If a valid restraining order prohibits firearms possession or ownership by a person involved in the incident, the officer shall make record in the crime or incident report of:
- Inquiries made to determine if the restrained person possesses any firearms/ammunition.
 - The results of efforts made to locate and seize any unlawfully possessed firearms/ammunition, including requesting a search warrant (See page 33 under “Follow-Up Investigation”).
5. If a violation of a restraining order is alleged:
- In the police report, describe the specific terms of the order that were violated by the restrained person.
 - Attach a printout of the order from CARPOS.
 - Request of records or communications personnel that information on the reported violation is entered into the California Restraining and Protective Order System (CARPOS). (See the California Department of Justice Information Bulletin #02-05-BCIA, dated April 4, 2002.)
 - If the order that was violated was issued out of Family Court, collect or photograph a copy of the order, including proof of service if any.

Note: A protected person cannot be in violation of their own protective order

6. When documenting a domestic violence-related crime, identify the report as a domestic violence incident on the face of the report as required by Penal Code Section 13730(c).
7. EPROs: In any domestic violence incident, the officer shall note on the Probable Cause Affidavit whether an EPRO was granted by a judge or was declined by the victim.
8. When completing a Probable Cause Affidavit or Juvenile Contact Report (JCR), officers will ensure that the following information is provided:
- a. The officer shall complete all applicable sections of the Affidavit or JCR forms, including non-narrative portions.

- b. The narrative portion of the Affidavit or JCR shall thoroughly detail the injuries received and how they were inflicted. The officer should not merely check one of the boxes to indicate extent of injuries, as this information is often subjective. If the injury involved is "complaint of pain only," this fact shall be explicitly stated. This is necessary to avoid calling the officer back to clarify the Affidavit. If a felony arrest is made on an injury involving complaint of pain with no visible injuries, the officer shall give a detailed description of the force used, including type of force, number of blows inflicted, etc. (i.e., fist, open hand slap, etc.).
- c. If the officer feels that a restraining order is required in order to protect the victim, information concerning the need for restraint should be included in the Affidavit or JCR.

E. INFORMATION PROVIDED TO VICTIMS

1. If a victim spontaneously states that prosecution is not desired, the victim should be told that the decision to prosecute is made by the District Attorney. Officers shall not advise victims of domestic violence that the victim has the authority to "press" charges or "drop" charges.
2. Officers shall furnish victims with a "Domestic Violence Resource Card" which includes the phone number for the Victim Services Unit in Santa Clara County (408-295-2656) and the toll free number for the California Victim Compensation Program (1-800-777-9229).
 - The card shall also include the names and phone numbers of shelters or counseling centers and state that domestic violence, i.e., assault by a relative or partner of the victim, is a crime. The California Victim Compensation Program can authorize a cash payment or reimbursement to an adult victim of domestic violence for specified expenses. Counseling funds for children may also be available for those identified in the police report. Victims should be encouraged to contact a 24-hour domestic violence crisis hotline in order to receive important information about safety issues and services that are available to them. Officers are encouraged to call the hotline as indicated on the Lethality Assessment form.
 - The card shall also include the statement that the victim has a right to have a domestic violence advocate and a support person of the victim's choosing present at any follow-up interview by law enforcement authorities, prosecutors, or defense attorneys (679.05 P.C.). Officers should strongly consider providing additional DV resource cards to support persons, friends and family at the scene.

- Inform the victim of their right to request in writing that the landlord change the locks of their dwelling unit within 24 hours when they are the victim of domestic violence, sexual assault, or stalking. The victim must give the landlord a copy of the police report or restraining order (which was written in the last 180 days). The landlord must also give the victim a key to the new locks. The victim also has the right to change the locks if the landlord fails to do so, regardless of any provision in the lease to the contrary. The victim must then give the landlord a key to the new locks. If the victim and restrained person live together the victim can make the same request of the landlord in writing but needs to provide the landlord with a copy of the restraining order (written within the last 180 days) that excludes the perpetrator from the tenant's dwelling unit (CC 1941.5, CC1941.6).

3. Officers shall furnish victims with the Attorney General's/SCCO card on Marsy's Rights (Prop 9.)

F. HOSTAGE SITUATIONS

If there is a taking of a hostage or the barricading of a location by the perpetrator, the officer is authorized to use an electronic amplifying or recording device to eavesdrop on and/or record, any oral communication within a particular location in response to the taking of the hostage or the barricading of a location if:

- (1) The officer reasonably believes that an emergency situation exists involving the immediate danger of death or serious physical injury to any person; and
- (2) The officer reasonably determines that the emergency situation requires that eavesdropping occur immediately; and
- (3) There are grounds upon which an order could be obtained pursuant to 18 U.S.C. 2516(2) for the offenses specified in it (i.e., murder, kidnapping, or other crimes dangerous to life, limb, or property, and punishable by imprisonment for more than one year). PC 633.8.

G. REQUESTS FOR HIGH BAIL

A police officer may request a higher bail and any special conditions of bail either orally or in writing for the defendant by making a declaration (i.e., probable cause affidavit) under the penalty of perjury setting forth facts and circumstances in support of their belief that the scheduled bail amount is not sufficient to ensure the defendant's appearance in court or to ensure the protection of a domestic violence victim (PC 1270.1). The crimes specified are serious felonies, violent felonies, threatening a witness, domestic

violence felonies, domestic violence misdemeanors, criminal threats, stalking and domestic violence restraining order violations if the defendant made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of the protected party. “Facts and Circumstances” should include a listing of lethality factors present. Juvenile suspects are not eligible for bail.

FOLLOW-UP INVESTIGATION

- A. All domestic violence reports prepared by officers pursuant to Penal Code section 13700 et seq. (for adult offenders) or Welfare and Institutions Code section 213.5 (for juvenile offenders), should be reviewed and given follow-up investigation as needed.
- B. Follow-up investigations should be geared to the requirements of the District Attorney's Family Violence Unit.
 - 1. Follow-up investigations should include the following:
 - a. Verify the inclusion of all investigative steps described in the previous section regarding patrol officer response/investigation.
 - b. Obtain medical records and medical release forms, if available.
 - c. Preserve a copy of the 911 recording involving the original call(s) for assistance, as needed.
 - d. Interview/re-interview the victim, witnesses, and suspect as necessary.
 - (1) Follow-up interviews should be recorded. If a "violent felony" is alleged, the interview of the suspect will be electronically recorded as outlined in the Santa Clara County Police Chiefs' Association's "Recording of Violent Suspect Statement Protocol". See PC 667.5(c) for a listing of violent felonies, and all reenactments should be video recorded.
 - (2) If on-scene language interpretation assistance was provided by a family member, neighbor, or other uncertified person, it is necessary to re-interview the victim or witnesses by a qualified interpreter, such as a qualified bilingual officer, telephone/language line interpreter or a qualified civilian interpreter. Avoid using third party individuals (children, family members, bystanders or neighbors) to translate statements.
 - (3) Penal Code section 830.1 and Education Code section 49076 contain authority for law enforcement to interview students at school.
 - e. When a victim has suffered an injury, follow-up photographs should be taken 48 hours after the physical abuse and note changes to injuries. Ensure photographs are taken if injuries were not photographed by the field officer.

- f. Remind victim of their right to have a domestic violence advocate and a support person of their choosing present at the interview. The domestic violence advocate must advise the victim of any limitations on the confidentiality of communications between the victim and the advocate. If the presence of the person would be detrimental to the purpose of the interview, the support person and/or advocate can be excluded.
- g. Contact the victim to inform them of the status of the case and the intended referral to the District Attorney or Juvenile Probation.
- h. Record names, addresses, and phone numbers of two close friends or relatives of the victim who may know the victim's whereabouts 6-12 months from the time of the incident.
- i. Conduct a complete CJIC, CII and NCIC criminal history check of the suspect and victim. Run a records check to see if any law enforcement agency has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim (PC 13730(c)(2)). When appropriate, conduct a Juvenile Probation records check. Also conduct queries on the suspect in the Consolidated Firearms System (CFS), Prohibited Armed Persons (PAP), California Restraining and Protective Order System (CARPOS), and the Violent Crime Information Network (VCIN). Attach results of these checks to the investigator's report.
- j. If children, other than the suspect, are present or living in the home, a copy of the incident or crime report shall be provided to the designated on-site Department of Family and Children Services (DFCS) social worker. Law enforcement agencies without a designated on-site DFCS social worker shall fax a copy of the incident or crime report to DFCS at (408) 975-5851. (Note also that suspected child abuse must be cross-reported as required by 11165, 11166 and 11172(a) PC. DFCS telephone number: 408-299-2071.)
- k. Suspected elder or dependent adult abuse must be cross-reported as required by 15610, 15630 and 15640 W&I. (Adult Protective Services telephone numbers: 408-975-4900 or 800-414-2002.)

APS dedicated law enforcement line: (408) 975-4800

- l. Those agencies working or having an operational agreement with victim advocacy agencies shall provide a copy of the police report to them.
- m. Obtain from the victim a copy of any DVRO including proof of service, if they have it. If the restrained person was present when the order was made, personal service is not needed. (See item 24(a) of form DV-130.) If the restrained person was not present in court when the

order was issued, locate and interview the person who served the order to confirm proper personal service pursuant to item 24(b)(2). Sometimes the DVRO will indicate the order was served by mail, which means additional investigation will be required to prove actual knowledge. Actual knowledge of the order is required in order to criminally prosecute a violation of the order.

- n. Interview all people identified as possible witnesses in the police report (example: a roommate who was home but not interviewed). Also interview the RP and any other witnesses identified in the CAD.
2. Follow-up investigation shall not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the District Attorney's Office Family Violence Unit.
3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
 - a. Can the elements of the offense be established without the testimony of the victim?
 - i. If the answer is "yes," the case should be submitted to the District Attorney's Office or Juvenile Probation Department for review, irrespective of the wishes of the victim.
 - ii. If the answer is "no," can further investigation locate additional witnesses or evidence which would allow prosecution without a cooperative victim, such as:
 - witness statements;
 - prior inconsistent statements;
 - physical evidence;
 - content of 911 recording;
 - circumstantial evidence;
 - defendant's statements;
 - spontaneous statements.

Cases where the investigation establishes probable cause to believe a domestic violence occurred should be submitted to the District Attorney's Office or Juvenile Probation Department.

Cases where the investigation does not establish probable cause to believe a domestic violence offense occurred need not be submitted, but should be filed with Records pursuant to Penal Code section 13700 et seq.

4. Under NO CIRCUMSTANCES should a victim be asked if they wish to "press charges" or "drop charges". Investigative personnel should not

ask a victim if he/she wants to "prosecute" his/her partner. The victim should be informed that the decision to proceed is out of their control.

5. Officers arriving at a medical facility in response to a phone call or report made by a medical professional shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim, or the parents or guardians of the minor victim.
6. If the crime involves the use of a firearm, the reports shall be submitted to the District Attorney's Office or Juvenile Probation Department for review.

C. Stalking cases

A detective in charge of investigating a stalking or repeated harassment matter should contact the victim, introduce themselves, provide a case number to the victim and inform the victim that they should provide the case number whenever there are further reports of any harassing or stalking behavior.

D. Obtaining Search Warrants

Note: Consider contacting the on-call Deputy District Attorney in charge of search warrants. Call County Communications at (408) 299-2501 and they will connect you with the on-call Deputy District Attorney.

1. There are **five** specific instances when a search warrant for weapons can be requested. (See PC 1524(a)(9)-(11), **(15)** and PC 1542.5.)
 - a. At the premises occupied or under the control of the person arrested for a domestic violence incident involving a threat to human life or a physical assault. (PC 18250.)
 - b. When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody of, a person who is detained for examination of their mental condition. (W&I 8102(a).)
 - c. When the property or things to be seized include a firearm/ammunition that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms and/or ammunition pursuant to Family Code 6389, meaning:
 - i. The prohibited firearm and/or ammunition is possessed, owned, or in the custody of, or controlled by a person against whom an EPRO or DVRO has been issued and,
 - ii. The person has been lawfully served with the EPRO or DVRO,

and

iii. The person has failed to relinquish the firearm as required by law.

d. **When the firearm is in the possession of a person who is prohibited from owning it by PC 29800 (felony conviction) or 29805 (specified misdemeanor conviction within 10 years) and the Court has made a finding pursuant to PC 29810(c)(1) that the person has failed to relinquish the firearm as required by law.**

e. When the firearms and/or ammunition to be seized is/are owned, possessed, in the custody of or controlled by a person who is the subject of a gun violence restraining order issued pursuant to PC 18100-18205, and:

- the person has been lawfully served with that order, and
- the person has failed to relinquish the firearm as required by law, and
- there exists probable cause to believe that the person does indeed have a firearm or ammunition.

(See Firearms Emergency Protective Order (EPO-002) attached at page 67.)

2. The California Electronic Communications Privacy Act (CalECPA) (PC 1546 et seq.) limits the rights of a governmental entity to access electronic communication information (ECI) from a service provider. ECI includes contents; sender; recipients; format; location of the sender during the communication; time or date communication was created, sent or received; or information pertaining to any individual or device participating in the conversation. The CalECPA also limits the rights of a governmental entity to access electronic device information (EDI) from the device. EDI includes any information stored on or generated through the operation of an electronic device including current and prior locations of the device

a. The CalECPA provides that a government entity may compel the production of or access to ECI from a service provider only under the following circumstances:

- (1) Pursuant to a search warrant issued pursuant to PC 1523-1542.5 that also complies with PC 1546.1; or
- (2) Pursuant to a wiretap order issued pursuant to PC 629.50-629.98; or
- (3) Pursuant to an order for electronic reader records issued pursuant to Civil Code 1798.90; or

- (4) Pursuant to a subpoena provided that the information is not sought for the purpose of investigating or prosecuting a criminal offense.
- b. The CalECPA provides that a government entity may access EDI from a device only under the following circumstances (PC 1546.1):
- (1) Pursuant to a wiretap order pursuant to PC 629.50-629.98; or
 - (2) With the specific consent of the authorized possessor of the device; or
 - (3) With the specific consent of the owner of the device, only when the device has been reported lost or stolen; or
 - (4) If the government entity in good faith believes that an emergency involving danger of death or serious physical injury to any person requires access to the EDI; or
 - (5) If the government entity in good faith believes the device to be lost, stolen or abandoned, and the entity accesses EDI only in order to attempt to identify, verify or contact the owner or authorized possessor of the device; or
 - (6) If the device is seized from an inmate's possession or found in an area of a correctional facility where inmates have access and the device is not in the possession of an individual and the device is not known or believed to be in the possession of an authorized visitor.
- c. Requirements for CalECPA search warrants:
- (1) Describe with particularity the information to be seized: time periods covered, target individuals or accounts, applications or services covered, and types of information sought; and
 - (2) Provide that any information obtained that is not related to the warrant's objective be sealed and not subject to further review, use or disclosure without a court order; and
 - (3) Comply with all provisions of California and federal law.
- d. Voluntary disclosures.

A service provider may voluntarily disclose ECI or subscriber information but the government entity must destroy the information within 90 days unless the government entity:

- (1) Obtains specific consent of the sender or recipient of the ECI;
- (2) Obtains a court order authorizing retention;
- (3) Reasonably believes the information relates to child pornography and it is retained as part of a multiagency database use in the investigation of child pornography and related crimes.

e. Emergencies.

If the government obtains electronic information pursuant to an emergency involving death or serious injury, then within 3 days it must file with the court an application for a warrant or order authorizing the obtaining of the electronic information, or a motion seeking approval of the emergency disclosure. The Court may order immediate destruction upon a finding that the facts did not give rise to an emergency or upon rejecting the application on any other ground.

f. Notice to Target.

When a warrant is executed or when electronic information is obtained in an emergency without a warrant, a notice must be served upon the target explaining that information about the target has been compelled or requested and stating with “reasonable specificity” the nature of the governmental investigation. Notice must be provided contemporaneously with execution of the warrant, or within 3 days after an emergency request. If there is no identified target (i.e. the electronic information is needed to identify the target) then the governmental entity must submit to DOJ within 3 days the same information that would have been sent to a target.

(Note: the 3-day period runs from date of receipt of information if target is known, and from date of request if target is not known.) Permits 90-day delay upon Court order, with extensions in 90-day increments.

g. Standing to challenge search.

Gives any person standing to move to suppress any electronic information obtained in violation of PC 1546-1546.4 or of the Fourth Amendment to the United States Constitution. Note: this is a wide expansion of the usual rules regarding standing to challenge searches. It appears to give a defendant standing to challenge the search of a victim’s phone.

E. Retention and return of weapons seized at scene of domestic violence

1. Retention: If a firearm is confiscated, issue a receipt to the owner describing the firearm and listing the serial number or other known identifier. Explain that the weapon will be returned within five business days after the owner or possessor demonstrates compliance with PC sections 33850 and 33855 (must apply to the State Department of Justice for a determination of whether they are eligible to possess a firearm).

a. The firearm or other deadly weapon taken into custody shall be held for at least 48 hours per PC 18265. If the weapon is seized as

evidence of a crime or the owner of the firearm is subsequently prohibited from possession by a restraining order, the firearm will not be returned (PC 33850, 33855, 34000).

- b. When a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon seized would likely endanger the victim or person who reported the assault or threat, the agency shall so advise the owner and initiate a petition in superior court within 60 days (90 days if good cause for an extension can be shown) to determine if the firearm or other deadly weapon should be returned. (PC 18400, 18265.)
2. Return: Any weapon not to be used as evidence and not illegally possessed must be made available to the owner / person in lawful possession 48 hours after the seizure or within 5 business days after the person receives a determination from DOJ that they are eligible to possess a firearm. (See PC 33850)

OBTAINING, SERVING AND ENFORCING RESTRAINING ORDERS

Police officers involved in domestic violence investigations may deal with civil or criminal restraining orders. (See pages 7-8 of this Protocol for definitions of various kinds of domestic violence restraining orders, both criminal and civil.)

A. Verification of the existence of a domestic violence restraining order.

If, at the scene of a domestic disturbance, a person shows or informs the officer of the existence of a restraining order, it is crucial to establish the present status and terms of the order. Pursuant to Penal Code section 13710, each Law Enforcement Agency shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents. These records shall include orders which have not yet been served, orders issued pursuant to Penal Code section 136.2, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect.

B. Service of domestic violence restraining orders.

Law enforcement agencies may be requested to serve a protective order issued by the Family Law Court, Juvenile Justice Court, or Civil Court. Typically these orders are served by the Santa Clara County Sheriff's Office or by a civilian process server.

Service of a civil protective order: Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody (13710(c) PC). Within one business day of service, the law enforcement agency serving the protective order shall enter the proof of service directly into the DOJ California Restraining and Protective Order System (CARPOS), including the officer's name and employing agency and shall transmit the original proof of service to the issuing court or to the protected party. (FC 6380(d)).

The following is the general procedure that should be followed when serving a protective order:

1. The Family Court, Juvenile Justice Court, or Civil Court will send a copy of the protective order to the Sheriff's Office. The request will include a form indicating if there may be firearms in the possession of the restrained party. These cases should receive top priority by the agency serving the protective order.

2. When the restrained person is a juvenile, both the minor and their parent or guardian need to be served with any court-ordered domestic violence restraining order.
3. Law enforcement officer serving a protective order **MUST** request that all firearms and ammunition immediately be surrendered to the officer (FC 6306).
4. The officer may take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present (PC 18250).
5. If the firearm is not immediately surrendered, a restrained party must provide proof of surrender of a firearm within 48 hours. An investigation for a violation of PC 273.6(g) should be considered if the restrained party does not show proof of surrender of the firearm within 48 hours to the agency serving the order.
6. The investigating agency may consider obtaining a search warrant pursuant to Penal Code section 1524(9) or Penal Code section 1524(11) to seize the firearm.
7. The law enforcement agency should conduct an investigation whenever it receives written findings from a judge (see Attachment FM-1124 included at page 73 of this Protocol) that a restrained person has not surrendered their firearms and there exists reasonable suspicion that the restrained person is still in possession of firearms.

C. Enforcement of domestic violence restraining orders.

A protective order itself is enforceable once the Court issues the order. A *violation* of the protective order is enforceable only after it can be proved that the restrained person had actual knowledge of the order and its terms and thereafter willfully violated those terms.

1. All domestic violence restraining orders, whether civil or criminal, will be enforced by all law enforcement officers.
2. Verbal notice by the officer of the terms of the order is sufficient to prove knowledge in any criminal prosecution for violation of the order. However, in order to successfully prosecute a later violation of the order, the officer who delivered verbal notification must be able to testify that the subject notified was positively identified as the restrained person (FC 6383(e)). The officer should also be able to identify the conditions disclosed to the restrained party. Notification should be memorialized for future reference. No service is required if the restrained person was present at the hearing when the order was made.

3. Each agency shall ensure the original Proof of Service (see DV-200 Proof of Personal Service attached at page 72 of this Protocol) is filed with the court issuing the order and a copy retained with the police report. Note: The terms and conditions of the restraining order remain valid and enforceable, in spite of the acts of the victim, and may be changed only by order of the court.
4. Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.
5. If the officer cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the officer's opinion that the elements of the crime do not exist, the officer may then consider a release per Penal Code Section 849(b).
6. If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation and the officer will attempt to locate the suspect and arrest pursuant to section 836(c) PC.

Officers shall always prepare a crime report on a restraining order violation, even if the suspect is no longer present.

7. If a violation of a restraining order is alleged, the officer shall request of records or communications personnel that information on the reported violation is entered into the California Restraining and Protective Order System (CARPOS).
8. Juvenile Justice Court orders are considered Civil Court orders for this purpose.

D. Conflicting Orders – What to Enforce. (See flow chart on page 62.)

1. The general rule is that the most restrictive order should be enforced if there is more than one protective order in effect. In other words, law enforcement should enforce a no-contact restraining order regardless if it is issued in criminal or civil court.

a. Emergency Protective Order in Effect:

If one of the orders is an Emergency Protective Order issued pursuant to Penal Code section 136.2, the peace officer must enforce the emergency protective order provided that the provisions are more restrictive than provisions of the other orders. An emergency protective order may be issued pursuant to Family Code sections 6250 – 6257 or Penal Code section 646.91 (stalking).

b. Multiple Civil or Criminal Protective Orders and at least one “No

Contact” Order:

If an Emergency Protective Order does not exist, and there is more than one protective/restraining order, and one of the orders is a “no contact” order as described in Family Code section 6320, the peace officer must enforce the “no contact” order.

c. Multiple Civil/Family Law Orders without a “No Contact” Order:

If there are multiple civil orders and no Emergency Protective Orders and no “no contact” orders, then the peace officer must enforce the most recent protective order.

d. Criminal and Civil Protective Orders without a “No Contact” Order:

If there is a civil and a criminal order, and none of the orders is an Emergency Protective Order or a “no contact” order, a peace officer must enforce the criminal protective order.

E. Emergency Protective Orders

When addressing any domestic violence incident, an officer shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO) or civil restraining order, in every case even if the suspect is arrested and in non-criminal situations where the victim is fearful. The officer is required to request the protective order if the officer believes the person requesting the order is in immediate and present danger.

1. In arrest situations, the following procedures should be implemented:

- a. When a person is arrested based upon an allegation of a recent incident of abuse, or threat of abuse, or stalking, and the officer can assert reasonable grounds to believe that a person is in immediate and present danger of domestic violence, or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative, then the police officer shall explain the EPRO to the victim and ask whether the victim desires one. Where the officer fears for the safety of the victim, but the victim does not desire an EPRO, an investigating officer shall request one on behalf of the victim (Family Code section 6275.) The officer shall advise the victim that an EPRO has been issued. Every effort must be made to provide the victim with a copy of the EPRO at the earliest opportunity.
- b. If an EPRO is appropriate, the application should be completed. Even if the suspect is no longer at the scene, an EPRO request is appropriate. The officer should note on the application whether or not the suspect has been arrested, or will be arrested when located. During normal court hours the police officer should call the Family Court at **(408) 792-4317** and ask to speak to a judge available to

process an EPRO. After 5 PM on weekdays, on weekends, and holidays, the police officer should call County Communications at (408) 299-2501 and ask for the Duty Judge to call back. The police officer should leave the phone number where they can be reached. Officers should ensure that the telephone equipment is operational before requesting that the Duty Judge utilize that number. If the Duty Judge is not available, the officer should ask to speak to another Judge.

2. In a non-arrest situation where an EPRO is desired, the officer should complete an application and then contact the Duty Judge or Family Court for evaluation and issuance of the EPRO.
3. Upon obtaining an Emergency Protective Order, a Law Enforcement Officer must take the following FOUR (4) actions (Family Code section 6723):
 - a. Serve the order on the restrained person. An officer is to make a reasonable attempt to serve the restrained party. If they are present or can be readily contacted, serve the order and complete the Proof of Service on the form. Document whether and how the order was served in the police report.
 - b. Give a copy to the Protected Person.
 - c. File a copy with the Court. Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Justice Center Courthouse at 201 N. First St., San Jose, California 95113.
 - d. Enter the order into the Department of Justice's computer database.

Note: Copies of the EPRO should be distributed as follows:

Original	– Court
Yellow	– Restrained Person
Pink	– Protected Person
Goldenrod	– Law Enforcement Agency

4. A judicial officer may also issue an EPRO if a peace officer asserts reasonable grounds to believe that a person is stalking another person as defined in PC 646.9 (authority PC 646.91).
5. Persons subject to restraining orders are required to turn over all firearms/ammunition when requested to do so by law enforcement. Refer to Firearm Removal Protocol (page 69 of this Protocol) if necessary. No minor should have a firearm or ammunition in his/her possession.

F. Out-of-State Protective Orders

Officers shall enforce out-of-state protective or restraining orders that are presented to them if conditions below are met. “Out-of-state” orders include those issued by U.S. Territories, Indian tribes, and military agencies.

1. The order appears valid on its face.
2. The order contains both parties’ names.
3. The order has not yet expired. (Full Faith and Credit Provision of the Violence Against Women Act, Family Code sections 6400-6409).

Officers should check CLETS to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity. If validation cannot be substantiated, contact the Duty Judge for an EPRO, but the out-of-state protective or restraining order must still be enforced if it meets the above criteria. If not registered in California, parties should be advised to immediately register the order through the Family Court.

G. Canadian domestic violence protective orders (See Family Code section 6452-6457.)

Officers shall enforce Canadian domestic violence protection orders that are presented to them if the conditions below are met. A certified copy of the Canadian order is *not* required.

- 1. The order identifies a protected person and a respondent;**
- 2. The order is valid and in effect;**
- 3. The issuing (Canadian) court had jurisdiction over the parties and the subject matter under law applicable in the issuing court, and**
- 4. The order was issued after either the respondent had reasonable notice and had an opportunity to be heard or, in the case of an ex parte order, the respondent was given notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with due process. (Family Code section 6453.)**

H. Firearm removal after a restraining order has been issued.

1. When an officer verifies that a restraining order has been issued, the officer will make reasonable efforts to:
 - a. Inquire of the restrained person, if present or contacted during the investigation, if they possess firearms.

- b. Inquire through the CLETS and the Consolidated Firearms System (CFS) to determine if any firearms are registered to the restrained person.
 - c. Inquire of the protected person whether the restrained person possesses any firearms.
 - d. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.
 - e. Request the immediate surrender of firearms and ammunition when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms.
 - f. Request a search warrant in appropriate circumstances. (See Pg.33 under "Follow-Up Investigation".)
2. A restrained party may not own, possess or purchase a firearm or ammunition (FC 6389). An investigating agency may need to:
 - a. Inquire if the restrained person possesses any firearms or ammunition.
 - b. Investigate the results of efforts made to locate and seize any unlawfully possessed firearms or ammunition.
 3. All law enforcement agencies shall have the responsibility of receiving and storing firearms surrendered pursuant to a restraining order for residents in their jurisdiction.
 4. Each county law enforcement agency having responsibility for the investigation of domestic violence shall adopt policies and procedures addressing the receipt, storage and release of firearms surrendered or seized pursuant to a restraining order.
 5. A restrained party should get a "Property Removal" Order signed by a Judge in order to obtain and effectuate a civil standby order to remove personal property. (See Form FM-1102 on page 66 of this Protocol.)

Restraining Order Admonition

What should you do if a court order prohibits you from contacting a protected person and the protected person initiates contact with you?

The law (Penal Code Section 13710 (b)) clearly states that the terms and conditions of the protective order remain enforceable, notwithstanding the acts of the parties, and may be changed only by order of the court.

This means if the protected person calls you, invites you over or contacts you in any manner, you must quickly end all such contact. You must hang up the phone, decline the invitation or leave the immediate area where they are. If you do not do this, you can and will be arrested for violating the protective order.

The protective order prohibits you from having any contact with the protected person. This order does not prohibit them from contacting you, therefore they are not breaking the law; but you are if you continue the contact.

In order for a protective order to be modified to allow contact, the party requesting the order must return to court and make that request. That individual will get a document (piece of paper) showing that the order was modified. If the protected person tells you the order was modified to allow peaceful contact, ask to see the document, make a copy of it and carry it on your person at all times.

VICTIM ASSISTANCE

- A. If a victim has injuries, visible or not, which require medical attention, officers shall administer first aid, as appropriate, and offer to arrange for proper medical treatment. The officer shall transport or call for transport of the victim and children to a hospital for treatment when necessary, or stand by until the victim and children can safely leave.
- B. When a victim in a domestic violence incident requests police assistance in removing a reasonable amount of personal property (e.g., a suitcase) to another location, officers shall stand by a reasonable amount of time until the party has safely done so.
- C. In all domestic violence incidents, an officer shall:
 - 1. Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.
 - 2. Explain options available to the victim including the private person's arrest process, temporary restraining orders, Emergency Protective Restraining Orders, changing of locks and in cases of arrest, the follow-up procedures in ensuing criminal or juvenile justice proceedings.
 - 3. Advise the victim about the Victim's Rights Act of 2008, and provide the victim with a DOJ or Santa Clara County "Marsy's Card".
 - 4. Advise the victim of available community resources and the California Victim Compensation Program. (This includes the victim of an alleged battery or corporal injury to a domestic partner.) Pursuant to Penal Code section 13701, officers shall furnish victims with a "Domestic Violence Resource Card" which includes the phone number for the Victim Services Unit in Santa Clara County (408-295-2656) and the toll free number for the California Victim Compensation Program (1-800-777-9229). The card shall include the names and phone numbers of shelters or counseling centers, and state that domestic violence or assault by a person who is known to the victim or who is the spouse of the victim is a crime. The card will contain an explanation of the Santa Clara County Victim Notification Service (1-800-464-3568).
 - 5. Inform the victim that the domestic violence resource card states that the victim has the right to have a domestic violence advocate and a support person of the victim's choosing present at any follow-up interview conducted by law enforcement authorities, prosecutors, or defense attorneys. Officers should also advise that a victim can contact of the advocacy centers immediately.

6. Verify and enforce court issued protective orders pursuant to this protocol.
 7. Exercise reasonable care for the safety of the officers and parties involved. No provision of this instruction shall supersede that responsibility.
 8. Provide a copy of the report relating to domestic violence to the victim at no charge when requested, or to the representative of the victim even if the victim is not deceased (FC 6228). A qualifying representative of a living victim is a parent, guardian, adult child, or adult sibling who presents to law enforcement identification and a signed authorization (if the victim is age 12 or older) by the victim allowing the family member to act on the victim's behalf; an attorney for the victim who presents to law enforcement identification and a written proof that they are the attorney for the victim; and a conservator of the victim who presents identification and a copy of the letters of conservatorship demonstrating that he or she is appointed conservator of the victim.
- D. If the suspect is taken into custody, the victim will be provided the option of having their phone number blocked by the Santa Clara County Department of Corrections to prevent the suspect from contacting the victim while the suspect is in custody.

MILITARY SUSPECTS

- A. All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if:
 - 1. The incident occurred outside the boundaries of a military facility; or
 - 2. Local law enforcement agencies are called to assist in handling such an incident.
- B. The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.
- C. No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by non-military authorities.
- D. The Field Officer should determine the suspect's military status (active or reserve) and current duty station.

JUVENILE SUSPECTS

All provisions of this protocol, including pro arrest and booking of the perpetrator, whether a felony or misdemeanor, enforcing Protective and Restraining Orders, shall be applied to all juvenile cases of domestic violence. Domestic violence, as defined by the Penal Code, is violence perpetrated against juveniles as well as adults. Domestic violence includes violence perpetrated by or against juveniles.

LAW ENFORCEMENT SUSPECTS

All domestic violence incidents involving peace officer suspects, as statutorily defined, should be handled according to this protocol.

Any field officer investigating an alleged incident of domestic violence involving a law enforcement suspect must notify an on-duty supervisor or watch commander as soon as possible. The investigating officer shall not leave the scene of the investigation until the on-duty supervisor or watch commander has been notified. The investigating agency shall notify the employing agency as soon as possible after the incident or initial report. All alleged incidents of domestic violence involving suspects who are employed as peace officers will be reviewed by the District Attorney's Office. All reports and information regarding suspects who are employed as peace officers shall be delivered to the suspect's law enforcement employer as soon as practical at the completion of the investigation.

The investigating agency shall contact their local domestic violence agencies for assistance when referring the victim to an advocate trained in working with victims of domestic violence perpetrated by law enforcement suspects.

Each law enforcement agency should follow its protocol for conducting an internal investigation regarding the incident.

CAMPUS ASSAULTS

If an officer takes a report of a domestic violence incident on a high school, college or university campus, and the victim is a student, the officer shall: 1) advise the victim of additional resources that are available to them on campus, and 2) if the suspect is also a student at the same institution, advise the victim of their rights under Title IX, including the name and phone number of the Title IX Coordinator at their campus.

TRAINING

- A. Each law enforcement agency shall conduct mandated domestic violence training for members of the agency per 13519(b) PC and 13730 PC. In addition, the Domestic Violence Council and its sub-committees, in partnership with the Santa Clara County Police Chiefs' Association and the District Attorney's office, will conduct a four (4) hour "Train the Trainer" course on the annual changes to this protocol in the spring of each year. In addition, topical and relevant training will supplement the training of the protocol, and can include, but is not limited to:
- ☐ victim's rights,
 - ☐ understanding victims and batterers,
 - ☐ understanding the effects of DV on children,
 - ☐ **understanding the unique issues affecting LGBTQ victims and batterers,**
 - ☐ understanding how to determine the dominant aggressor,
 - ☐ lethality assessments,
 - ☐ death review,
 - ☐ proper investigation techniques,
 - ☐ cultural and language sensitivity,
 - ☐ restraining orders,
 - ☐ firearms laws,
 - ☐ victim advocacy groups and resources,
 - ☐ DA and Court policies and procedures, and
 - ☐ Other relevant topics.
- B. Additional training should include written bulletins, DVD's, videotapes, verbal reminders, and updates during patrol briefings.
- C. The Chief of Police, Sheriff, or their designee, shall ensure the review of their department's training policies annually and make any revisions deemed necessary.

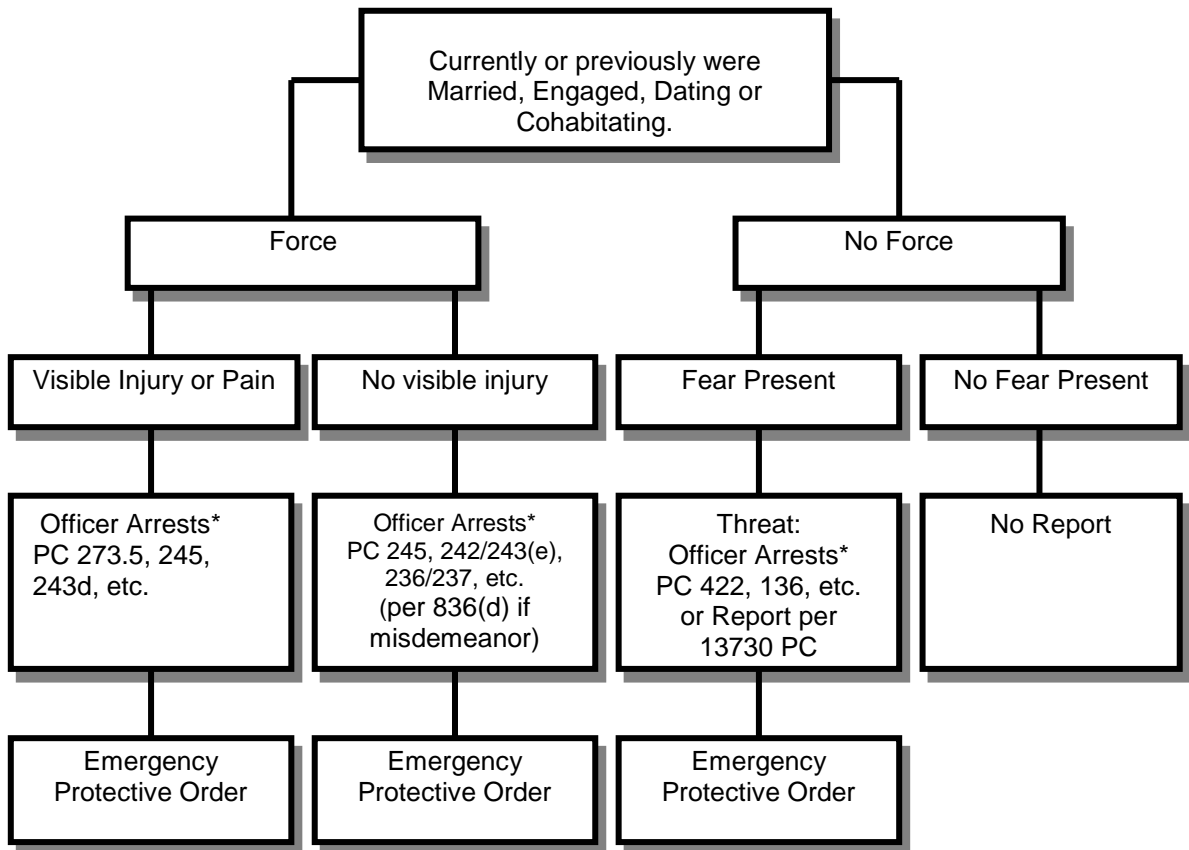
DOMESTIC VIOLENCE STATUTES

All Penal Code statutes listed below apply equally to adults and juveniles.

	Law Enforcement Response	Spouse/ Cohabitant Assault	Restraining Orders	Emergency Protective Orders	Confiscating Firearms	Domestic Violence Battery
Victim's Relationship to Defendant	PC 13700	PC 273.5	FC 6218	FC 6300	PC 12028.5	PC 243(e)
Spouse	X	X	X	X	X	X
Former Spouse	X	X	X	X	X	X
Cohabitant	X	X	X	X	X	X
Former Cohabitant	X	X	X	X	X	
Dating Relationship (current or former)	X	X	X	X	X	X
Engaged or Formerly Engaged	X	X	X	X	X	X
Co-parent	X	X	X	X	X	X
Child	X		X	X	X	
Parents & Other People Related by Consanguinity (aunts, uncles, grandparents, etc.)	X		X	X	X	

DOMESTIC VIOLENCE FLOW CHART

Processes charted below apply to both adult and juvenile cases.



*All arrests require probable cause to believe that a crime occurred.

**Assistance for Domestic Violence Victims
Santa Clara County District Attorney's Office- Victim Services Unit
(408) 295-2656**

The Santa Clara County District Attorney's Office, Victim Services Unit is designed to assist victims of violent crime by providing emotional support, crisis intervention services, resource and referral assistance, compensation for crime-related expenses, and comprehensive support throughout the criminal justice system. Victim Advocates are available to provide or arrange services to meet the material, emotional and informational needs experienced by victims of crime, thereby allowing for a swifter and more complete recovery from the impact of the crime. Victim Advocates demonstrate an understanding of victims' rights law, the dynamics of victimization, crisis intervention, and adult and juvenile criminal justice procedures. Victim Services Unit's Advocates can assist victims in applying for the California Victim Compensation Program.

Who is eligible for the California Victim Compensation Program?

"Victim" – anyone who suffers physical injury or threat of physical injury as a result of a crime that occurs in California providing the person is reasonably willing to assist law enforcement in the investigation and/or prosecution of the crime. A California resident, victimized elsewhere, may also be eligible for assistance. Children who reside in a home where domestic violence has occurred are also considered victims, regardless of whether they witnessed the crime.

"Derivative Victim" – other members of the victim's family or household (may include, but not limited to: parent, sibling, spouse, grandparents, grandchildren) who are affected emotionally by the crime. Persons who become primary caretakers of children as a result of a crime may also be considered derivative victims and minor witnesses who suffer emotional injury as a result of seeing or hearing a violent crime. This includes minors in close proximity to the victim.

What assistance is available through the Victim Compensation Program?

Temporary Lodging. When the need is immediate, police officers may recommend victims to seek lodging (hotel, motel) for later reimbursement.

Counseling and mental health treatment up to \$10,000 for victims and \$3,000 for derivative victims (a higher limit of \$10,000 is available to some derivative victims). Children who reside in a home where domestic violence has occurred are considered direct victims.

Home security upgrade up to \$1,000.

Medical and dental expenses resulting from the crime.

Moving or relocation expenses up to \$2,000 per household.

Qualifying wage or income loss due to a crime related disability.

Support loss for dependents of deceased or disabled victims, up to \$70,000 combined and shared by all derivative victims.

Job retraining for disabled victims.

Home or vehicle renovation or retrofitting for permanently disabled victims up to \$63,000.

Funeral and/or burial expenses up to \$7,500.

Crime scene clean-up up to \$1,000 for qualifying crimes that occurred in a residence or a vehicle performed by State certified practitioners.

Important: Victims are encouraged to file a claim with the California Victim Compensation Program to establish eligibility whether or not there is a current need.

Questions & Answers

How can police officers assist a victim in obtaining assistance through the Victim Services Unit?

Police officers should always provide a domestic violence victim with the phone number for the Victim Services Unit and explain benefits available through this program.

During weekday business hours, police officers may call the Victim Services Unit to refer a victim and facilitate the submission of an application by the victim. Victims may also call the Victim Services Unit directly. Completion of a Law Enforcement Relocation Recommendation Form (form attached) by a police officer will help expedite requests for temporary lodging and permanent relocation.

When temporary lodging (hotel, motel) is needed after business hours, a police officer should explain to a victim that reimbursement for temporary lodging expenses is *possible* through the Victim Services Unit. The officer should complete a Law Enforcement Relocation Recommendation Form (form attached), fax the form to the Victim Services Unit, and instruct the victim to call the program as soon as possible during business hours to submit an application for assistance.

Note: A Letter of Recommendation may be made by any law enforcement officer, and can include a probation officer, a parole agent, a district attorney or a judge.

Are all persons involved in a domestic violence incident eligible for assistance?

No, those ineligible for assistance include:

- Perpetrators or persons who committed the crime.
- Persons under supervision for a violent felony conviction (even if a domestic violence victim) except when the victim is killed, then funeral and burial expenses may be covered but not medical expenses.

How quickly can a victim receive reimbursement for qualifying expenses?

Once an application is submitted, a copy of the crime report has been received, and all other relevant documents are submitted, the Victim Witness Assistance Program may issue a reimbursement check for qualifying expenses on the same day, if there is an immediate need or within 15 days. If there is no immediate need, general processing time is 30 to 90 days for reimbursement.

If a victim receives benefits through the California Victim Compensation program, then refuses or neglects to assist law enforcement in the investigation and/or prosecution of the crime; will the victim be required to repay the State?

If a victim chooses to stop cooperating with law enforcement and/or prosecution, such action may result in the discontinuance of financial reimbursement for crime related expenses. The California Victim Compensation Program has discretion in determining the level of cooperation and may consult with law enforcement to determine a victim's reasonable level of cooperation.

What are the time limitations for seeking assistance through the California Victim Compensation Program?

Effective January 1, 2013, victims must establish eligibility for assistance within three year of the incident date. Late applications may be allowed under some restricted good cause guidelines. Once a victim establishes eligibility, the victim may request assistance at any time thereafter.

Is temporary lodging and permanent relocation both available to a victim?

Yes, a victim may request temporary lodging and assistance with permanent relocation. However, assistance provided for temporary lodging is included in the victim's maximum relocation benefit of \$2,000 per qualifying family or household member.

For additional information or to apply for assistance, contact:

Victim Services Unit:
70 W. Hedding Street, Suite 130
San Jose, CA 95110
Phone: (408) 295-2656 Fax: (408) 289-5430
victimservices@dao.sccgov.org



Law Enforcement Relocation Verification Form

CalVCB Application No.: _____

Instructions: This form is for law enforcement to document the threat to the personal safety of the crime victim seeking relocation benefits from the California Victim Compensation Board (CalVCB). This form may be used with or without a letter from law enforcement. If a letter is submitted without this form, it must be on the law enforcement agency's letterhead and contain all of the information requested in this form including signature, title, and badge number (if applicable).

Victim Information			
Name		Phone Number	
Address	City	State	Zip
Crime Information			
Crime Date	Crime Code	Crime Report Number	
From the date of the crime to the present, has the <u>victim</u> been in prison, on probation, on parole, or post-release community supervision because of a felony? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Is the <u>victim</u> required to register as a sex offender? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Is or was it necessary for the victim to relocate for personal safety? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not enough information to determine If <u>Yes</u> , besides the elements of the crime, please describe the threat to the victim's personal safety:			
Is the perpetrator incarcerated? <input type="checkbox"/> Yes <input type="checkbox"/> No If <u>Yes</u> , what is the expected release date? _____			
If <u>Yes</u> , is there still a threat to the victim's safety? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If <u>Yes</u> , please explain the nature of the threat:			
If more than 90 days has passed since the crime, is there still a credible threat to the victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Please explain:			
Name of Law Enforcement Official Providing Information (print):			
Agency Name:		Contact Phone Number:	
Signature:	Badge Number (if applicable):	Date:	
FOR STAFF USE: If Form is <u>not</u> fully completed, contact the Law Enforcement agency, add the missing information, complete the section below and have the document scanned in.			
Law Enforcement Official Providing Information	Badge Number	Phone Number	
VW Center Name, Number and Advocate/ Staff Completing This Form	Phone Number	Date	

CALIFORNIA VICTIM COMPENSATION BOARD

PO Box 3036 • Sacramento, CA 95812 • Phone: 800.777.9229 • Fax: 1.866.902.8669 • vcdma.ca.gov

VER-C-LM-RLEV-R
DRS Code - 19229
Rev. 06/2016



**SANTA CLARA COUNTY DOMESTIC VIOLENCE
LETHALITY ASSESSMENT FOR FIRST RESPONDERS**

Date:	Case #:
Officer:	Agency:
Victim:	Offender:
Victim's Safe Numbers to Call: Home: Cell: Work:	Would you like to provide names/phone numbers of 2 people that can reach you? 1. 2.
Is the victim monolingual/limited English proficient? If yes, what language do they speak?	
<input type="checkbox"/> Check here if the victim did not answer any of the questions.	
<i>If the victim answers YES to any questions 1-3, please call the appropriate domestic violence crisis hotline and have the counselor speak with the victim.</i>	
1. Has your current or previous partner ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
2. Have they threatened to kill you or someone else?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
3. Do you think your current or previous partner might try to kill you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
<i>If the answers to the above questions are NO but at least 4 of the questions below are YES please contact the hotline. ("They" refers to the current or previous partner.)</i>	
4. Do they have a gun or can they easily get one?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
5. Have they ever tried to choke /strangle you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
6. Are they violently or constantly jealous or try to control most of your daily activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
7. Have you left or separated from your partner after living together or being married?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
8. Are they unemployed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
9. Have they tried to commit suicide?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
10. Do you have a child that they know is not theirs?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
11. Do they follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer
12. Is there anything else that worries you about your safety? If yes, what concerns do you have?	
<i>Officers are encouraged to call the hotline whenever they believe the victim is in a potentially lethal situation regardless of the victim's responses to the questions above.</i>	
Check one: <input type="checkbox"/> Victim screened in based on responses <input type="checkbox"/> Victim did not screen in <input type="checkbox"/> Victim screened in based on the belief of officer	
Did the victim speak with the hotline counselor? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div> San Jose, Mountain View, Palo Alto, Los Altos, Sunnyvale, Milpitas, YWCA Silicon Valley: 1-800-572-2782 / FAX: 408-293-9696 </div> <div> Sheriff's Office, Campbell, Santa Clara, Los Gatos-Monte Sereno, Next Door Solutions: 408-279-2962 / FAX: 408-279-7577 </div> </div> <div style="margin-top: 20px;"> Morgan Hill, Gilroy, South County Sheriff, Community Solutions: 1-877-363-7238 / FAX: 408-778-9672 </div>	
PLEASE FAX THIS DOCUMENT TO THE APPROPRIATE DOMESTIC VIOLENCE AGENCY	

Conducting the Lethality Assessment:

This evidence-based Lethality Assessment tool is a user-friendly, straightforward instrument that predicts danger and lethality in domestic incidents between intimate or former intimate partners to a high degree. Research shows that only 4% of abused victims had used a domestic violence hotline or shelter within the year prior to being killed by an intimate partner. This Assessment encourages victims in high danger to seek domestic violence program services to prevent serious injury or death.

Purpose:

- a. To improve the way law enforcement and the community respond to victims;
- b. To educate and empower victims;
- c. To respond more strategically to high danger or lethal situations; and
- d. To enhance cooperation, communication and collaboration among law enforcement and domestic violence service providers.

Step 1 – Fill out the Lethality Assessment form with the victim.

The officer should advise the victim that they will ask a short series of questions to help the officer determine how much immediate danger the victim is in. The assessment questions should be asked in the order they are listed on the form.

Ask all the questions, even if the victim responds positively to questions 1-3, which triggers a hotline call. The more questions the victim responds to positively, the clearer and more immediate it is that the victim is in danger.

Step 2 – Assess the responses to the lethality assessment.

“Yes” to Questions 1, 2 or 3 = Call Hotline

“No” to Questions 1-3 but “Yes” to four of Questions 4-11 = Call Hotline

“No” responses may still warrant a hotline call if the officer believes it is appropriate. An officer may call the hotline and assess the victim as being in high-danger whenever they believe the victim is in a potentially lethal situation.

Step 3 – Victim is Assessed as High-Danger – Referral Process.

1. Explain assessment to victim.
2. Advise that you need to call hotline and you would like for victim to speak with an advocate. (Remember: You are seeking the victim's permission.)
3. If victim does not want to speak with an advocate, tell victim you need to speak with an advocate to seek guidance and gently ask victim to reconsider. **Let the victim know that the advocate's services are**

free and confidential. They can assist with safety planning, emergency shelter and legal assistance.

4. Call the hotline and give them the basic facts.
5. If victim still does not want to speak with an advocate, follow procedures under step 4 below.

Step 4 – Victim is assessed as non-high danger, or the victim did not/could not participate in assessment or hotline call:

1. Advise of dangerous situation.
2. Advise to watch for signs of danger.
3. Refer to providers on DV resource card.

Step 5 – Provide the victim with the DV resource card, case number and Marsy's card as per the DV protocol.

Step 6 – **As soon as is practical**, please fax all Lethality Assessment forms to the appropriate DV organization listed on the bottom of the form regardless of the answers or whether or not the victim answered any of the questions. **The goal is to connect every domestic violence victim with a confidential advocate as soon as possible.**

Conflicting Orders: What to Enforce When You Have Multiple Orders?

Penal Code § 136.2, and Family Code §§ 6383 (h), 6405 (b)

(1) Is there an EPRO?

Yes

No

Enforce the
EPRO!
*as long as it is the
more restrictive
order*

(2) Is one of the orders a
no-contact order?

Yes

No

Enforce the
no-contact
order!

(3) Are there
both civil and
criminal restraining
orders?

4) Are there multiple civil
orders? (e.g. Family, Juvenile
or other civil court)

Enforce the
most recent
order!

Enforce the
criminal order!
*Non-conflicting
terms of the civil
order
remain in effect*

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)**1. PROTECTED PERSONS** (insert names of all persons protected by this Order):
_____**2. RESTRAINED PERSON (name):** _____Sex: ☐ M ☐ F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____**3. TO THE RESTRAINED PERSON:**

- a. ☐ **YOU MUST NOT** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy any personal property of, disturb the peace of, keep under surveillance, or block the movements of each person named in item 1.
- b. ☐ **YOU MUST NOT** contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.
- c. ☐ **YOU MUST** ☐ stay away at least: _____ yards from each person named in item 1.
☐ stay away at least: _____ yards from ☐ move out immediately from
(address): _____
- d. **YOU MUST NOT** own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer.
- e. **YOU MUST NOT** take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.

4. ☐ (Name): _____ is given temporary care and control of the following
minor children of the parties (names and ages): _____

5. THIS ORDER WILL EXPIRE AT THE CLOSE OF THE COURT BUSINESS DAY ON: _____

6. **TO THE PROTECTED PERSON:** If you need protection for a longer period of time,
you must request restraining orders from the court in the county where you live:

INSERT DATE OF FIFTH COURT DAY OR SEVENTH
CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT
COUNT DAY THE ORDER IS GRANTED

(Name and address of court): _____

If you go to court to request restraining orders, take your copy of this form with you. If a juvenile petition is pending, file in that court.

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): _____ granted this Order on (date): _____ at (time): _____

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons):

10. ☐ Firearms were: ☐ observed ☐ reported ☐ searched for ☐ seized

11. ☐ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.

12. ☐ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order ☐ does ☐ does not exist.

By: _____

(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____

Telephone No.: _____

Badge No.: _____

PROOF OF SERVICE

13. Person served (name): _____

14. I personally delivered copies of this Order to the person served as follows: Date: _____ Time: _____
Address: _____

15. At the time of service, I was at least 18 years of age and not a party to this cause. ☐ I am a California law enforcement officer.

16. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF SERVER)

(SIGNATURE OF SERVER)

Page 1 of 2

**EMERGENCY PROTECTIVE ORDER
WARNINGS AND INFORMATION**

EPO-001

TO THE RESTRAINED PERSON: VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR IT MAY BE PUNISHABLE AS A FELONY. THIS PROTECTIVE ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. THE TERMS AND CONDITIONS OF THIS ORDER REMAIN ENFORCEABLE REGARDLESS OF THE ACTS OF THE PARTIES; IT MAY BE CHANGED ONLY BY ORDER OF THE COURT (PENAL CODE SECTION 13710(b)).

YOU ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM OR AMMUNITION. (PENAL CODE SECTIONS 29825(a), 30305(a).) A VIOLATION IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. WITHIN 24 HOURS OF RECEIPT OF THIS ORDER, YOU MUST TURN IN YOUR FIREARMS TO A LAW ENFORCEMENT AGENCY, SELL THEM TO A LICENSED FIREARMS DEALER, OR STORE THEM WITH A LICENSED FIREARMS DEALER UNTIL THE EXPIRATION OF THIS ORDER. (PENAL CODE SECTION 29830.) PROOF OF SURRENDER, SALE, OR STORAGE MUST BE FILED WITH THE COURT WITHIN 48 HOURS OF RECEIPT OF THIS ORDER.

To the restrained person: This order will last until the date and time in item 5 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney on any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

A la persona bajo restricción judicial: Esta orden durará hasta la fecha y hora indicada en el punto 5 al dorso. La persona protegida puede, sin embargo, obtener una orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado inmediatamente para que él o ella le pueda ayudar a responder a la orden.

To the protected person: This order will last only until the date and time noted in item 5 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 6. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 6, or if there is a juvenile dependency action pending, you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody and Visitation Order* from the court. You may seek the advice of an attorney on any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

A la persona protegida: Esta orden durará sólo hasta la fecha y hora indicada en el punto 5 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el punto 6. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el punto 6, o si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés *Welfare and Institutions Code*. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*). Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado inmediatamente para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

To law enforcement: The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy shall be filed with the court as soon as practicable after issuance. Also, the officer shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. 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. A law enforcement officer shall use every reasonable means to enforce an emergency protective order. A law enforcement officer who acts in good faith to enforce an emergency protective order shall not be held civilly or criminally liable.

If a child is in danger of being abducted: This order will last only until the date and time noted in item 5 on the reverse. You may apply for a child custody order from the court.

En el caso de peligro de secuestro de un niño o de una niña: Esta orden será válida sólo hasta la hora y fecha indicada en el punto 5 al dorso. Usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*).

This emergency protective order is effective when made. This order shall expire on the date and time specified in item 5 on the reverse. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons to the extent the provisions of this order are more restrictive. In other words, the provisions in this emergency protective order take precedence over the provisions in any other protective order, including a criminal protective order, if (1) the person to be protected is already protected by the other protective order, (2) the person to be restrained is subject to that other order, and (3) the provisions in this emergency order are more restrictive than the provisions in that other order. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.

EPO-001 [Rev. January 1, 2014]

EMERGENCY PROTECTIVE ORDER (CLETS-EPO)
(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

Page 2 of 2

CALIFORNIA SECRETARY OF STATE SAFE AT HOME PROGRAM

Safe at Home is California's address confidentiality program administered by the California Secretary of State's office. The program, which provides a free post office box and mail forwarding service, is designed to help victims and survivors of domestic violence, stalking or sexual assault to start new lives in peace and to provide added protections to their overall safety plans.

Safe at Home is not a Witness Protection Program, nor does it provide relocation, counseling or legal services. Safe at Home laws apply to state and local government agencies, but not to private entities or to the federal government. Participants are not automatically qualified for other victim services programs; they must meet specific qualifications in order to be eligible for services administered by the Secretary of State's office, county Registrar of Voters offices, the California Superior Court System, and the California Department of Motor Vehicles.

Available Services

Agent for Service of Process

The Secretary of State acts as your agent for service of process to protect your address information from being disclosed to the other party in your court case. When you enroll, Safe at Home instructs the other party and his or her attorney to serve court-related correspondence on the Secretary of State's office in Sacramento. The service is then forwarded by certified mail to your confidential address. ([per Government Code §6206\(a\)\(5\)](#))

Confidentiality for Children

If your children are enrolled, Safe at Home can provide an additional layer of protection for them, too. You can notify your enrolled child's school of your family's participation in Safe at Home and prevent sharing of information about your child. ([per Government Code §6206\(a\)](#))

Confidential Mail-Forwarding

First-class mail is securely handled and forwarded to your confidential home or mailing address. Residence address information is required to be current at all times and you must be domiciled in California in order to enroll or renew your enrollment in the program. ([per Government Code §6206\(a\)](#))

Confidential Name Change

You may be eligible to petition a California court for a confidential name change. It is important to talk with a legal advisor before proceeding with a confidential name change. Safe at Home is responsible for filing the name change documents with the Secretary of State's office, but does not provide legal advice or assistance with completing the confidential name change process. ([per Government Code §6206.4](#), [Code of Civil Procedure §1277](#))

Confidential Voter Registration

You may be eligible to complete a confidential voter registration card and become a confidential voter. As a confidential voter, you can vote by mail and protect your voter registration information from campaigns, the media, and the general public. ([per Government Code §6207.5](#), [Elections Code §2166.5](#))

Department of Motor Vehicles (DMV) Records Suppression

The California Department of Motor Vehicles can suppress your driver license and vehicle registration records if you have a clean driving record and no criminal history. Suppression of these records protects your address information from being available on various state databases. A specific request to the DMV Confidential Records Unit is required in order to access the records. ([per Government Code §6207\(e\)](#), [Vehicle Code §1808.21\(d\)](#))

Internet Disclosure Prohibition

The California Office of the Attorney General, Privacy Enforcement and Protection offers an online opt-out form Safe at Home participants can use to remove their home address, telephone number or personal identifying information from a website. The law also prohibits a person, business, or association from knowingly and intentionally posting or displaying on the Internet, or soliciting, selling, or trading on the Internet a participant's home address, telephone number or personal identifying information and imposes a fine for violations of this law. ([per Government Code §6208.1 and 6208.2](#))

FM-1102 Other Orders – Property Removal

Case Number: _____

This form is attached to: ☐ DV-110/130 ☐ CH-110/130 ☐ EA-110/130 ☐ JV-250/255

1. Protected Person's name: _____
2. Restrained Person's name: _____
3. **Taking personal items of property:** As a **one-time exception** to the "Personal Conduct" and "Stay-Away" orders attached to this form, the ☐ **Restrained Person** ☐ **Protected Person**:
 - a. ☐ May take agreed upon items of property from the ☐ Protected Person's ☐ Restrained Person's home. Items that the parties do not agree upon must not be taken unless the Court makes an order allowing the items to be removed. The agreed upon items of property may be taken between (date) _____ and (date) _____ between (times) _____ and _____.
 - b. ☐ May only take items of property that are described in item 7. The items may be taken between (date) _____ and (date) _____ between (times) _____ and _____.
 - c. ☐ Must send a written list of personal property items which are being requested to the other party by mail _____ calendar days in advance of the removal date and items which are agreed upon must be removed as set forth above in section 3a. The mailing of this list by the Restrained Person (if applicable) is an exception to the No Contact Orders.
 - d. ☐ Must place the other party's personal belongings as listed in item 7 in a box or boxes for pick up by/delivery to the other party or his/her designated representative. The terms of pick up/delivery must be as follows:

 - e. ☐ Must contact Law Enforcement to request the Civil Standby. The exact date and time must be approved by Law Enforcement in advance of any property removal. Removal must not occur before 7 a.m. or after 10 p.m. If the Civil Standby does not take place due to scheduling issues or if Law Enforcement is unavailable or unwilling to be present for the Civil Standby either party may request a hearing for further orders.
4. **Civil Standby:** A "Civil Standby" is when a Law Enforcement Officer comes to a place to make sure that the situation there is peaceful. The party who is removing his/her personal items must give a copy of these Property Removal Orders to the Law Enforcement Officer. Both parties must obey the instructions of the Law Enforcement Officer present at the Civil Standby. A Civil Standby may last up to thirty minutes but may be stopped at any time by the Law Enforcement Officer.
5. ☐ **Peaceful Communication:** The parties may communicate peacefully with each other regarding the property removal while the items of property are being removed as an exception to the attached Personal Conduct orders. Any Law Enforcement Officer present while the items of property are being removed has the authority to stop all communication. Such communication, if peaceful, is an exception to any No Contact Orders.
6. **Others present at property removal:**
 - a. ☐ Minor children shall not be present during property removal.
 - b. ☐ The property removal shall not take place _____ (name of party) or his/her designated representative is not present.
 - c. ☐ Each party may have up to two other people who are not listed as protected people on this Restraining Order present while the items of property are being removed. Any contact between the parties and these people must be peaceful.
 - d. ☐ The parties may not have others present when the items of property are removed.
 - e. ☐ The following people ☐ may be ☐ may not be present when the items of property are removed:

7. **Other Orders:**
 - a. The orders herein are for temporary possession and the issue of final ownership of any item may be subject to review by a Court of competent jurisdiction.
 - b. Items to be removed:
 - (1) ☐ **Necessary Personal Property**, which means clothing, toiletries, prescribed medication, medical records, medical insurance card, driver's license or State identification cards;
 - (2) ☐ **List of items to be removed:**
☐ **See Attachment**

EPO-002
FIREARMS EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

7. **RESTRAINED PERSON** (insert name of subject): _____

Sex: ☐ M ☐ F Ht: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of Birth: _____

8. **TO THE RESTRAINED PERSON** (Also see important Warnings and Information on Page 2):

YOU MUST NOT own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms or ammunition, you **MUST IMMEDIATELY SURRENDER THEM IN A SAFE MANNER TO LAW ENFORCEMENT ON REQUEST**. If not request has been made, you must surrender all firearms and ammunition in a safe manner to your local law enforcement agency or sell them to or store them with a licensed gun dealer **within 24 hours** of being served with this order. You must then **file a receipt proving surrender, sale, or storage with the Court listed below within 48 hours**, or if the court is closed, then on the next business day after the firearms are surrendered or sold. **FAILURE TO TIMELY FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

(Name and address of court): _____

9. **THIS ORDER WILL EXPIRE ON:** _____ **TIME:** _____

INSERT DATE OF 21ST CALENDAR DAY
DO NOT COUNT DAY THE ORDER IS GRANTED

10. Reasonable grounds for the issuance of this Order exist, and a Firearms Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to himself or herself or to another by having custody or control, owning, purchasing, possessing, or receiving a firearm; **and** (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

11. **To the Restrained Person:** This order will last until the expiration date and time noted above. You are required to surrender all firearms and ammunition that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Judicial Officer (name): _____

granted this Order on (date): _____

at (time): _____

APPLICATION

6. Officer has a reasonable cause to believe that the grounds set forth in Item 4, above exist. (State supporting facts and dates; specify weapons—number, type and location):

7. ☐ Firearms were: ☐ observed ☐ reported ☐ searched for ☐ seized

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By: _____
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

► _____
(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____

Telephone No.: _____

Badge No.: _____

PROOF OF SERVICE

8. Person served (name): _____

9. I personally delivered copies of this Order to the person served as follows: Date: _____ Time: _____
Address: _____

10. At the time of service, I was at least 18 years of age. ☐ I am a California law enforcement officer.

11. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____
(TYPE OR PRINT NAME OF SERVER)

► _____
(SIGNATURE OF SERVER)

FIREARMS EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm or ammunition. (Pen. Code § 18125 et seq.) A violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code §§ 19, 18205.)

Within 24 hours of receipt of this order, you must turn in your firearms to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or the next court business day if the 48 hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use Form GV-800, *Proof of Firearms Turned In, Sold, or Stored* for this purpose.

This Firearms Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front.

A law enforcement officer or agency or a family member may seek a more permanent restraining order from the court. However, you can seek to terminate this order or any more permanent order before expiration by filing a request with the court listed on the front.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for an additional five-year period, to begin on the expiration of the more permanent gun violence restraining order. (Pen. Code § 18205.)

This protective order must be enforced by all law enforcement officers in the State of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A la persona restringida: Tiene prohibido ser dueño de una arma de fuego, poseer o tratar de comprar, recibir o tratar de recibir u obtener una arma de alguna otra manera. (Código Penal §§ 19 y 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar sus armas de fuego a una agencia del orden público o venderlas a o guardarlas con un comerciante de armas autorizado hasta el vencimiento de esta orden. (Código Penal §§ 18125 y siguientes.) Dentro de las 48 horas de recibir esta orden, se tiene que presentar a la corte una prueba de haberlas entregado, vendido, o guardado. Se puede usar la forma GV-800 por este propósito.

Esta orden de protección de emergencia de arma de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 al otro lado.

Un agente o agencia del orden público o un familiar puede pedir que la corte emita una orden de restricción más permanente de la corte. Sin embargo, puede pedir dar fin a esta orden antes de su fecha de vencimiento al presentar una solicitud con la Corte indicada en el punto 3 al otro lado.

Si está en violación de esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o intentar comprar o recibir un arma de fuego o municiones por otro período de cinco años más, a comenzar a partir del vencimiento de la orden restricción actual de violencia con armas de fuego. (Código Penal § 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma deberá hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Firearms Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. A copy must be filed with the court as soon as practicable after issuance. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this Temporary Firearms Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

**SANTA CLARA COUNTY
PROTOCOL FOR RELINQUISHMENT OF FIREARMS AND
AMMUNITION PURSUANT TO PROTECTIVE/RESTRAINING
ORDERS**

Authority

California and federal laws require that individuals who are the subject of civil restraining orders or criminal protective orders may not own or possess firearms or ammunition for the duration of the orders. Cal. Family Code § 6389(a), Cal. Code of Civil Procedure §§ 527.6, 527.8, Cal. Penal Code §136.2.

A restrained person has two options for surrendering his or her firearms and/or ammunition:

1. The restrained person may surrender his/her firearms and/or ammunition in a safe manner to their local law enforcement agency immediately upon request of any law enforcement officer to the control of the officer after being served with the restraining or protective order. If no request is made, the restrained person may surrender his/her firearms and/or ammunition in a safe manner within 24 hours of being served with the restraining/protective order. Cal. Family Code §6389(c)(2).
2. The restrained person may sell his/her firearms and/or ammunition to a federally licensed gun dealer who is listed with the California Department of Justice Firearm Dealer's Centralized list.

The law enforcement agency or federally licensed gun dealer must issue a receipt to the restrained person. This can be done on the Judicial Council form DV-800, which is available online at www.courtinfo.ca.gov under forms for domestic violence. The receipt must be filed with the Court within 48 hours of the person being served with the restraining or protective order. Cal. Family Code § 6389 (b)(2).

Firearms Relinquishment Procedure:

1. The Court will require that each restrained person subject to a civil restraining order or criminal protective order be served with Instructions for Safely Taking a Firearm and/or Ammunition to Law Enforcement and a list of Frequently Asked Questions concerning Firearm Relinquishment.
2. In the event that a restrained person elects to turn in his/her firearms and/or ammunition to law enforcement, the Receiving Agency will be

the law enforcement agency requesting the relinquishment of the firearms and/or ammunition immediately upon service of the restraining or protective order. In the absence of a request for immediate surrender of firearms and/or ammunition, the Receiving Agency will be the local police department where the person resides or the Santa Clara County Sheriff's Office for those areas where there is no applicable local police department. The restrained person must follow the Instructions for Safely Taking a Firearm and/or Ammunition to a Law Enforcement Agency.

3. The Receiving Agency will schedule an appointment or appointments for the surrender of the firearms and/or ammunition as soon as possible within the 24 hour period from the service of the court order for relinquishment of the firearms and/or ammunition. The agency may require separate appointments for the relinquishment of firearms and ammunition.
4. The firearms and/or ammunition must be transported from the restrained person's residence or other location of the firearms and/or ammunition to the law enforcement facility in a safe and lawful manner. The firearms must be unloaded.
5. If possible, the restrained person shall supply the Receiving Agency with a copy of the restraining or protective order, which shall be kept by the agency. Failure of a party to produce a copy of the court order shall not be grounds for refusing to allow the surrender of the firearms and/or ammunition within the time required by law.
6. Law enforcement agencies may request a copy of the applicable restraining or protective order from the Santa Clara County Superior Court in the event that a party is not able to produce it. This shall not be grounds for delaying the relinquishment of the firearms and/or ammunition or the issuance of the receipt.
7. The department evidence custodian or other applicable staff person will complete an Evidence/Property Receipt form and/or Judicial Council form DV-800 listing each firearm, its serial number, make and model, and noting any outstanding characteristics in the firearm's condition, such as cracked stock, missing parts, or rust, for example. A copy of the Evidence/Property Receipt and/or form DV-800 will be given to the restrained party at the time that the firearms and/or ammunition are relinquished. The department will maintain a copy of the Receipt and/or DV-800 in its records for the duration of the time that the firearms and/or ammunition are retained by the agency.

8. In the event that any of the firearms are antiques or collector's items, the restrained person may provide written special storage requests to the Receiving Agency. The Receiving Agency does not guarantee to the restrained person that it will or may follow the special instructions.
9. The Receiving Agency may charge fees for storing the firearms and/or ammunition and shall provide written notice to the restrained person of such fees.
10. The Receiving Agency may elect not to store the firearms and/or ammunition for the full duration of the restraining or protective order. At the time that the firearms and/or ammunition are relinquished, the Agency shall provide written notice to the Restrained Party of how long they will store the firearms and/or ammunition. In the event that this should change, the Agency shall provide the restrained person with at least 30 days written notice of their intention to destroy or dispose of the firearms and/or ammunition.
11. The restrained person shall have the ability to sell the stored firearms only under the following conditions:
 - a) The owner will be allowed only one sale from storage, which must include all firearms.
 - b) The sale must be to a federally licensed firearms dealer.
 - c) The restrained person must provide the department with a bill of sale indicating that all firearms owned by that person and in possession of the local law enforcement agency have been sold by the restrained person to the licensed firearms dealer, then the licensed firearms dealer shall be given possession of those firearms.
12. A restrained person may also relinquish unloaded firearms and/or ammunition to law enforcement for the purpose of destruction of the firearms and/or ammunition. The restrained person must follow the Instructions for Safely Taking a Firearm and/or Ammunition to a Law Enforcement Agency. The Law Enforcement Agency may use an Evidence/Property Receipt form or Judicial Council form DV-800 with an attached instruction sheet which must be signed by the restrained person stating that the firearms and/or ammunition are to be destroyed.

SANTA CLARA COUNTY PROTOCOL
FOR RELINQUISHMENT OF FIREARMS AND AMMUNITION PURSUANT
TO PROTECTIVE/RESTRAINING ORDERS

3

(Rev. 5/14/07)

Clerk stamps date here when form is filed.

1 Name of Party Asking for Protection:

2 Name of Party to Be Restrained:

3 Notice to Server

The server must:

- Be 18 years of age or older.
- Not be listed in items 1 or 3 of form DV-100, *Request for Domestic Violence Restraining Order*.
- Give a copy of all documents checked in 4 to the restrained party in 2 (you cannot send them by mail). Then complete and sign this form, and give or mail it to the party in 1.



Fill in court name and street address:

Superior Court of California, County of

Court clerk fills in case number when form is filed.

Case Number:

4 I gave the party in 2 a copy of all the documents checked:

- a. ☐ DV-109 with DV-100 and a blank DV-120 (*Notice of Court Hearing; Request for Domestic Violence Restraining Order; blank Response to Request for Domestic Violence Restraining Order*)
- b. ☐ DV-110 (*Temporary Restraining Order*)
- c. ☐ DV-105 and DV-140 (*Request for Child Custody and Visitation Orders, Child Custody and Visitation Order*)
- d. ☐ FL-150 with a blank FL-150 (*Income and Expense Declaration*)
- e. ☐ FL-155 with a blank FL-155 (*Financial Statement (Simplified)*)
- f. ☐ DV-115 (*Request to Continue Hearing*)
- g. ☐ DV-116 (*Order on Request to Continue Hearing*)
- h. ☐ DV-130 (*Restraining Order After Hearing*)
- i. ☐ Other (*specify*):

5 I personally gave copies of the documents checked above to the party in 2 on:

a. Date: _____ b. Time: _____ ☐ a.m. ☐ p.m.c. At this address: _____
City: _____ State: _____ Zip: _____

6 Server's Information

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

7 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name

Server to sign here

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY
PROTECTED PERSON:	
RESTRAINED PERSON:	
FINDINGS RE NONCOMPLIANCE WITH ORDER TO RELINQUISH GUNS, FIREARMS OR AMMUNITION	CASE NUMBER:

This form is attached to: ☐ DV-110/130 ☐ CH-110/130 ☐ EA-110/130 ☐ WV-110/130
☐ JV-250/255 ☐ Other: _____

- The above matter came before the Court on _____ in Department _____ of the Superior Court, the Honorable _____, presiding.
- The Court makes the following findings by a preponderance of the evidence:
 - ☐ The Restrained Person received proper notice of the hearing.
 - ☐ The Restrained Person ☐ appeared ☐ did not appear for the hearing.
 - ☐ The Court issued a restraining order against the Restrained Person on (date) _____, which prohibits possession and requires the relinquishment of guns, firearms or ammunition, by surrender to Law Enforcement, or sale to or storage with a licensed gun dealer, as required by law.
 - ☐ The Restrained Person owns or has access to guns, firearms or ammunition.
 - ☐ The Restrained Person has failed to offer satisfactory proof that he or she has relinquished the guns, firearms or ammunition as required by law.
- The Protected Person should give this form to the law enforcement agency where he or she lives, along with a copy of the restraining order, to request help to enforce the order to relinquish guns or other firearms or ammunition.

Date: _____

 Judicial Officer

Instructions to Protected Person

You may call the non-emergency telephone number for the law enforcement agency where you live to request help in enforcing the order to relinquish the gun, firearms or ammunition. See list of agencies on Attachment FM-1124A.

If you have been a victim of strangulation, confidential support services are available to you.
The following organizations provide a comprehensive range of free and confidential services.

AACI Asian Women's Home

24-Hour Hotline 408-975-2739

www.dv.aaci.org

www.facebook.com/AACIorg

Languages: English, Vietnamese, Chinese and other Asian languages

YWCA SILICON VALLEY

24-Hour Hotline 1-800-572-2782

www.ywca-sv.org

www.facebook.com/ywcasv

Languages: English and Spanish

MAITRI

Helpline 1-888-8MAITRI or

1-888-862-4874

maitri@maitri.org

www.maitri.org

www.facebook.com/maitribayarea

Languages: English and South Asian languages

NEXT DOOR SOLUTIONS TO DOMESTIC VIOLENCE

24-Hour Hotline (408) 279-2962

www.nextdoor.org

www.facebook.com/NextDoorSolutions

Languages: English, Spanish, and Vietnamese

Community Solutions

24-Hour Hotline 1-877-363-7238

or 1-877-END-SADV

www.communitysolutions.org

www.facebook.com/CommunitySolutions

Services provided in Morgan Hill, San Martin and Gilroy

Languages: English and Spanish



Visit www.safechatsv.com for a secure, one-on-one live online chat with a confidential advocate

COUNTY OF SANTA CLARA STRANGULATION RESOURCE CARD

Information for Victims
of Strangulation

Facts About Strangulation

- Strangulation is an extremely dangerous and potentially deadly form of violence. It can take less than 20 seconds for a person to lose consciousness as a result of strangulation, and death can occur in just under 5 minutes.
- You may not experience any visible injuries, and symptoms of internal injuries may take up to 72 hours to appear.
- Internal injuries can be serious or fatal and may cause brain damage due to lack of oxygen. Symptoms can take hours, days or even weeks to develop.
- Seek immediate medical attention or call 911 if you experience difficulty breathing, speaking, swallowing or experience nausea, vomiting, lightheadedness, headache, involuntary urination and/or defecation, especially if you are pregnant.
- A medical evaluation may be crucial in detecting internal injuries and saving your life, and the life of your unborn child if you are pregnant.

- Stay with someone you trust for the first 24 hours and have them monitor your signs and symptoms.
- Strangulation is a significant predictor for future lethal violence in intimate relationships. If your current or former partner has strangled you, your risk of being killed by them is 7 times higher.
- Screening and counseling for domestic violence are covered under the Affordable Care Act as preventive health care.
- The cost of your medical care may be covered by your state's victim compensation fund. For more information about this resource call (408) 295-2656 or email victimservices@dao.sccgov.org.
- Strangulation may not only be a felonious assault, but it may be an attempted homicide.

You always have the right to file a police report, press charges for an assault or seek a restraining order against someone who is choosing to be abusive towards you.

See your doctor as soon as you can, especially if you have:

- a sore throat, hoarseness, difficulty breathing or swallowing
- discoloration on your tongue
- neck pain, bruising on the neck or behind your ears
- ringing in your ears
- bloodshot eyes
- dizziness
- memory loss
- drooling
- nausea or vomiting
- incontinence
- a seizure
- a miscarriage
- changes in mood or personality like agitation or aggression
- changes in sleep patterns
- changes in vision such as blurriness or seeing double
- fainted or lost consciousness
- Shaking (especially of the legs when trying to maintain balance)
- Headaches

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<u>Victim Type:</u> <input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____ <input type="checkbox"/> School, business or organization Name: _____ Type: _____ (e.g., non-profit, private, public school) Address: _____ <input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____	<u>Target of Crime (Check all that apply):</u> <input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property <input type="checkbox"/> Other _____ <u>Nature of Crime (Check all that apply):</u> <input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence <input type="checkbox"/> Property damage <input type="checkbox"/> Other crime: _____ Property damage - estimated value _____
	<u>Type of Bias (Check all characteristics that apply):</u> <input type="checkbox"/> Disability <input type="checkbox"/> Gender <input type="checkbox"/> Gender identity/expression <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Race <input type="checkbox"/> Ethnicity <input type="checkbox"/> Nationality <input type="checkbox"/> Religion <input type="checkbox"/> Significant day of offense (e.g., 9/11, holy days) <input type="checkbox"/> Other: _____ Specify disability (be specific): _____ <u>Actual or Perceived Bias – Victim’s Statement:</u> <input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)]. <input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. If perceived, explain the circumstances in narrative portion of Report. <u>Reason for Bias:</u> Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain in narrative portion of Report. Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No Describe in narrative portion of Report. Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No Describe in narrative portion of Report.	
BIAS	<u>Bias Indicators (Check all that apply):</u> <input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used <input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____ Describe with exact detail in narrative portion of Report.	
	<u>Relationship Between Suspect & Victim:</u> Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Nature of relationship: _____ Length of relationship: _____ If Yes, describe in narrative portion of Report	
HISTORY	<input type="checkbox"/> Prior reported incidents with suspect? Total # _____ <input type="checkbox"/> Prior unreported incidents with suspect? Total # _____ Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, describe in narrative portion of Report Type of order: _____ Order/Case# _____	
WEAPONS	Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____ Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No	

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#: _____		<input type="checkbox"/> Known to victim	
Taken by: _____ Serial #: _____				

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos	<input type="checkbox"/> Tattoos
	<input type="checkbox"/> Shaking	<input type="checkbox"/> Shaking
	<input type="checkbox"/> Unresponsive	<input type="checkbox"/> Unresponsive
	<input type="checkbox"/> Crying	<input type="checkbox"/> Crying
<input type="checkbox"/> Scared	<input type="checkbox"/> Scared	
<input type="checkbox"/> Angry	<input type="checkbox"/> Angry	
<input type="checkbox"/> Fearful	<input type="checkbox"/> Fearful	
<input type="checkbox"/> Calm	<input type="checkbox"/> Calm	
<input type="checkbox"/> Agitated	<input type="checkbox"/> Agitated	
<input type="checkbox"/> Nervous	<input type="checkbox"/> Nervous	
<input type="checkbox"/> Threatening	<input type="checkbox"/> Threatening	
<input type="checkbox"/> Apologetic	<input type="checkbox"/> Apologetic	
<input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Other observations: _____	

<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>		
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

<u>Resources offered at scene:</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____		
--	--	--

MEDICAL	<u>Victim</u>	<u>Suspect</u>		<u>Paramedics at scene?</u> <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment	Name(s)/ID #: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment	Hospital: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment	Jail Dispensary: _____
	Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Physician/Doctor: _____
				Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

**Officer-Involved Incident
Guidelines - rev. September 9.pdf**



SANTA CLARA COUNTY POLICE CHIEFS' ASSOCIATION

Officer-Involved Incident Guidelines Revised by Santa Clara County Police Chiefs' Association, September 2021

September 9, 2021

Chief Gary Berg
Chair, Santa Clara County Police Chiefs' Association

Members:

CALIFORNIA HIGHWAY PATROL
Captain Jason Reardon

CAMPBELL POLICE DEPARTMENT
Chief Gary Berg

GILROY POLICE DEPARTMENT
Chief Pedro Espinosa

LOS ALTOS POLICE DEPARTMENT
Chief Andy Galea

LOS GATOS-MONTE SERENO POLICE DEPT.
Acting Chief Clinton Tada

MILPITAS POLICE DEPARTMENT
Acting Chief Jared Hernandez

MORGAN HILL POLICE DEPARTMENT
Chief Shane Palsgrove

MOUNTAIN VIEW POLICE DEPARTMENT
Chief Chris Hsiung

PALO ALTO POLICE DEPARTMENT
Chief Robert Jonsen

SAN JOSE POLICE DEPARTMENT
Chief Anthony Mata

SAN JOSE STATE UNIVERSITY POLICE DEPT.
Interim Chief Ric Abeyta

SANTA CLARA COUNTY DISTRICT ATTORNEY'S
OFFICE
District Attorney Jeffrey Rosen

SANTA CLARA COUNTY SHERIFF'S OFFICE
Sheriff Laurie Smith

SANTA CLARA POLICE DEPARTMENT
Chief Pat Nikolai

SUNNYVALE DEPARTMENT OF PUBLIC SAFETY
Chief Phan Ngo

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FOREWORD

Investigations of Officer-Involved Incidents are frequently more complex and demanding than other incidents which do not involve peace officers or custodial officers. Applicable administrative, criminal statutory and case law is complex and often contradictory. The collection of evidence and its analysis is at issue long after the incident. Questions arise about the propriety of a law enforcement agency conducting an investigation wherein one of its own officers is involved. Public and news media attention is intense.

The potential social, civil, administrative, and criminal consequences of Officer-Involved Incidents are profound and affect many parties. If adequate safeguards are not delineated in advance, the public's "right to know" may well conflict with the progress of the investigation and the "right to a fair trial." When several agencies are involved, differences in policy, procedure, personnel, resources, and interests may conflict, hamper, or delay the investigative process.

As a result of these factors, these guidelines have been developed to guide individual agencies conducting investigations of Officer-Involved Incidents. The goal of these guidelines is to help assure that such cases are fully and fairly investigated, and that proper dispositions of such cases are made based upon all the legally available, relevant evidence.

This document represents the consensus of member agencies as to how such cases are to be investigated. The guidelines permit individual agencies to make modifications in order to meet individual agency regulations. The guidelines are not intended to increase the civil or criminal liability of member agencies or their employees and shall not be construed to create any mandatory obligations to, or on behalf of, third parties. Agencies represented should review their related policies and make every effort to modify them to avoid conflict with these guidelines. Each agency's individual policy may be attached to these guidelines.

A. GENERAL POLICY STATEMENT

Investigations of Officer-Involved Incidents will be conducted to develop all available relevant information about the incident. They will be performed in a manner that provides for a thorough and credible investigation that is free from conflicts-of-interest.

Such investigations are designated "Incident Investigations", the goals of which are to determine:

1. The identity of the person(s) responsible;
2. The existence or non-existence of conduct constituting a criminal act; and
3. If it is determined that a criminal act has been committed, then the following are to be determined:
 - a. Any legal or factual defenses to the crime;
 - b. The existence of any factors which might mitigate or aggravate punishment for the criminal conduct.

The investigations shall be performed in a manner consistent with the rules of evidence in a criminal proceeding. Any administrative or civil investigation shall be separate and distinctly different from the Incident Investigation.

The investigation of each Incident will commence as promptly as practicable after the occurrence.

B. DEFINITIONS

For the purpose of these guidelines the following definitions are offered:

"Officer-Involved Incident"

An "Officer-Involved Incident" is any incident in which a peace officer or custodial officer (both herein referred to as "Officer"), acting under color of authority, is directly involved in the following:

1. Any discharge of a firearm by an Officer which proximately causes the death of, or injury to another.
2. An intentional use of any other deadly or dangerous weapon by an Officer which proximately causes the death of, or injury likely to produce death to another.
3. An intentional act on the part of an Officer that proximately causes the death of, or injury likely to produce death to another.

4. Any death of person while in custody, or under Officer control.
 - a. Excluded from mandatory protocol investigations are post-booking deaths of prisoners, which occur in jails, hospitals or other facilities, while the prisoner is under the custody and care of a Law Enforcement Agency's (LEA) medical care provider for diagnosed diseases or conditions which have been known and monitored and/or treated by the LEA's medical care provider prior to death, but only when the deaths were medically expected and when custodial suicide, trauma, accident, or use of intoxicants was not involved.

"Peace Officer" and "Custodial Officer"

1. Local law enforcement officers defined by Penal Code § 830.1 et seq. (e.g., Municipal Police, Sheriff, D.A. Investigators, and Reserve Officers and Reserve Deputies defined by Penal Code §830.6).
2. Custodial Officers defined by Penal Code § 831.5 (e.g., DOC Correctional Officers).
3. Probation Officers defined by Penal Code § 830.5.
4. State Officers (e.g., CHP, DOJ, University Police, Parole Officers).
5. Federal Agents (e.g., FBI, BATFE, U.S. Marshall, I.C.E., DEA);
6. Welfare Fraud and Coroner Investigators defined by Penal Code§ 830.35.

"Primary Agency"

The agency, or agencies, with geographic jurisdiction over the incident.

"Employing Agency"

The agency which employs the Involved Officer.

"Officer-Involved"

1. The Officer whose act may be a "proximate cause" of the injury to another person; or
2. The Officer who may intend that his/her act be a "proximate cause" of the injury to another person.

"Proximate Cause"

A cause which, in a natural and continuous sequence, produces the injury, and without which the injury would not have occurred.

"Incident Investigator"

An investigator assigned to the Incident Investigative Team.

"Incident Investigative Team"

Incident Investigators assigned by the Primary Agency(cies) and the District Attorney's Office to conduct the to conduct the Incident Investigation. Persons from an outside agency may also be part of the Incident Investigative Team upon mutual agreement of the Primary Agency and the District Attorney's Office and upon concurrence from the Case Management Team.

"Case Management Team"

The team responsible for managing the Officer Involved Incident and for the supervision of the investigators assigned to the Incident Investigative Team.

C. INVESTIGATIVE RESPONSIBILITY

The responsibility for conducting the Incident Investigation rests with the Incident Investigative Team. The Primary Agency has responsibility for the preservation and security of the scene(s), collection of evidence at the scene(s) and from the Involved Officer(s), including their equipment and/or vehicles, when appropriate.

1. Initial officers at the scene will make all reasonable efforts to preserve and secure the scene, pending the arrival of the Incident Investigators.
2. The Incident Investigative Team usually will conduct the investigation. However, they may seek investigative assistance from other agencies or by those agencies otherwise noted in this protocol.
3. If investigative assistance is obtained from another agency, the Incident Investigative Team may maintain control of the investigation itself, or it may relinquish the primary responsibility for the investigation to the agency from which it obtained the assistance.
4. The District Attorney Crime Lab or the crime scene unit of another jurisdiction may be called upon for assistance at the discretion of the Incident Investigative Team.
5. In Incidents where a vehicular collision or other vehicular movement is involved, another agency may be called upon for investigatory assistance in that phase of the Incident Investigation.

Until agreement regarding investigative responsibility is reached among the various Involved Agencies in a specific case, immediate investigative responsibility is determined in this order:

1. Incident Investigative Team.

2. The agency whose on-duty employee, acting apparently for a law enforcement purpose, was an Involved Officer.
3. The agency within whose jurisdiction the decedent's body was first discovered after infliction of the injury.

If an on-duty peace officer is involved in an Incident within the geographical jurisdiction of another agency, but was acting in the performance of his/her duties in connection with a criminal matter originating in his/her own jurisdiction, the Primary Agency may defer its investigative authority to the officer's own agency, which will then investigate the Incident as part of the Incident Investigative Team.

The Sheriff's Office maintains jurisdictional responsibility for the investigation of criminal conduct that occurs at certain locations within the county. As such the Sheriff's Office shall be part of the Incident Investigative Team and the Incident Management Team for Incidents that occur or emanate from the below listed locations or any other location as noted in the current "Mutual Protocol entered by and between the City of San Jose, on behalf on the San Jose Police Department and, the Office of the Sheriff – Santa Clara County":

1. Within the buildings or secured grounds of detention or correctional facilities, including:
 - a. AIB, 875 North San Pedro Street, San Jose
 - b. Elmwood Correctional Center (including grounds), 701 South Abel Street, Milpitas
 - c. Juvenile Hall, 840 Guadalupe Parkway, San Jose
 - d. Main Jail, 180 West Hedding Street, San Jose
2. Within the buildings or secured grounds of Superior Court Facilities, including:
 - a. Family Justice Center Courthouse, 201 N. First St., San Jose
 - b. Hall of Justice (East and West), 190 West Hedding Street, San Jose
 - c. Juvenile Justice Court, 840 Guadalupe Parkway, San Jose
 - d. Downtown Superior Courthouse, 191 North First Street, San Jose
 - e. Old Courthouse, 161 North First Street, San Jose
 - f. Palo Alto Courthouse, 270 Grant Avenue, Palo Alto

- g. Santa Clara Courthouse, 1095 Homestead Road, Santa Clara
- h. South County Courthouse, 301 Diana Ave., Morgan Hill
- 3. On Santa Clara Valley Transportation Authority (VTA) equipment and property, including:
 - a. VTA light-rail trains;
 - b. VTA busses;
 - c. VTA light rail stations and platforms; and
 - d. VTA parking lots.
- 4. Within the facilities or grounds of Stanford University.
- 5. Within the facilities or grounds of the County hospital facility including:
 - a. Valley Medical Center, 751 S. Bascom Ave., San Jose;

D. ROLE OF THE DISTRICT ATTORNEY¹

During an Incident Investigation, the District Attorney's Office will:

- 1. Participate in the management of the incident along with assigned command from the Primary Agency.
- 2. Assist and advise the Incident Investigative Team on the various legal issues that may arise, including search and seizure, *Miranda*, identification procedures, arrests, elements of crimes, immunity, and voluntariness.
- 3. Assist in the writing of search warrants and arrest warrants.
- 4. Monitor the Incident investigation.
- 5. Ultimately determine if criminal liability exists.

¹ In the event the Involved Officer is a District Attorney Investigator, District Attorney Investigators will not participate on the Incident Investigative Team. Rather, investigators from another Santa Clara County police department or Sheriff's Office, and not part of the Primary Agency, will assume the role of the District Attorney Investigator(s) on the Incident Investigative Team. Such investigators will be selected by the Incident Management Team upon approval of the respective Chief of Police, Sheriff or command staff designees.

E. MANAGEMENT OF AN OFFICER INVOLVED INCIDENT

A Command staff member from the Primary Agency and the District Attorney's Office Bureau of Investigation, along with the assigned Deputy District Attorney, shall comprise the membership of the "Case Management Team (CMT)" for an Officer-Involved Incident as defined in this protocol. Their function in this regard is to co-manage the incident and to ensure the following:

1. The provisions of this protocol are followed
2. The CMT members are co-equal in their authority
3. The CMT works together to manage the criminal investigation to ensure the best investigative outcome

In the event the Primary Agency or the District Attorney's Office defers their responsibilities to another law enforcement agency (e.g. the 'Employing Agency'), the outside agency command staff member shall also replace the respective member on the Case Management Team.

Generally, the officials assigned to the Case Management Team should hold the approximate rank of lieutenant, or if holding lesser rank, should be given lieutenant-level authority by their agencies for their participation on this Team.

These individuals should be experienced and knowledgeable in Officer-Involved Incident investigations; should have supervisory authority over investigators from their respective agencies; and should have sufficient knowledge and authority to make a variety of decisions pertaining Officer-Involved Incidents.

Officials assigned to the Case Management Team work together as a team and the members are co-equal. While their primary function is to work with each other to manage and coordinate the Criminal Investigation, occasionally one or more members may need to perform some Criminal Investigative functions.

Should a conflict occur amongst members of the Case Management Team that cannot be resolved and such conflict would have a material and adverse effect on the investigative outcome of the Officer-Involved Incident, the primary agency's Chief or Sheriff, or designee, shall be consulted along with the District Attorney or his/her designee.

F. NOTIFICATIONS

Upon identifying an occurrence as being an "Officer-Involved Incident", the Employing Agency shall make the following notifications as promptly as possible:

1. Intra-department, as required by that agency's procedures;
2. Primary Agency (If different from the Employing Agency); and

3. District Attorney's Chief Investigator or designee (via County Communications).
4. On-Call Homicide Deputy District Attorney (via County Communications).

The Primary Agency shall make the following confirmations and notifications as promptly as possible:

1. Confirm the on-call Homicide Deputy District Attorney and the District Attorney's on-call Chief Investigator, or designee, has been notified; and
2. Upon confirmation of a fatality, notification of the Coroner's Office.

G. SCENE PROCEDURES AND SECURITY PENDING ARRIVAL OF INVESTIGATORS

Emergency life saving measures have the first priority. If a person is transported to a medical facility with injuries, an officer should accompany that person in the same vehicle for the following purposes:

1. Preserve, safeguard, and maintain the chain of evidence;
2. Obtain witness statements and document any spontaneous statements made to medical personnel;
3. Maintain custody if the person is under arrest, ensuring the preservation of his/her clothing and possessions; and
4. Provide information to and from the medical personnel. (If airlifted, immediate response to the hospital is required).

Pending arrival of the Incident Investigative Team and the Case Management Team, the scene(s) should be secured immediately, with a perimeter established for each scene a sufficient distance away to safeguard evidence.

1. Access should be limited to only those who must enter for official reasons;
2. When not needed for life saving efforts, entry by fire and ambulance crewmembers should also be limited to those whose presence is necessary; and
3. A log, started as soon as possible, should be kept of the identities of all persons entering the scene, the time of their entry and exit, and the reason for the entry of each.

Whenever possible, all witnesses and Involved Officers should be separated as soon as practical after the incident to ensure that statements and recollections of events are independent.

1. In cases of a death in a jail or detention facility, all persons, including prisoners, who may have witnessed events leading up to the death shall be identified and separated pending interviews by the Incident Investigative Team.

Ultimately, the Primary Agency has the responsibility for securing and processing the crime scene, including the Involved Officers, however, shall do so under the direction of the Incident Investigative Team.

1. Evidence collection, witness coordination and general crime scene processing will be under the authority and follow the procedures of the Primary Agency, as authorized by the Incident Investigative Team. The Primary Agency may defer its investigative authority on the Incident Investigative Team to the Employing Agency;
2. Physical evidence at the scene which is in danger of being contaminated, destroyed, or removed must be promptly and effectively observed, recorded and then protected for subsequent collection.

H. INCIDENT INVESTIGATION VS. ADMINISTRATIVE/CIVIL INVESTIGATION

This protocol is intended as an interagency guideline for Incident Investigations (as defined on page 1) of Officer-Involved Incidents. This protocol is not intended to address issues concerning the administrative investigation of the incident.

1. The administrative or civil investigation is the function of the agency employing the Involved Officer and will include administrative and non-criminal matters that are not within the scope of the Incident Investigation.
2. At the onset of the investigation of an incident, there must be an immediate and clearly defined distinction between the Incident Investigation and the administrative and civil Investigation.
3. The agency employing the Involved Officer, whether it is the Primary Agency or not, has an interest in the outcome of the Incident Investigation and may utilize the results of that investigation for its own non-criminal purposes (e.g., determination of possible violations of departmental regulations, establishing suitability for duty, training for use in civil suits or administrative claims brought by or against the agency).

I. INTERVIEWS WITH PEACE OFFICER AND CUSTODIAL OFFICER EMPLOYEES

Interviews with officer and custodial officer employees should be conducted by the investigator(s) from the Incident Investigative Team. The Incident Investigative Team will determine who will participate in the interview of any Involved Officer(s) or witnesses and where the interview(s) will take place.

1. Prior to the interview of an Involved Officer, investigators from the Primary Agency should review all available audio/video recordings from police vehicle in-car cameras, personal body-worn cameras by responding officers and/or an Involved Officer,

independent third parties, and independent sources.

2. Interviews of an Involved Officer and witnesses to an Incident should be recorded.
3. Whenever practical, interviews should be video recorded.
4. The assigned Deputy District Attorney investigator and Employing Agency representative, if not physically present during the interview, will be permitted to monitor the interview or have immediate access to any recording made of the interview.

The initial interview of an Involved Officer should occur before the officer has reviewed any audio/video recordings of the incident. An Involved Officer will have an opportunity to review recordings after the initial statement has been taken. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by an Involved Officer. If the investigator shows any audio/video recordings to an Involved Officer after the initial interview, the investigator has the discretion to admonish an Involved Officer about the limitations of audio/visual recordings.

The following is an example of an admonishment that would be appropriate in a case involving video evidence:

In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance, or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident.

Investigators may ask an Involved Officer to view the incident scene during a "walk-through." The investigator will determine the timing of the "walk-through," however, it should not occur prior to the initial statement of an Involved Officer. Only one Involved Officer at a time will be permitted to do a "walk-through" of the scene.

If, prior to or during the interview, it is deemed that an Involved Officer may be charged with a criminal offense, and the interview becomes custodial, the Involved Officer shall be immediately informed of his/her constitutional rights pursuant to the *Miranda* decision.

To ensure the voluntariness of an interview with an Involved Officer, that has not reached the level of a custodial interrogation, the investigator may wish to advise him/her as

follows:

1. The Involved Officer is not in custody and is free to leave the interview.
2. The Involved Officer is not obligated to answer incriminating questions, and answers that are given may be used against him/her in court.

The Involved Officer may consult with a representative prior to being questioned by the Incident Investigators. Some or all of these considerations may be applicable:

1. The consultation should not be allowed to materially impede the investigation.
2. The representative should be permitted to consult with only one Involved Officer at a time.
3. To ensure the integrity of each interview, it is important that statements about the incident not be relayed through such representatives; rather, the Involved Officer and other officer witnesses should answer the questions directly even if they need to consult with their representative prior to answering.

J. INTOXICANT TESTING

If the Incident Investigators determine that an Involved Officer's state of sobriety is relevant to the Incident Investigation, they shall proceed as they would with any civilian person in a similar situation. Their options are to:

1. Obtain a blood sample for alcohol and/or drug testing, and/or a urine sample for alcohol and/or drug testing, with the Involved Officer's valid consent; or
2. Obtain a blood sample for alcohol and/or drug testing and/or a urine sample for alcohol and/or drug testing, incidental to the arrest of that person for a crime; or
3. Obtain a blood sample for alcohol and/or drug testing and/or a urine sample for alcohol and/or drug testing, pursuant to a search warrant.

In the event appropriate physiological samples are not obtained from an Involved Officer as part of the Incident Investigation, the Employing Agency (whether or not it is also the Primary Agency) may wish to obtain such sample(s) for administrative employment-related purposes. The options are to:

1. Obtain the sample(s) with the employee officer's valid consent; or
2. Obtain the sample(s) by ordering the employee officer to provide such sample(s) based upon the employer-employee relationship.

Departments may establish administrative policies regarding intoxicant testing of any employee involved in an incident.

1. If the Employing Agency asks for a physiological fluid sample for administrative purposes after the Incident Investigators have either been unable to obtain a sample or have decided against obtaining one, the Employing Agency will be accommodated as much as possible. The Employing Agency's efforts to obtain a sample should not interfere with the Incident Investigation.

An employee officer may volunteer to provide a physiological fluid sample for intoxicant testing even if the Incident Investigators and Employing Agency have not ordered one. Similarly, a person from whom the Incident Investigators or the Employing Agency has taken a sample may wish to have a second sample taken for independent testing. Such requests should normally be accommodated, with the understanding that the employee officer will bear any expense for sample collection and testing.

K. AUTOPSY

In the interest of independent review and per Government Code section 27522 (f)(2), the Medical Examiner's Office does not allow law enforcement investigators or crime-scene investigators from the agency directly involved in the death of an individual to be present in the autopsy suite during Officer-Involved Incident post-mortem examinations. The assigned Medical Examiner will brief the incident investigator(s) after the post-mortem examination occurs and/or may allow investigators from a non-involved law enforcement agency to be present during the post-mortem examination. Irrespective of who is present during said examination, the following should occur:

1. The Medical Examiner has the responsibility for the collection and documentation of physical evidence discovered during the autopsy.
2. The Incident Investigative Team should coordinate with the Medical Examiner any external examination and/or forensic testing of physical evidence discovered during the autopsy to ensure the chain-of-custody is preserved.
3. The Incident Investigative Team should coordinate with the Medical Examiner to ensure any evidence maintained by the Coroner's Office is properly handled, secured and packaged.

A member from the Incident Investigative Team should provide the Medical Examiner a full and complete briefing prior to the post-mortem examination. The briefing should include all relevant information available at that time which may tend to aid in determining cause, manner and means of the decedent's death.

In addition to said briefing and in order to comply with Government Code section 27522(g), within 30 days of an Officer Involved Incident, the Medical Examiner's Office will be provided with the following items by the Case Management Team for the Officer Involved Incident, if they exist:

- 911 recordings

- Photos of the scene of the incident
- Body Worn Cameras or dashboard camera video that shows the incident
- Recordings of interviews with the involved officer or officers
- Other video (surveillance, civilian phone video, etc.) that shows the incident

There may be occasions where the specific facts of the case may require additional items to be produced, and in such instances, the Medical Examiner's Office will confer with the incident's Case Management Team to determine those items.

There may be occasions where the nature of the incident will necessitate viewing of body worn camera video or other items sooner than 30 days where such items are crucial to determining the cause and manner of death, and in such instances, the Medical Examiner's Office will confer with the incident Case Management Team to determine an accelerated delivery of these items.

L. NEWS MEDIA RELATIONS

A representative of the Incident Investigative Team is in the best position to comment about the facts of the case and the progress of the investigation. When multiple agencies are involved or have knowledge of an Incident, the following information release guidelines should be followed:

1. The Primary Agency will assign a particular individual to be the sole contact with the news media to manage the release of information and to minimize interruptions to the Incident Investigative Team. If this is not feasible, a particular job assignment (e.g., Watch Commander) should be designated.
2. Any release of information to the news media should be reviewed by the Case Management Team prior to such release.
3. If the Incident Investigative Team or the Case Management Team determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.
4. Agencies and individuals that are not well informed and intimately involved with the investigation's results and progress should not make statements to the press. As in all other instances, care must be taken to insure that intentionally misleading, erroneous or false statements are not made
5. The interest of the public's right to know what occurred must be balanced with the requirements of the investigation and with the right of the accused to receive a fair trial.

Other agencies may also be contacted by the news media for information about the Incident, including:

The Employing Agency

1. If the Employing Agency is not also the Primary Agency, it should coordinate any information release with the Case Management Team and limit its comments to the following areas:
 - a. The employer-employee relationship, however, the names of the Involved Officer(s) will not be released until 24 hours after the incident to allow time for appropriate notifications to be made.
 - b. Information which has been cleared for release by the Case Management Team.

The District Attorney

1. The District Attorney will not disseminate any of the following information while the case is under investigation for review:
 - a. That an uncharged individual is "under investigation."
 - b. An Involved Officer's statement, confession or refusal to give a statement.
 - c. The subject of any gag order.
 - d. The prior criminal history of any Involved party, unless it is part of the criminal pleading or crime under investigation.
 - e. The result of any examinations.
 - f. The pendency of a search warrant.
 - g. Any statement that has a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
2. In cases where a criminal complaint is filed, the judicial record, such as a probable cause declaration, or preliminary hearing is open to the public. Additionally, the District Attorney may disseminate the following:
 - a. Name of defendant.
 - b. Area of residence.
 - c. Occupation.
 - d. Physical description.
 - e. Age.

- f. Sex.
- g. Time, date, and location of arrest.
- h. Factual circumstances of the crime.
- i. Amount of bail.
- j. Location held.
- k. All charges including warrants.
- l. Parole or probation holds.
- m. Schedule and explanation of the judicial process.
- n. Penalty range.

The Coroner's Office

Information obtained from the Incident Investigators or from the Involved Agencies will not be released by the Coroner's Office without prior clearance from those agencies. Release of information will generally be limited to the following:

1. Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results, after the Involved agencies have received this information and, if applicable, only after receiving clearance from the District Attorney's Office. The Coroner's Office will not release any information to the media where there is a pending criminal prosecution
2. The general role of the Coroner's Office in the investigation of any death.

M. ACCESS TO REPORTS AND EVIDENCE

Material created or collected by the Primary Agency and the Incident Investigative Team investigators, as well as by any other assisting agencies, will be made available in a timely manner to those agencies which have a "need to know" and which are legally authorized to receive the information. The material may include:

1. Reports written and collected.
2. Physical evidence obtained.
3. Photographs and diagrams.
4. Recordings.

The agencies with an interest in the Officer-Involved Incident Investigation may include:

1. Investigating agencies.
2. The employer of any Involved Officer.
3. The District Attorney.
4. The Crime Laboratory.
5. The Coroner's Office.

N. FINAL ACTION

The Officer-Involved Incident Investigation should be completed, and all reports submitted to the Office of the District Attorney within 90 days of the Incident, absent unusual circumstances.

At the conclusion of the investigation, the Office of the District Attorney will review and analyze all the evidence to determine whether the officer acted lawfully.

The crime charging standards are the same for civilians and peace officers. The District Attorney's policy regarding crime charging is as follows:

"The prosecutor should charge only if the following four basic requirements are satisfied:

- 1) The prosecutor, based on a complete investigation and a thorough consideration of all pertinent facts readily available, is satisfied that the evidence proves that the accused is guilty of the crime to be charged;
- 2) There is legally sufficient, admissible evidence of a corpus delicti;
- 3) There is legally sufficient, admissible evidence of the accused's identity as the perpetrator of the crime charged; and
- 4) The prosecutor has considered the probability of conviction by an objective fact finder and has determined that the admissible evidence is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing all the evidence available to the prosecutor at the time of charging and after considering the most plausible and reasonably foreseeable defenses."

In all fatal incidents where no charges are filed, the District Attorney will issue a closing report summarizing the results of the investigation and analyzing the evidence. This report will address the question of whether there is proof beyond a reasonable doubt that an

officer, deputy, or any other person committed a crime. It is not the purpose of the District Attorney's investigation or report to determine if any officer or deputy violated police policy or procedure or committed any act that would be subject to civil sanctions. The District Attorney's Office will make every effort to issue a closing report containing its findings and conclusion within 90 days of the receipt of the completed investigative package. This report shall be sent to the Involved police agencies, the decedent's family and then released to the public.

In all non-fatal incidents where the injured party is the subject of an underlying and related criminal prosecution, the District Attorney will conclude his review of the involved-officer's conduct at the conclusion of the other party's criminal case. If no charges are filed, the District Attorney will issue a closing report addressing whether there is proof beyond a reasonable doubt that the involved officer committed a crime. The District Attorney will make every effort to issue that closing report within 30 days of the disposition of the related criminal case.

O. INCIDENTS WITHOUT A FIREARM RESULTING IN SERIOUS BODILY INJURY BUT ARE NOT LIKELY TO CAUSE DEATH

1. The law enforcement agency which employs the peace officer(s) who used force against an individual resulting in serious bodily injury (SBI)², will conduct an investigation of the underlying incident in accordance with their internal accountability procedures which would involve a review of the officer's report, statements of any other witnesses to the event including officers and/or civilians, review of body camera evidence or other video evidence, and review of injury information to the individual arrested.

When a supervisor or command officer believes, based on the initial investigation of the force that resulted in SBI, that the force in question may be unlawful, they will as soon as practicable notify the Office of the Chief (to determine if a District Attorney PLEI (Public and Law Enforcement Integrity) Team notification is appropriate.

If notification is not required, the agency will conduct an internal review, and or investigation, as appropriate through their administrative process. If an incident meets the criteria set forth in this guideline, the notification process will be followed as outlined in this guideline.

2. In the event the employing agency concluded that an officer's use of force was potentially unlawful, the matter would be referred to the PLEI Team by the agency, which would also provide the DA's Office with its entire investigative report, video evidence, medical reports, etc.
3. The PLEI Team would thereafter analyze the investigation and determine whether a criminal complaint is appropriate.

² Serious bodily injury is defined under Government Code Section 12525.2(d)

4. In the event the employing agency interviewed the subject officer (s), following the admonition of a *Lybarger Warning*, neither the officer's statement nor any "fruits" of that statement; nor opinions by the agency based upon the statement, would be provided to the DA's Office.

During an administrative inquiry, a law enforcement agency is authorized by law to compel its officers to give statements regarding matters that are subject of the administrative investigation - Public Safety Officers Procedural Bill of Rights Act ("POBRA"), Government Code §§ 3300-3313. However, the law limits the admissibility of such a compelled statement in a criminal prosecution. Therefore, the administrative investigation must be separate from the criminal investigation.

P. SPECIAL PROCEDURES FOR DEATH OF UNARMED CIVILIANS

On September 30, 2020, Assembly Bill 1506, which enacted Government Code section 12525.3, was signed into law and requires the California Department of Justice (DOJ) to investigate incidents of an OII resulting in the death of an unarmed civilian. This mandate became effective on July 1, 2021.

According to DOJ Guidelines³ interpreting AB 1506, DOJ will work collaboratively with the respective Incident Investigative Team in conducting an OII investigation. This will involve investigators from DOJ and respective agencies working cooperatively in all aspects of the investigation, which will entail the sharing of all investigative information and all duties related to the OII.

DEFINITIONS

Under AB 1506, DOJ is required to investigate "incidents of an officer-involved shooting resulting in the death of an unarmed civilian." (Gov. Code, § 12525.3, subd. (b)(1).) The following is DOJ's understanding of the terms used in this statute, and is to be used as guidance for all law enforcement partners in determining whether a case falls within the ambit of AB 1506. These definitions are meant to apply only in the context of AB 1506, and these terms may have different meanings in other contexts or in different statutes. Notwithstanding these definitions, DOJ may elect to assume jurisdiction in cases where jurisdiction is unclear, or based on other extenuating circumstances, as determined by the Attorney General. (See Cal. Const., art V, § 13 [Attorney General is "chief law officer of the State" and has a duty "to see that the laws of the State are uniformly and adequately enforced"].)

1. "Officer-involved"

A shooting is "officer-involved" if the death to the unarmed civilian is caused by a California peace officer, within the meaning of Penal Code section 830, acting under color of authority. All shootings committed by officers while on duty are officer-involved shootings. Shootings committed by officers while off-duty are considered officer-involved shootings only if the officer is acting under color of authority. Officers are acting under "color of authority" when

³ For more details on AB 1506 and DOJ's policies, go to <https://oag.ca.gov/ois-incidents>.

they are performing an act that is made possible only because they are clothed with the authority of law, or when they are acting under pretense of law. Conversely, officers are not acting under “color of authority” when they commit private acts in furtherance of personal pursuits. Shootings by correctional officers as defined in Penal Code section 830.55 are excluded.

2. “Shooting”

A “shooting” is the discharge of a metal projectile by a firearm. A “firearm” is a “device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” (Pen. Code, § 16520.) A “shooting” does not include incidents involving the use of electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or beanbags.

3. “Unarmed civilian”

An “unarmed civilian” is “anyone who is not in possession of a deadly weapon.” (Gov. Code, § 12525.3, subd. (a)(2).)

4. “Possession”

A civilian is in “possession” if the weapon is under the civilian’s dominion and control at the time of the shooting. Possession usually requires that the weapon is available for use. Where a civilian attempts to take control of an officer’s firearm, the civilian is not in possession unless the officer loses control of the firearm.

5. “Deadly weapon”

“‘Deadly weapon’ includes, but is not limited to, any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum, ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.” (Gov. Code, § 12525.3, subd. (a)(1).) All firearms, and BB/pellet guns, even if unloaded or inoperable, are deadly weapons. Objects that have a legitimate non-weapon purpose are considered deadly weapons only when, based on all the circumstances, they are actually being used in a manner likely to produce death or great bodily injury. The following are examples of objects that have been considered a deadly weapon when used in that manner: knives, box cutters, screwdrivers, hammers, baseball bats, bottles, chains, automobiles, rocks, razor blades, and iron bars. Replica firearms are not considered deadly weapons unless they are used in some particular manner likely to produce death or great bodily injury (e.g., as a bludgeon).

6. “Death”

Death occurs when “[a]n individual ... has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem[.]” (Health & Safety Code, § 7180.) DOJ may assume responsibility for cases where death appears to be imminent.

NOTIFICATIONS

Agencies responding to an incident falling within section 12525.3 shall promptly notify the 24-hour call center at LA Clear (800-522-5327). LA Clear notifies the Department of Justice (DOJ) Division of Law Enforcement (DLE), which contacts the reporting agency to confirm the incident falls within the scope of section 12525.3. DLE informs DOJ's Criminal Law Division through a Supervising Deputy Attorney General (SDAG). The SDAG may provide legal advice on whether a particular case falls within the scope of section 12525.3. The SDAG provides further notice to the Senior Assistant and Chief Assistant.

REVIEW OF INVESTIGATION

Once a thorough and complete investigation has been concluded by DLE agents and any collaborating law enforcement agency, DLE will present all the evidence, including reports, and video and audio recordings, to the Criminal Law Division. The Office of the Attorney General, led by the Division of Criminal Law, reviews, analyzes the reports and evidence to determine if criminal charges are warranted against the involved law enforcement officer(s). The determination does not include whether administrative or civil actions are warranted.

If the Attorney General determines that the investigation has yielded sufficient legally admissible evidence to sustain a conviction by an unbiased jury weighing all relevant evidence and plausible defenses to a standard of beyond a reasonable doubt, criminal charges will be authorized and announced at the time of filing.

If the Attorney General determines that criminal charges are not warranted, attorneys in the DLE will prepare a report stating the facts of the incident with a detailed analysis and conclusion for each investigatory issue. When completed, the report will be posted and maintained on the Attorney General's public website.

Q. TRAINING

All affected agencies are strongly encouraged to provide training to their members regarding these guidelines, including:

1. The responsibilities of the Incident Investigators and first responders to the scene of an Officer-Involved Incident.
2. The investigative process of an Officer-Involved Incident, including the specific process relative to the actual officer(s) involved.
3. The psychological effect which may be experienced by the Involved Officer and/or officers who were involved in the incident.

The employing agencies are encouraged to provide some form of critical incident stress debriefing to their affected employees.

**Commission on Peace Officer Standards and
Training Hate Crimes Model Policy 2019.pdf**

AB 481 Military Equipment List.pdf



SUNNYVALE DPS – AB 481

Armored Personnel Vehicle ARV

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) Armored Rescue Vehicle (ARV) is an armored vehicle that is used for special operations that pose a high safety risk to officers or the public. The vehicle provides ballistic protection for the officers during dangerous law enforcement operations. The vehicle is also used to assist with the rescue and protection of civilians in harm's way during terrorist threats, hostage incidents, active shooter events, or other life-threatening situations.

The vehicle is designed to provide protection from a variety of small arms fire. The vehicle was built on the 2007 Ford F-550 Super Duty truck frame.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The vehicle has an expected lifespan of approximately 20 years.

2. Purposes and Use

To be used in response to critical incidents to enhance officer and community safety and assist in resolving critical incidents. The use of the ARV shall only be authorized by a supervisor. Sunnyvale DPS personnel are trained on the use of the ARV to help protect officers and civilians during a life-threatening emergency.

3. Fiscal Impact

The Sunnyvale ARV was purchased in 2006 using grant funding. The vehicle costs approximately \$292,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average annual cost to the City of Sunnyvale to maintain and repair the vehicle is \$4,000.

4. Rules

The Sunnyvale ARV is currently assigned to the Bureau of Police Services and is housed at Sunnyvale DPS headquarters. The vehicle is operated by trained Sunnyvale DPS personnel. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The Sunnyvale ARV is available to respond to any large-scale event in Sunnyvale or the greater Bay Area. The vehicle can be requested by any on-scene Incident Commander (supervisor) to help manage an event.

The following Sunnyvale DPS Lexipol Policies govern the use of the ARV:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 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.

5. Training

The Sunnyvale ARV is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to operate the ARV will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Energetic Breaching Program

1. Project Background and Description/Expected Lifespan

The primary use of energetic breaching program is used by the Sunnyvale DPS SWAT team to provide an immediate, efficient, an unexpected strategic entry during an emergency operation. This calculated and surprise entry is intended to catch the suspect(s) off guard, permit swift ingress, and allow SWAT personnel to quickly locate and assess potential threats concealed in enclosed structures. Effective breaching techniques allows Sunnyvale SWAT personnel immediate entry with minimal risk to themselves, the victims and the suspects.

Energetic breaching is a non-lethal force option. Sunnyvale SWAT personnel assigned as breachers are tasked with the objective to affect an entry shall consider the safety of innocent persons inside the stronghold, the safety of the suspect, and the safety of the tactical officers conducting the operation.

Energetic Breaching is used when there are no other reasonable alternatives to rapidly breach a location. Energetic Breaching is only used when time is of the essence in order to preserve life. Without these items, peace officers may not be able gain access to a location in a safe and timely manner to engage in necessary police operations.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The energetic breaching equipment utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

To safely make entry into a stronghold during an emergency situation. Energetic breaching will calculate the minimum amount of material needed to gain entry into a designated target without harming occupants inside the stronghold or the officers involved in the entry.

3. Fiscal Impact

The initial energetic breaching program was initiated several years ago. The startup costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Detonation Cord:	Price: \$1.00 a foot	Qty: 2000 feet	Total: \$ 2,000
Detonators:	Price: \$20.00	Qty: 319	Total: \$ 6,380
Training of Personnel: Approximately \$4,000 to train two officers			
Total approximate costs for the program: \$ 12,380			

The estimated annual costs to maintain, replenish, and service the energetic breaching program equipment is approximately:

Detonation Cord:	Price: \$1.00 a foot	Qty: 1000 feet	Total: \$ 1,000
Detonators:	Price: \$20.00	Qty: 100	Total: \$ 2,000
Training of Personnel: Approximately \$4,000 to train two officers			
Total approximate annual costs for the program: \$ 7,000			

ATF energetic purchase coupons are not needed because DPS is a government agency.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

The Sunnyvale DPS SWAT energetic breaching team will be composed of two energetic breachers. The team will have an energetic breaching team leader and a primary energetic breacher. In order to maintain proficiency and to ensure the minimum number of breachers are always available, two members of the SWAT team will be assigned as assistant breachers

An OSHA blaster's license is required for energetic breaching operations, both training and mission specific. A licensed blaster has to be present at all energetic breaching operations. It shall be the intent of the SDPS SWAT team to constantly have two personnel trained and licensed with an OSHA blaster's license.

A U.S. Department of Justice, ATF Energetic License or Limited Permit does not need to be applied for every year. As a government Law Enforcement agency, SDPS is exempt and does

not need to possess an ATF permit to purchase or use energetics for breaching operations. All energetic purchases, materials used during training and operations, all need to be recorded and records kept for ATF inspection. A running total of energetic materials stored at SDPS needs to be logged and available for ATF audit at all times.

The Sunnyvale Fire Marshall needs to approve storage containers, storage site and approve energetic material inventory.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize energetic breaching techniques in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

Storage

The U.S. DOJ Department of Alcohol, Tobacco, and Firearms regulate and license the purchase, storage, and use of energetic materials. Energetic breaching personnel will store energetics in accordance with ATF-Energetics Law and Regulations (ATF P 5400.7, Subpart K- Storage).

The energetics will be stored in ATF approved magazines, at a specific site designated by the Sunnyvale Fire Marshall. Energetic breaching personnel will maintain a magazine log to record amounts of energetic materials received and stored, amounts used in training and missions, along with running totals of each type of energetic material. The log will include specific dates and will be posted next to each storage magazine.

In the event of a magazine break in and theft of energetic material, an accurate inventory will be reported to the ATF within 24 hours by calling the Stolen Energetics Hotline at 888-283-2662 (after hours, weekends call 888-ATF-BOMB).

ATF approved Type 2 storage magazines will be the primary source of storage for the energetic material. An ATF type 3 magazine (day box) may be used for attended and temporary storage of energetic material for such activities as SWAT operations/callouts, and training.

ATF storage requirements can be found at the following link:

<https://www.atf.gov/energetics/energetic-storage-requirements>

ATF inventory requirements for annual inspections can be found at the following link:

<https://www.atf.gov/energetics/energetic-storage-requirements-recordkeeping-storage-variances>

5. Training

Given the complex nature and variety of skills that must be mastered and maintained, the high level of performance required, and perishable nature of these skills, each energetic breacher must maintain a minimum standard of ten hours of energetic training every month to include:

1. Work with detonators and firing assemblies
2. Construction and detonation of breaching charges
3. Review of energetic composition theories and properties
4. Review of all related calculations and formulas needed for the development of breaching plans
5. Review of all processed objective data
6. Review and debrief of other unit operations and research information

There should also be at least ten additional hours every year devoted to full mission profile training. This should include all members of the SWAT team as required.

All energetic breachers will attend an accredited “Basic Explosive Breaching” course taught by the Los Angeles Sheriff’s Office (LASD). The course consists of a minimum of 40 hours. The course of instruction must include all areas of energetic science, blast pressure, blasting regulations and compliance requirements, documentation and charge configurations as required of a contemporary energetic breaching program.

Prior to performing an operational breach of any kind, all energetic breachers will be required to participate in a minimum of 25 documented training “shots” with the unit and at least one training breach utilizing the entire SWAT team.

The energetic breaching unit will maintain a breaching log which documents every energetic breach, training or operational. The designated energetic breacher of each entry point shall be responsible for completing a breaching report in a timely manner whenever energetic breaching charges are used.

The energetic breaching team leader works directly with the other SWAT team leaders during critical incidents and training events. He/she is responsible for:

1. The readiness of energetic breaching equipment and personnel.
2. Maintaining all training records and operational documents.
3. Evaluating all tactical information and working with the SWAT team leader to develop, prepare, and execute the entry plan utilizing the energetic breaching team.

4. Maintaining data of operation methods and crisis site information for future reference and use.
5. Briefing command staff on the team's breaching capabilities
6. Continually evaluating the SWAT team's mission and assignments to ensure the energetic breaching team is in a constant state of readiness.

Energetic Breach After-Action Report

Following all tactical team operations and significant training events, a written after-action report shall be prepared by the energetic breaching team leader and submitted to the SWAT team leader.

The critique shall include:

A description of crime scene information availability, accuracy, collection methods, and timing of dissemination.

A description of the planning and preparation phase.

A description of the execution of the operation.

A description of the team's performance.

Documentation of the objective layout and construction in writing, photographs, and video if possible.

This report should identify deficiencies and corrective actions as necessary for each phase and a recommendations section for actions needed to eliminate deficiencies in the future.

These reports shall be maintained indefinitely for future reference and historical data.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct energetic breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously

striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

Less-Lethal Launcher

1. Project Background and Description/Expected Lifespan

The less-lethal launcher is a launching platform that uses a 37mm or 40mm rubber "baton" generally at distances around 10-20 yards. It is designed to be used on extremities such as arms or legs, similar to a handheld wooden baton, and is effective in suppressing events or incidents where the use of lethal force is not an appropriate response. Public Safety currently deploys the less-lethal launcher in patrol vehicles and reserves the more versatile 40mm launcher for SWAT operations.

The less-lethal launcher expands the department's capability to responding to situations where officers face non-lethal situations where subjects are not complying with orders/directions. The less-lethal launcher can potentially prevent a deadly force encounter.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The less-lethal launchers utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The less-lethal launcher is used as a non-lethal option to offer law enforcement officers to deliver a less than lethal projectile to a subject in a potentially violent encounter. The less-lethal launcher system is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The Sunnyvale Department of Public Safety currently has two models of the less-lethal launcher: the 37mm SAGE Deuce and the 40mm Penn Arms launcher.

SAGE Deuce 37mm Patrol Basic Launcher (Patrol Vehicles): Price: \$ 3,390 Qty: 6
Total: \$ 20,340

SAGE Deuce 37mm launcher munitions: Price: \$ 3,980 Qty: 190

Penn Arms 40mm Launcher (SWAT) Price: \$ 2,348 Qty: 2 Total: \$ 4,696

Penn Arms 40mm launcher munitions: Price: \$1,466 Qty: 70

Total approximate initial costs for the less-lethal system: \$11,184

The replacement cost for this program is \$25,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the less-lethal launchers. These costs vary depending on needs.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." Other available resources include de-escalation tools such as the SAGE launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of less-lethal launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 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 safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 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.

5. Training

Officers receive training on the proper use of the less-lethal launching systems by current manufacturer certified instructors. The training includes when the less-lethal launchers can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator 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.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 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.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified. The

training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Mobile Emergency Operations Center (MEOC)

1. Project Background and Description/Expected Lifespan

In 2009, the Sunnyvale Department of Public Safety (DPS) received grant funding to design and procure a mobile platform to deliver interoperable command/control, communication and data management assets to an operational scene to support all-risk operations. This Mobile Emergency Operations Center (MEOC) is available for deployment to numerous jurisdictions within the Bay Area region. The vehicle helps strengthen information sharing, collaboration, and command and control, between numerous agencies during large scale emergencies. Additionally, the design of the vehicle complements mobile command centers and tactical assets being used by the Cities of Palo Alto and Santa Clara.

The MEOC is an unarmored vehicle similar to a large commercial recreational vehicle. The MEOC also serves as an emergency dispatch center in the event of a catastrophic failure of the dispatch center housed within the DPS building.

This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The MEOC utilized by the Sunnyvale Department of Public Safety has no offensive capabilities.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Sunnyvale DPS MEOC has an expected lifespan of approximately 20 years.

2. Purposes and Use

The Sunnyvale Department of Public Safety (DPS) is a unique agency in the Bay Area. Sunnyvale DPS is the only fully integrated Police, Fire, and EMS provider in the region. The MEOC provides

seamless interoperable communications, data management, and command/control abilities during an emergency.

3. Fiscal Impact

The initial cost of the MEOC in 2012 was \$400,000 dollars which was paid through grant funding. The City of Sunnyvale currently pays for routine maintenance and repairs made to the vehicle. The average annual cost to the City of Sunnyvale to maintain and repair the vehicle is \$5,200.

4. Rules

The MEOC is currently assigned to the Bureau of Fire Services and is housed at Sunnyvale Fire Station 5. The vehicle requires a class C driver's license with a firefighter endorsement to operate. The vehicle is equipped with emergency lights and sirens and is governed by all the normal rules of the roadway.

The following Sunnyvale DPS Lexipol Policies govern the use of the MEOC:

SUNNYVALE DPS LEXIPOL POLICY 308.3 EMERGENCY MODE

Department emergency vehicles may be operated in emergency mode, as provided by 21055 CVC: In response to an emergency call, in pursuit of a suspected violator of the law, as directed by other DPS policy, or as directed by a supervisor.

Officers shall make assessments and inquiries regarding assignments before determining the need for emergency mode response.

Emergency mode drivers shall not overtake and pass other emergency mode vehicles unless there are two traffic lanes dedicated for vehicles in the direction of travel, and then only by passing to the left.

A police vehicle driven to a fire emergency should not be driven at a speed greater than that which is safe.

Emergency vehicle drivers shall drive with due regard for the safety of all persons and property (21056 & 21807 VC).

SUNNYVALE DPS LEXIPOL POLICY 308.5 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.

5. Training

The MEOC is operated by Sunnyvale DPS personnel that have completed a 4-hour training course on the vehicle.

Our procedural guidelines for training are dictated in the Sunnyvale DPS Policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 501.2 POLICY

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

The evaluation of individual and company training effectiveness shall be based on actual performance demonstration. This may be observed at routine drills, calls for service, and the ability to successfully complete Department of Public Safety Certifications. Officers, regardless of tenure, who are deficient in performing these standards will be required to demonstrate proficiency as a part of a mandatory improvement plan.

The Fire Training Program for fire-based personnel has been formulated to provide direction for training PSO's assigned to the Bureau of Fire Services for the first time and for those returning after a long absence.

SUNNYVALE DPS LEXIPOL POLICY 501.3 PROCEDURES

All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

It is the policy of the City of Sunnyvale Department of Public Safety that all members who operate firefighting equipment, including tiller operators, shall successfully complete driver training that meets or exceeds the requirements of the State Fire Marshal Fire Apparatus Driver/Operator 1A course (Vehicle Code § 12804.11).

All Bureau of Fire Services supervisors shall plan, organize and coordinate training for members of their command. The main intent shall be such that personnel become thoroughly familiar with and be able to effectively operate apparatus and equipment to which they are assigned.

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All members who operate firefighting equipment shall have a valid class A, B or C California Driver License (CDL), with a firefighter endorsement. To qualify for a firefighter endorsement, the member shall complete the following (Vehicle Code § 12804.11):

Provide the California Department of Motor Vehicles (DMV) with proof of current employment as a firefighter by providing a letter from the Director of Public Safety or the authorized designee.

Provide the DMV with proof of successful completion of either the Fire Apparatus Driver/Operator 1A course taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets all of the requirements in Vehicle Code §

12804.11. This proof should be in the form of a letter from the Director of Public Safety or the authorized designee.

Pass the appropriate written firefighter examination(s) that have been developed by the DMV with the cooperation of the Office of the State Fire Marshal.

Submit a report of medical examination on a form approved by the DMV.

A member is not required to obtain and maintain a firefighter endorsement if the member is operating the firefighting equipment for training purposes, during a non-emergency or while under the direct supervision of a member who is properly licensed to operate the equipment and is authorized by the Department to provide training (Vehicle Code § 12804.11).

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 501.4 TRAINING LIEUTENANT RESPONSIBILITIES

It shall be the responsibility of the Fire Training Lieutenant to ensure that any member required to drive fire apparatus as a part of his/her normal duties has received the mandated training. The Fire Training Lieutenant shall coordinate with the department member appointed to monitor driver license status to ensure members have valid driver licenses with the proper endorsements, in accordance with the Driver License Requirements Policy.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481 MP7 Specialized Firearms

1. Project Background and Description/Expected Lifespan

The Heckler & Koch MP7 rifles are smaller more compact firearms that can fit in confined spaces. Officers assigned to the Sunnyvale Traffic Unit ride motorcycles during their daily shifts. These officers are in full uniform and shall carry all safety equipment on their motorcycles. Due to the maneuverability and speed of the Sunnyvale DPS Traffic Officers are dispatched to in-progress calls for service where the subject could be armed. During these dangerous events, Traffic Unit Officers need to have access to a rifle should the event require that level of firearm (ie. active shooters).

The MP7 weapon system is mounted inside the side compartment or to the side of their motorcycle. These officers cannot carry an AR15 rifle on their person while driving and cannot conceal an AR15 rifle anywhere on a motorcycle, thereby compromising their safety and duties.

The primary use of a MP7 provides an officer assigned to a motorcycle with the ability to engage a threat from a safer distance if needed. The weapon system can also be used with two hands for better accuracy and is collapsible to maintain concealment while operating a motorcycle.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Hecker & Kock MP7 have an expected lifespan of approximately 10 years.

2. Purposes and Use

The purpose and use of short barreled, collapsible weapon systems such as the Heckler & Koch MP7 provide officers with the necessary concealment and protection needed during undercover and traffic enforcement assignments. All officers utilizing these systems are specifically trained on proper use, functionality and maintenance.

3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Heckler & Koch MP7:	Price: \$1,500	Qty: 5	Total: \$7,500
Ammunition (4.6 cal.)		Qty: 1500	Total: \$1,200

Total approximate costs for the program: \$ \$8,700

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

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).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

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).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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):

- a. An officer may use deadly force to protect him/herself or others from what he/she 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 him/herself, 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).

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).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer 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 Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

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

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor 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, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. 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.
 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. Review and approve all related reports.
- g. 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.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

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)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only Officers who have completed the SDPS MP5 and MP7 firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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SUNNYVALE DPS – AB 481

Noise Flash Diversionary Device (NFDD)

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team has the ability to deploy a diversionary device known as a Noise Flash Diversionary Device (NFDD). A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. Only specially trained SWAT personnel are allowed to deploy a NFDD devices. These devices are used during high-risk SWAT operations where the subject poses a significant threat to officers or the public.

The NFDD is considered a non-lethal use of force option. These devices can often lead to a safer resolution and allow officers to take a subject into custody without force.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The NFDDs utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

A NFDD is a non-bursting, non-fragmenting, device that produces a loud sound and bright light. The NFDD is used as diversion/distraction device during dangerous situations involving potentially violent subjects. The NFDD is only used by specially trained SWAT team members.

3. Fiscal Impact/Inventory

CTS NFDD model 7290M	Quantity: 65	Total: \$2,447
CTS NFDD model 7290-2	Quantity: 32	Total: \$1,725
CTS NFDD model 7290-9	Quantity: 29	Total: \$4,022
CTS NFDD model 7290-50	Quantity: 20	Total: \$756
CTS NFDD model 7290-1	Quantity: 45	Total: \$756
CTS NFDD model 7290MT	Quantity: 45	Total: \$2,295

Total approximate costs for the program: \$ 12,000

The estimated annual costs to maintain and replenish supply used during operations or training is approximately: \$3,000

4. Rules

As a law enforcement agency, SDPS is exempt and does not need to possess an ATF permit to purchase or use explosives for breaching operations. All explosive purchases and materials used during training and operations need to be recorded and a detailed record kept for ATF inspection.

The Sunnyvale Fire Marshall needs to approve storage containers and storage sites used by SDPS.

The following Sunnyvale DPS Lexipol Policies govern the deployment of NFDDs:

SUNNYVALE DPS LEXIPOL POLICY 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)).

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 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.

SUNNYVALE DPS LEXIPOL POLICY 300.3.1 USE OF FORCE TO AFFECT AN ARREST

Any peace officer may use reasonable force to affect 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 (Penal Code § 835a).

5. Training

All Sunnyvale DPS SWAT team members are trained on the proper use of the NFDDs during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in yearly re-certification on the use of the NFDDs.

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 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 should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

The policy detailed above is based on the policies, procedures, and practices of police SWAT teams that continue to successfully utilize NFDDs in their operations. These police departments include the Los Angeles Sheriff's Office (SEB) Special Enforcement Bureau, the Santa Clara Police Department SWAT Team, the San Jose Police Department MERGE Unit, and the Monterey County Sheriff's Office SWAT Team.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use NFDDs will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

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 SWAT 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.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

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SUNNYVALE DPS – AB 481

Pepper Projectile Systems

1. Project Background and Description/Expected Lifespan

The Pepper Projectile System is not a firearm, but rather a non-lethal system that uses high pressure air to deliver PAVA powder projectiles from a safe distance. PAVA is based on one of the hottest of the six capsaicinoids found in pepper plants. The munitions contain only safe, pure, non-oil based PAVA and are non-flammable. The system was based off paintball launcher systems. The Pepper Projectile System has an expected lifespan of 10 years.

The Pepper Projectile System munition (inert): is a 68 caliber plastic (breakable) sphere which encapsulates a scented powder that is not a chemical agent. The inert munition is used for training purposes and has an expected lifespan of 3 years.

The Pepper Projectile System munition: is a 68 caliber plastic (breakable) sphere which encapsulates a 2% chemical agent (PAVA) payload. The munition is used as a non-lethal weapon designed de-escalate a potentially violent encounter. The munition has an expected lifespan of 3 years.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

2. Purposes and Use

The Pepper Projectile System and munitions are used as a non-lethal option to offer law enforcement officers to deliver chemical agents and kinetic energy impacts to subjects in a potentially violent encounter. The proper use of the Pepper Projectile System is a de-escalation tool used to avoid further injuries or lethal options on a subject.

3. Fiscal Impact

The initial Pepper Projectile System program was initiated several years ago. The costs and equipment have changed over the years. The initial costs for obtaining the equipment are based on 2020 prices:

Pepper Projectile System FTC Basic Launcher (Patrol):	Price: \$591	Qty: 6
Total: \$3,546		

Pepper Projectile System Munitions (Inert):	Price: 375 per case	Qty: 2,200	Total:
\$1,938			

Pepper Projectile System Munitions: Price: 375 per case Qty: 2,600 Total: \$6,832

Miscellaneous (backpack, munition holder, air tanks, etc.)	Total: \$6000
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Total approximate initial costs for the Pepper Projectile System: \$ 18,316

4. Rules

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as the Pepper Projectile System launcher.

Other legal guidelines involve the use of kinetic energy projectiles and/or chemical agents such as 13652PC. It discusses when and when not to use kinetic energy projectiles and/or chemical agents during assemblies, protests, and/or demonstrations.

The following Sunnyvale DPS Lexipol Policies govern the deployment of Pepper Projectile launchers:

SUNNYVALE DPS LEXIPOL POLICY 302.7.2 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 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 Officers who have completed the Department Pepper Projectile System/ Impact Projectile Launcher training will be authorized to use the Non-Lethal weapon system.

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. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 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.

SUNNYVALE DPS LEXIPOL POLICY 302.8 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.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 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 safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

- a. Circumstances appropriate for deployment include, but are not limited to, situations in which:
- b. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- c. The suspect has made credible threats to harm him/herself or others.
- d. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 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.

5. Training

Officers receive training on the proper use of the Pepper Projectile System systems by current manufacturer certified instructors. The training includes when the Pepper Projectile System can be deployed, targeting areas, and reporting requirements.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator 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.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 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.

6. Compliance

Per Sunnyvale DPS Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices (Pepper Projectile Systems) will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

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SUNNYVALE DPS – AB 481

Sunnyvale DPS SWAT Sniper Rifle

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is a highly trained unit formed to respond to violent tactical situations that pose a high-risk to civilian and officer safety. The SDPS SWAT sniper element deploys with the SDPS SWAT team with precision rifles and has the ability to engage and stop an armed violent subject at a safe distance.

Officers assigned to the Sunnyvale DPS SWAT Sniper team are required to pass rigorous testing and are required to attend a CA POST certified 40-hour Sniper School. These officers are in full uniform and shall carry all safety equipment on their person, including but not limited to less-lethal and lethal weapon systems. To protect lives, the Sunnyvale SWAT team may utilize a sniper team during pre-planned or spontaneous SWAT operations.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The rifles utilized by the Sunnyvale DPS SWAT team has an expected lifespan of approximately 10 years.

2. Purposes and Use

The purpose of the sniper rifle is to provide specially trained Sunnyvale DPS SWAT officers with the necessary capabilities of engaging threats from a safe distance. All Sunnyvale DPS SWAT officers utilizing these systems are specifically trained on proper use, functionality, maintenance, and shall qualify bi-yearly in accordance with Sunnyvale Lexipol policy.

3. Fiscal Impact

The department sniper team program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Accuracy International:	Price: \$10,000	Qty: 4	Total: \$40,000
JP Enterprise:	Price: \$6,500	Qty: 2	Total: \$13,000
Ammunition (.308 cal.)	Qty: 4000 rounds		Total: \$5,200

Total approximate costs for the program: \$58,200

The annual replacement cost for this program is approximately \$5,200.

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

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).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

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).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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):

- a. An officer may use deadly force to protect him/herself or others from what he/she 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 him/herself, 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).

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).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer 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 Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

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

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor 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, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. 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.
 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. Review and approve all related reports.
- g. 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.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

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)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT operators who have completed a CA POST certified 40 hours Sniper School and meet the Department's required qualification standards will be authorized to carry the sniper rifle weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, 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 the test for that test period.

- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun 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 SWAT 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.
- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 1. Unauthorized range make-up
 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more

detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn.

Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

DPS SWAT Rifles

1. Project Background and Description/Expected Lifespan

The Sunnyvale DPS SWAT Daniel Defense MK rifles are smaller more compact rifles that are only used by specially trained SWAT officers assigned to the Sunnyvale SWAT team. Each member of the Sunnyvale DPS SWAT team attends monthly training that includes the practice firing of their rifles. This monthly training ensures that the SWAT team will be ready to handle a variety of high-risk situations like hostage-rescue situations, active shooter scenarios, high-risk search warrants, and armed barricaded suspects.

The Daniel Defense MK rifles have a thicker barrel that can better endure the large amount of ammunition fired during years of training. The Daniel Defense MK rifle is tooled to accept 5.56 mm NATO ammunition and the .223 cal. standard issue rifle ammunition used by patrol officers. Because the rifle is manufactured to endure both types of ammunition, the rifle has a longer lifespan and provides a more cost-effective solution to the Sunnyvale SWAT team. The Daniel Defense MK rifles are more reliable and durable than the standard issue rifles assigned to the Patrol Division. The Sunnyvale SWAT team only uses the standard .223 cal. ammunition in the Daniel Defense MK rifles.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The Daniel Defense MK rifle has an expected lifespan of approximately 10 years.

2. Purposes and Use

The Daniel Defense MK rifle is only used by specially trained Sunnyvale SWAT team personnel. The rifle is manufactured for SWAT teams and is extremely durable and reliable.

3. Fiscal Impact

The department firearms program was initiated several years ago. The initial costs for obtaining the equipment are based on 2020 prices:

Daniel Defense MK:	Price: \$2,963	Qty: 22	Total: \$65,201
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*Note: .223 cal. ammunition is used as standard issued ammunition for patrol rifles.

Total approximate costs for the program: \$ 65,201

4. Rules

835a PC dictates that officers who use deadly force shall "... evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer."

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).

The following Sunnyvale DPS Lexipol Policies govern the deployment of firearms:

SUNNYVALE DPS LEXIPOL POLICY 300.1.1 DEFINITIONS

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).

SUNNYVALE DPS LEXIPOL POLICY 300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself 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):

- a. An officer may use deadly force to protect him/herself or others from what he/she 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 him/herself, 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).

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).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

Officers encountering a situation that warrants the use of firearm shall make a verbal report to his/her supervisor as soon circumstances permit.

SUNNYVALE DPS LEXIPOL POLICY 305.7 FIREARM DISCHARGE

Except during training or recreational use, any officer 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 Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Use of Force/Response to Resistance Policy.

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

- a. If on-duty at the time of the incident, the officer shall file a written report with his/her supervisor 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, the officer shall submit a written memo or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

A supervisor shall respond to all Use of Force incidents. A supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

SUNNYVALE DPS LEXIPOL POLICY 300.7 SUPERVISOR RESPONSIBILITY

A supervisor shall respond to any reported use of force. 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.
 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. Review and approve all related reports.
- g. 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.
- h. In the event physical force is used, but no Offense Report is required, a memorandum to the Police Operations Team Captain is to be prepared. The following information is to be included:
 - 1. Type of force;
 - 2. Reason for the force;
 - 3. Extent of injury to the suspect and action taken to provide aid;
 - 4. Pertinent information deemed important by the officer.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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.

SUNNYVALE DPS LEXIPOL POLICY 300.6 MEDICAL CONSIDERATION

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)).

SUNNYVALE DPS LEXIPOL POLICY 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Officers shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 Chief or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

5. Training

Only SWAT Officers who have completed the firearms training and meet the required qualification standards will be authorized to carry the weapon systems.

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 406.3.4 SWAT/CNT/TMT ONGOING TRAINING

Training shall be managed by the SWAT Commander. The SWAT, CNT, and TMT Lieutenants are responsible for the monthly and/or quarterly training assignments. The SWAT Commander may authorize monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training for SWAT team members shall consist of the following:

- a. Each SWAT member shall pass a physical fitness test twice each year.
- b. Any SWAT team member failing to pass the physical fitness test will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- c. Those members who are on PTO or are on a protected leave status, 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 the test for that test period.
- d. Bi-yearly, each SWAT team member shall perform the mandatory SWAT handgun 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 SWAT 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.

- e. Each SWAT team member shall complete the bi-yearly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT operations. Failure to qualify will require the team member to seek remedial training from the Armorer who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 305.6 FIREARMS TRAINING AND QUALIFICATIONS

All officers who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition to annual training, all officers will qualify at least annually with their duty firearms. Officers will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

SUNNYVALE DPS LEXIPOL POLICY 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- a. Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- b. Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- c. No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training.

Officers who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

For more information on public safety accountability, please refer to our Public Safety Accountability page at:

<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Reconnaissance Robots

1. Project Background and Description/Expected Lifespan

The Sunnyvale Department of Public Safety (SDPS) SWAT team is tasked with solving a variety of critical incidents that are so hazardous, complex, or unusual that they exceed the capabilities of patrol officers. The critical incidents include, but are not limited to, hostage taking, barricaded subjects, terrorist attacks, warrant services, and other high-risk incidents.

Due to the threat level of such incidents, any tool the SWAT team can utilize to come to a peaceful resolution is vital to the overall safety of the public, suspects, and officers. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The two reconnaissance robots utilized by the Sunnyvale Department of Public Safety have no offensive capabilities. They are used for information gathering only. The robots have an expected lifespan of approximately 5 years.

2. Purposes and Use

In police tactical operations a robot can provide real-time reconnaissance during operations involving high-risk warrants, barricaded suspects and hostage rescues. A reconnaissance robot is an effective tool in gathering information about a scene without exposing officers to physical confrontation with dangerous subjects.

3. Fiscal Impact

The costs of equipment have changed over the years due to the rapidly developing technology. All robots were purchased using grant funding.

The Sunnyvale Department of Public Safety currently has two reconnaissance robots:

- 1) 2014 Avatar III: This medium sized robot, weighing approximately 50 pounds, is utilized by the Sunnyvale SWAT team and the Sunnyvale Fire HAZMAT team to enter hazardous locations before humans to assess possible threats. The robot has several cameras and is remotely controlled.
- 2) Recon Scout Robot: The recon scout robot is a small robot designed to fit into an operative's pocket. It can be quickly and stealthily deployed by tossing it into a location and using the remote to maneuver it around. It can visually clear small or large spaces prior to an operative clearing it.

2014 Avatar III: Price: \$25000 Qty: 1 Total: \$25,000

The 2014 Avatar III is on the equipment schedule for replacement in 2024. DPS is exploring the replacement of the Avatar III with two smaller more capable robots. If two smaller robots are authorized in 2024 the cost will be \$50,000.

Recon Scout Robot Price: \$10,000 Qty: 2 Total: \$20,000

The replacement cost for this program is approximately \$70,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to the robots. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of SWAT/CNT/TMT:

SUNNYVALE DPS LEXIPOL POLICY 406.2.2 OPERATIONAL PROCEDURES

Operational procedures should be generally patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to SWAT/CNT/TMT members and will outline tactical and officer safety issues, they are not included within this policy. Operational procedures should include, at minimum, the following:

1. Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
 - a. All SWAT team members should have an understanding of operational planning.

- b. SWAT team training should consider planning for both spontaneous and planned events.
 - c. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
- 2. Designated personnel responsible for developing an operational / medical plan prior to, and/or during TMT operations (time permitting).
 - a. All TMT members should have an understanding of operational/medical planning.
 - b. TMT training should consider planning for both spontaneous and planned events.
- 3. Mission briefings conducted prior to an operation, unless circumstances require immediate deployment. On scene mission briefs should be conducted as soon as practical in immediate deployment situations.
 - a. When possible, briefings should include the specialized units and supporting resources.
- 4. Protocols for a sustained operation which may include relief, rotation of personnel and augmentation of resources.
- 5. A generic checklist, to be worked through during pre planned events, 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.
- 6. The appropriate role for a trained negotiator.
- 7. A standard method of determining whether a warrant should be regarded as high-risk.
- 8. 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.
- 9. Post incident scene management including:
 - a. Documentation of the incident.
 - b. Transition to investigations and/or other units.
 - c. Debriefing after deployment of the SWAT team.
 - 1. 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.
 - 2. When appropriate, debriefing should include specialized units and resources.
 - 3. In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
 - 4. Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
- 10. Standardization of equipment deployed.

The following are examples of incidents which may result in the activation of the SWAT/CNT/TMT Unit:

- a. Barricaded suspects who refuse an order to surrender.
- b. Incidents where hostages are 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.

SUNNYVALE DPS LEXIPOL POLICY 406.9.5 MOBILIZATION OF SWAT/CNT/TMT UNIT

The On-Scene supervisor shall make a request to a Lieutenant for the SWAT/CNT Unit. The Lieutenant shall then notify the SWAT/CNT Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained by Communications Unit staff. The Lieutenant will then notify the Police Services Captain as soon as practical.

The Lieutenant or designee should provide the SWAT Commander with as much of the following information as 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 SWAT Commander, Captain or supervisor shall then initiate the SWAT call-out procedures. A current mobilization list shall be maintained by Communications Unit staff. An immediate need request for the SWAT team will trigger a call out of the SWAT/CNT/TMT Unit.

5. Training

All Sunnyvale DPS SWAT team members are trained on tactical operations and the use of robots for intelligence gathering during their P.O.S.T. Certified Basic 80-hour SWAT School. SWAT team members also participate in monthly SWAT scenario based training .

SUNNYVALE DPS LEXIPOL POLICY 406.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.2 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 should complete POST certified updates or refresher training as mandated or as required by the SWAT Commander.

SUNNYVALE DPS LEXIPOL POLICY 406.3.3 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.6 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.

SUNNYVALE DPS LEXIPOL POLICY 406.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file, CNT training file, and TMT training file shall be maintained with documentation and records of all team training. The supervising Lieutenant(s) of each respective team is responsible for ensuring training records are updated monthly.

6. Compliance

The Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to conduct explosive breaching will be properly trained and certified. The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

SUNNYVALE DPS LEXIPOL POLICY 406.8 SWAT TEAM ADMINISTRATIVE PROCEDURES

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 SWAT 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.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

One of the most important ways to ensure we are developing and maintaining professional standards is to make certain our internal affairs (IA) policies and procedures that guide how we receive and investigate complaints against our Department's members are thorough, fair and objective to the complainants and Department personnel involved.

Our Lexipol Policy Manual outlines our required standards of conduct for Department members and the basic requirements for addressing complaints. The purpose of this Internal Affairs Investigations Standard Operating Procedures Manual (SOP or Manual) is to provide a more detailed guide designed to assist SDPS personnel and other Sunnyvale officials responsible for receiving, investigating and adjudicating complaints.

This Internal Affairs SOP is customized and designed to define our Department's official policies and procedures for receiving and investigating complaints. It serves as a guide for all who play a role in handling complaints brought against members of the SDPS, both sworn and non-sworn. Adhering to the procedures and protocols outlined in this manual will help ensure that disciplinary measures taken to address misconduct are consistent and fair.

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<https://sunnyvale.ca.gov/government/safety/accountability.htm>



SUNNYVALE DPS – AB 481

Tear Gas

Overview

1. Project Background and Description/Expected Lifespan

Chemical agent munitions, which are commonly referred to as “tear gas,” are used by the Sunnyvale Department of Public Safety (SDPS) as a non-lethal tool to disperse unlawful groups and on barricaded suspects. SDPS uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). Both CS and OC are not actual gas but are micro-pulverized particles. These particles cause irritation and/or inflammation and are non-lethal.

CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS.

OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

Decontamination for both CS and OC is fresh air and cool, clean water.

The chemical agent munitions are delivered by throwing a canister or launching a canister using a specially modified shotgun. The specially modified shotgun is capable of launching a gas canister into a second or third floor window. The specially modified shotgun is only used by trained SDPS SWAT personnel.

The multiple types of munitions listed below, which are possessed and used by SDPS, are different models of cannisters which each disperse different gram weights of chemical agent “tear gas” and allow for different deployment methods (different devices or tools) based upon the circumstances of the event requiring use. Having the choice of multiple munitions also allows officers to control the amount (in grams) of chemical agent used during a deployment.

Our inventory of chemical agent munitions is as follows:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 33
- 2) CTS 5230 (CS) (Expire 5-years) Inventory: 16
- 3) CTS 8230 (CS) (Expire 5-years) Inventory: 28

- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 12
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 13
- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 90
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10
- 10) Specially modified SWAT shotgun – Inventory 2

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The chemical agents utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

Chemical agent "tear gas" munitions are used as a non-lethal option in a potentially violent encounter during rioting crowds or barricaded suspects. The proper use of chemical agents provides for a de-escalation tool used to avoid further injuries or to avoid using lethal options on a suspect.

3. Fiscal Impact

The Sunnyvale DPS SWAT team has three (3) personnel who are qualified by the California Association of Tactical Officer's / CA-POST Chemical Agent Instructor program in San Diego, California. Based on the instruction received and best-practices learned from the San Diego County Sheriff's Office, the Sunnyvale DPS SWAT team purchased the following equipment:

The list below are the approximate unit prices for the associated munitions in our inventory:

- 1) CTS 5230B (CS) (Expires 5-years) Inventory: 33 (\$1257)
- 2) CTS 5230 (CS) (Expires 5-years) Inventory: 16 (\$576)
- 3) CTS 8230 (CS) (Expires 5-years) Inventory: 28 (\$672)
- 4) CTS 4331 (CS) (Expires 5-years) Inventory: 12 (\$312)
- 5) CTS 4330 (CS) (Expires 5-years) Inventory: 13 (\$468)

- 6) CTS 4233 (CS) (Expires 5-years) Inventory: 90 (\$2097)
- 7) Deftech Fogger Aerosol (OC) (Expires 5-years) Inventory: 10 (\$450)
- 10) Specially modified SWAT shotgun – Inventory 2 (\$2000)

The estimated annual costs to maintain and replenish the chemical agent “tear gas” inventory is approximately \$1,500. On an approximate five (5) year cycle, the munitions expire and require replacement. The approximate cost of replacing the entire inventory at expiration is \$7,832.

4. Rules

835a PC dictates that officers who use deadly force shall “... evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Other available resources include de-escalation tools such as chemical agents or “tear gas.”

Other legal guidelines involve the use of chemical agents such as Penal Code 13652. It discusses when and when not to use chemical agents during assemblies, protests, and/or demonstrations.

The Sunnyvale Department of Public Safety Special Weapons and Tactics Team (SWAT) is responsible for the storage, inventory, training, and use of chemical agents. The Sunnyvale SWAT utilizes the LCT50 formula (cu. ft. / grams of CS chemical agent x 0.71 constant variable = LCT50 in minutes) as a guideline only when determining the amount of CS chemical agent to introduce into a structure.

The following persons may authorize the deployment and use of chemical agents:

1. The Chief of Police, Deputy Chief, or Captain.
2. An Incident Commander.
3. The S.W.A.T. Team Captain.

The following Sunnyvale DPS Lexipol Policies govern the deployment of chemical agents:

SUNNYVALE DPS LEXIPOL POLICY 302.6 Tear Gas Guidelines:

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Lieutenant, Incident Commander or SWAT/CNT Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

SUNNYVALE DPS LEXIPOL POLICY 302.7.3 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.

SUNNYVALE DPS LEXIPOL POLICY 302.8 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.

SUNNYVALE DPS LEXIPOL POLICY 302.9 Kinetic Energy Projectile Guidelines:

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

SUNNYVALE DPS LEXIPOL POLICY 302.9.1 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 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.

SUNNYVALE DPS LEXIPOL POLICY 302.9.2 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.

SUNNYVALE DPS LEXIPOL POLICY 302.9.3 SHOTGUN SAFETY PROCEDURES

Shotguns assigned to SWAT specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles as needed 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 secured in the SWAT armory. 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.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

5. Training

Personnel assigned to the Sunnyvale DPS SWAT team receive training on the proper use of chemical agents by certified instructors. The training includes when chemical agents can be deployed, how to handle and deploy the munitions, air purifying respirator (APR) use, personnel and structure decontamination, and reporting requirements. Chemical Agent Training also includes a yearly exposure to the chemical agents. There are currently ten (10) Chemical Agent Instructors (CA POST-Certified) within the Sunnyvale DPS SWAT Team.

S.W.A.T. Team personnel who have completed a POST Certified Chemical Agent Instructor Course shall be responsible for providing training in the use of chemical agents to maintain the proficiency of Officers assigned to S.W.A.T. Assigned S.W.A.T. personnel should familiarize Command Staff with the use and deployment of Chemical Agents. S.W.A.T. personnel shall conduct Chemical Agent training annually.

- A. Training shall be documented, and records maintained of such trainings.
- B. Officers shall clean and inspect the Chemical Agent delivery system after each deployment.
- C. The Chemical Agent Cadre of the S.W.A.T. Team shall be responsible for maintaining control of all Chemical Agents and their respective delivery systems. The Cadre shall be responsible for inventorying and updating deployable Chemical Agent munitions.

Our procedural guidelines for training are dictated in the Sunnyvale DPS policy Manual:

SUNNYVALE DPS LEXIPOL POLICY 302.10 Training for Control Devices:

The Police Training Coordinator 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.

Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

All training and proficiency for control devices will be documented in the officer's training file.

Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

SUNNYVALE DPS LEXIPOL POLICY 302.11 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. The documentation shall include the following information

1. Who authorized the use of Chemical Agents.
2. Facts surrounding their use.
3. Was a warning given prior to the Chemical Agent deployment (when applicable)?
4. The type of chemical agent and delivery system used.
5. Name of Officer who deployed the Chemical Agent.

6. Compliance

Per Lexipol policy 302.10 (Training for Control Devices), the Training Coordinator shall ensure all personnel authorized to carry any control devices will be properly trained and certified.

Additionally, the Sunnyvale DPS SWAT Team Captain shall ensure all personnel authorized to use chemical agents will be properly trained and certified.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of

effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

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SUNNYVALE DPS – AB 481

Unmanned Aircraft Systems (UAS)

1. Project Background and Description/Expected Lifespan

Small Unmanned Aircraft Systems (UAS) are portable systems flown autonomously without a pilot onboard and controlled from an operator on the ground. They have shown to be a valuable resource to police and fire organizations by providing a bird's eye view of crime and/or disaster scenes that may not otherwise be seen. The UAS has the ability to launch quickly in dangerous situations, locate survivors, and send data about their whereabouts to responders on the ground.

Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. Safety, above all else, is the primary concern in every operation, regardless of the nature of the mission.

DPS believes that City Council can make the finding that the military equipment policy is intended to safeguard the public's welfare, safety, civil rights and civil liberties. DPS generally uses this type of equipment to avoid more lethal options, when available. The Policy provides that users of the equipment will be authorized and highly trained before using the equipment. It also ensures that the City Council will receive an annual report on all uses, and that also gives the public an opportunity to weigh in at a well-publicized community meeting. Lastly, DPS is prepared to receive complaints from members of the public on any violations of the policy by providing a direct link to the Office of Internal Affairs.

The UAS utilized by the Sunnyvale Department of Public Safety have an expected lifespan of approximately 5 years.

2. Purposes and Use

The UAS utilized by the Sunnyvale Department of Public Safety are used to assist in search and rescue missions, fire investigations, HAZMAT response, barricaded suspects, hostage situations and other high-risk tactical operations to reduce risk to department personnel, suspects and community members.

3. Fiscal Impact

The Sunnyvale Department of Public Safety UAS program was initially funded by a grant funding. The Sunnyvale Department of Public Safety currently utilizes two UAS platforms:

DJI Matrice 210: This UAS is a large platform outfitted with several high-resolution cameras and thermal imaging cameras. The DJI Matrice 210 has a longer flight time and is used for planned operations.

DJI Mavic 2 Enterprise: This UAS is a smaller, foldable, portable platform outfitted with limited cameras. The DJI Mavic 2 Enterprise is commonly used to gain access into smaller locations (i.e. indoors) or for unplanned rapid deployments.

DJI Matrice 210 UAS:	Price: \$ 35,000	Qty: 1	Total: \$ 35,000
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DJI Mavic 2 Enterprise:	Price: \$ 5,000	Qty: 1	Total: \$ 5,000
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The replacement cost for this program is \$40,000.

The City of Sunnyvale currently pays for routine maintenance and repairs made to both UAS systems. These costs vary depending on needs.

4. Rules

The following Sunnyvale DPS Lexipol Policies govern the deployment of UAS systems:

SUNNYVALE DPS LEXIPOL POLICY 357.3 PRIVACY

The department recognizes that use of a UAS involves potential privacy considerations and is committed to using UAS in a manner that respects privacy rights. UAS operators and observers will consider citizens' civil rights and reasonable expectations of privacy as key components of any decision made to deploy the vehicle.

UAS operators and observers will ensure, and will be held accountable for ensuring, that operations of the UAS appropriately balance operational needs with maintaining public privacy and freedom from intrusion. To ensure that legitimate privacy considerations are observed, UAS operators and observers will:

- a. Absent a warrant or exigent circumstances, 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 (e.g., residence, yard, enclosure).
- b. Take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- c. During flight, direct onboard cameras so as to face away from occupied structures not related to the mission, to minimize the inadvertent capture of video or still images of uninvolved persons.
- d. Maintain all video and still images in strict compliance with State law and Sunnyvale DPS policies and procedures.
- e. Operate strictly within the law and regulations pertaining to UAS. Whenever required by policy or law, operators will ensure that warrants are obtained prior to deploying the UAS.
- f.

SUNNYVALE DPS LEXIPOL POLICY 357.10 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS. All use shall be authorized by the Program Coordinator.

The authorized missions for UAS use are:

- a. Search and Rescue Missions
- b. Response to Fires or Post-Fire Investigations
- c. HAZMAT response
- d. Barricaded Suspects, Hostage Situations and other high-risk Tactical Operations to reduce risk to department personnel, suspects and community members.
- e. Disaster Response (i.e. flood, earthquake)
- f. Video/Photograph documentation of Crime Scenes
- g. Training Flights as required to meet FAA and Department certification standards
- h. Used in accordance with a court order or search warrant

SUNNYVALE DPS LEXIPOL POLICY 357.11 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on 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.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

SUNNYVALE DPS LEXIPOL POLICY 357.18 UAS DEPLOYMENT PROCEDURES

- a. Initial requests to use the UAS will be screened by a Patrol Lieutenant. If unavailable, a Team Captain or B/C shall be notified. The approving supervisor will have Dispatch contact the Program Coordinator or Manager to request deployment of the UAS. The request will be screened based on the following:
 1. Is the proposed use of the UAS within the capabilities of the UAS equipment and personnel?
 2. Does the proposed use of the UAS fall within FAA and Department policies and regulations for UAS deployment?
 3. Can the UAS be deployed safely given current weather conditions?
 4. If the UAS deployment requires a warrant, has one been requested and approved?

5. Are sufficient trained and qualified personnel available to safely operate the UAS?
 - b. The UAS Program Coordinator or Manager will either accept or decline the request for UAS support. If the request is denied, a reason will be provided for declining the request to Dispatch, who will provide the requestor this information along with the reason for declining. If the Coordinator or Manager accepts the support request, a UAS pilot will be assigned who will be provided all available mission information.
 - c. The UAS pilot will contact a certified observer from the list of available trained observers and arrange for the observer to meet the pilot at the scene. The UAS pilot is responsible for transporting the UAS and all required equipment.
 - d. Upon arriving at the requested location, the UAS pilot will contact the on-scene Incident Commander, check in, and receive a briefing on the mission requested. The UAS operators will make an on-scene determination of the ability of the UAS to perform the requested mission safely and within department and FAA policies and procedures.
 - e. If the UAS operators determine that the use of the UAS would violate department policy or directives, they will inform the Incident Commander of the potential conflict along with recommendations for modifying the requested mission to conform with department policies and procedures. As this is a change from the original approved mission, the UAS pilot will contact the UAS unit chain of command for direction on how to proceed. As soon as possible after the completion of the mission, the UAS pilot will make a full report of the circumstances and their concern through the chain of command.
 - f. UAS operators will have discretion for declaring safety or violation of FAA rules. If UAS operators determine that a requested mission would violate FAA rules or endanger civilians, the UAS pilot will respectfully inform the Incident Commander of the reason(s) for refusing to operate the UAS and contact the UAS chain of command immediately. The UAS will not be flown in this circumstance, and the authority of the UAS pilot is absolute.
 - g. If the UAS pilot determines that the requested mission will potentially damage the UAS or its associated equipment, the UAS pilot will inform the Incident Commander of their concern and suggest mission parameter changes. The UAS pilot is the final authority regarding UAS operations.

SUNNYVALE DPS LEXIPOL POLICY 357.19 DOCUMENTATION AND EVIDENCE

- a. Prior to every flight, a flight log shall be initiated for documentation.
- b. Inspection and weather will be documented prior to flight within the log book.
- c. After each flight, the operator will complete a statement documenting the UAS operations.
- d. After each deployment, video obtained by the UAS Operation will be submitted to evidence in accordance with Department policies and procedures.
- e. Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.

- f. The pilot of the UAS is responsible for evidence handling as well as writing any supporting documentation for the incident.

5. Training

SUNNYVALE DPS LEXIPOL POLICY 357.6 TRAINING NEEDS ASSESSMENT

The UAS Program Manager and Program Coordinator shall conduct an annual needs assessment to ensure that training is conducted within unit capabilities, department policy, and training guidelines as established by the FAA.

SUNNYVALE DPS LEXIPOL POLICY 357.7 INITIAL TRAINING

- a. Upon selection to the collateral assignment of UAS Operator, new members shall acquire an FAA Remote Pilot Certificate, or higher.
- 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, 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. Before a member can be authorized to conduct flight operations as a UAS pilot, they must complete at least eight hours of flight training with UAS instructors to show proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.

SUNNYVALE DPS LEXIPOL POLICY 357.8 RECURRENT TRAINING

- a. To maintain a level of proficiency with the UAS, operators shall be required to attend regular training. Training will be coordinated through the Program Coordinator.
- b. All members in the assignment shall maintain proficiency in their pilot/observer abilities. Members who do not have any documented training or flight time within a span of 6 months will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.
- c. Recurrent training is not limited to actual piloting/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- d. Failure to demonstrate proficiency can result in removal from UAS responsibilities.

SUNNYVALE DPS LEXIPOL POLICY 357.9 TRAINING RECORDS

- a. All members will have a training file on record that details training history. This training file will be held in conjunction with the member's normal training file per Department policy.

- b. All deployments or exercises will be documented and count towards a member's training.
- c. It is the member's responsibility to verify their training file contains all pertinent information.

6. Compliance

SUNNYVALE DPS LEXIPOL POLICY 357.4 PROGRAM MANAGER

The Chief will appoint a Program Manager who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

- Ensuring that policies and procedures conform to current laws, regulations and best practices.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief.

SUNNYVALE DPS LEXIPOL POLICY 357.5 PROGRAM COORDINATOR

The Director of Public Safety will appoint a Program Coordinator who will be responsible for direct supervision of the UAS Program and its personnel. The Program Coordinator will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Maintaining contact with the FAA and familiarity with pertinent FAA regulations.
- Ensuring that all authorized operators and required observers have completed all required FAA and Department approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that all training, flight and maintenance records for each operator and airframe are maintained.

The training will fall in line with our legal standards, department policies, and manufacturer's recommendations.

7. Complaints or Concerns

Our department procedures regarding complaints are dictated in the Internal Affairs Investigations Standard Operating Procedures Manual:

The primary function of the Sunnyvale Department of Public Safety (SDPS) is to provide police, fire and emergency medical services (EMS) services to those who live, work and play in Sunnyvale. SDPS enjoys a high level of trust and satisfaction from our community. Continuously striving to maintain our community's trust and satisfaction is paramount to the provision of effective public safety services. As such, it is imperative that we maintain high ethical standards as professional Public Safety Department members, which in turn will help us provide the high-quality services our community members expect and deserve.

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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.

P342 VMCI Procedures.pdf

VMCI Procedures

Dispatch Response

- ☐ Follow established Protocol:
 - ☐ Pre-arrival instructions
 - ☐ Evacuation/lock-down instructions
- ☐ Initiate information collection.
- ☐ Initiate a maximal patrol response with immediate supervisory notification.
- ☐ Initiate a first alarm response (without 180 page).
- ☐ Request ambulance task force.
- ☐ Perform command notifications as soon as practicable.
- ☐ Consider the following options:
 - ☐ CIDT response
 - ☐ MEOC response
 - ☐ DOC activation

Patrol Response

- ☐ Determine whether the incident is active or static.
- ☐ Assess the situation and provide a size-up.
- ☐ Request additional resources.
- ☐ Assemble Contact Team(s).
- ☐ Assemble Rescue Team(s).
- ☐ Identify Command Post and Staging - All incoming units will respond to the Staging area and shall not self-deploy into the incident.
- ☐ Establish a Unified Command with Fire resources.
- ☐ Establish Hot, Warm, and Cold Zones.
- ☐ Coordinate with Fire to establish Rescue Task Force (RTF).

Patrol Supervisor Responsibilities

- ☐ Quickly assess situation and assume command or establish Incident Command (IC) if it has not been done.
- ☐ Respond as a Contact Team member, if appropriate.
- ☐ Delegate IC responsibility if responding as a Contact Team member.
- ☐ Establish an IC Post and Tactical Command Post.
- ☐ Formulate and deploy a Contact Team and a Rescue Team, if necessary.
- ☐ Establish team leaders for every group that is deployed.
- ☐ Assure that roles are defined properly.
- ☐ Determine the boundaries of the Hot Zone, Warm Zone and Cold Zone.
- ☐ Communicate over the radio those boundaries.
- ☐ Coordinate with Fire personnel to form Rescue Task Forces, if appropriate.

- ☐ Designate patrol liaison to work with Fire for RTF.
- ☐ Determine need for additional resources (i.e. SWAT, EMS, Mutual Aid).
- ☐ Arrange for communication to:
 - Notify adjoining agencies
 - Coordinate arrival and deployment of incoming resources.

Fire Response

- ☐ Assess the situation and provide a size-up.
- ☐ Request additional resources if needed.
- ☐ Assemble the RTF fire component.
- ☐ Deploy with proper PPE:
 - Ballistic helmet
 - Ballistic vest
- ☐ Deploy with proper EMS equipment (mass casualty kits).
- ☐ Establish or assist in triage zone.
- ☐ Establish or assist in treatment sites.
- ☐ Establish or assist with staging area.

Fire Supervisor Responsibilities

- ☐ Quickly assess situation and assume command or establish Incident Command (IC) if needed.
- ☐ Link up with IC if already established.
- ☐ Assign personnel to RTF and prepare for potential deployment into warm zone.
- ☐ Establish team leaders for every group that is deployed.
- ☐ Assure that roles are defined properly.
- ☐ Assign someone as Staging Manager.
- ☐ Assure that personnel has proper PPE .
- ☐ Assure that personnel deploys with proper EMS equipment.

Command Considerations

Command and Control issues are paramount when dealing with large-scale crisis events. Disseminating information and coordinating resources is critical. The expeditious establishment of Command and Control will enhance the probability of a swift resolution. As Command personnel arrive at scene they have the following options:

- ☐ Assume Unified Command.
- ☐ Establish Tactical Command Post in addition to the Command post.
- ☐ Assure that staging areas are established:
 - Police
 - Fire
 - EMS
 - Air

- Media
- Family reunification
- Complete the ICS structure as necessary:
 - Operations
 - Tactical
 - PIO
 - Medical Group
 - Rescue Group
 - Staging Manager
 - Logistics
 - Planning/Intel
 - Etc.

Preparing for Deployment

Team Leader Considerations

- Tactical experience
- Accountability
- Communications
- Equipment
- Mission
- Roles
- Terminology
- Radio frequencies

Contact Team Considerations

- Mission:
 - Locate suspect
 - Prevent escape
 - Stop the suspect's attack
- Establish team leader.
- Clearly define mission/rules of engagement/roles.
- Communicate progress to IC.
- Report number of victims/explosives/suspect(s)/weapon(s).
- Provide preliminary assessments.

Rescue Team

- Mission:
 - Extract uninjured victims or the walking wounded.
 - Provide a relatively safe zone for evacuation and RTF operations.
- Establish Team Leader.
- Clearly define mission/rules of engagement/roles.
- Number of personnel dependent upon size of incident (number of victims).

- ☐ Assemble necessary equipment.
- ☐ Communicate relevant information regarding victims i.e., number and location.
- ☐ Establish Casualty Collection Point (CCP) if appropriate.
- ☐ Follow the route that the Contact Team has cleared (Warm Zone).
- ☐ Report suspect(s)' location, if able to determine.
- ☐ Extract victim(s) to a safe area and notify the Command Post.
- ☐ Direct Rescue Task Force to CCP.
- ☐ Establish Evacuation Corridor.
- ☐ Initiate identification and accountability of victim(s).
- ☐ Coordinate actions with the Contact Team leader, the Rescue Task Force Team Leader and other responding personnel.

Rescue Task Force

- ☐ Mission:
 - Treat, stabilize and provide patient movement in Warm Zone or from Warm Zone to Cold Zone.
- ☐ Establish team leader.
- ☐ Clearly define mission/rules of engagement/roles.
- ☐ Primary RTF:
 - Provide START triage and stabilizing treatment following Tactical Emergency Casualty Care (TECC) guidelines.
 - Advance through Warm Zone treating and triaging as many patients as possible until they reach the furthest accessible patient, stop point, or run out of supplies.
 - Begin extracting furthest patients to CCP if needed.
 - Communicate number, location, and extent of injuries back to Rescue Group Supervisor.
 - Transition from triaging/treating to extraction when needed.
- ☐ Additional RTF(s):
 - Provide stabilizing treatment of patients.
 - Extracting/evacuating critical patients identified by START triage tags to Patient Treatment Areas or CCP.
 - Provide secondary care to patients in established CCP.
- ☐ Patrol Division personnel assigned to RTF:
 - Provide security and control movement of RTF.
 - Should not assist with patient care if possible.
 - Shall remain with RTF and should not separate from fire personnel.

There may be instances where the Warm Zone suddenly becomes a Hot Zone. The patrol division personnel of the RTF must be in position to immediately respond to that threat to ensure the safety of the team.

Tactical Deployment

RTF Deployment

- RTF should move in and out of the Warm Zone only through entrances and corridors primarily cleared by initial Contact Teams.
- RTF shall be identified numerically in order of deployment (i.e., RTF 1, RTF 2 ...etc.).
- RTF will not deploy with less than 2 patrol division members for force protection and will not self-deploy into the Warm Zone
- RTFs must be able to move quickly. As such it is generally not advisable to be equipped with defibrillators, large drug boxes, gurneys, or other equipment that can affect their agility
- RTF Communications
 - The fire team leader and the patrol division team leader within the RTF will engage in continuous face to face communication
 - Fire team leader in RTF shall maintain communication with the Rescue Group Supervisor via radio.
 - Patrol Division team leader in RTF shall maintain communication with the Tactical Group Supervisor via radio
- All RTF members must maintain situational awareness and report to force protection if they see a weapon, explosive device, or any unusual situation
- The RTF will identify areas of safe refuge as the team moves through the Warm Zone
- If the zone in which the RTF is operating changes from a Warm Zone to a Hot Zone due to direct or immediate threat, force protection personnel will direct the immediate evacuation of the team to appropriate cover
- Make a visual and physical body sweep of all victims for weapons or other secondary threats.

Tactical Considerations

- The On-Scene Incident Commander shall designate a Tactical Commander as soon as available resources allow.
- The appointment of Team Leaders and Team Coordinators is an important element to a successful response.
- The Tactical Commander shall have specific operational control of the crime scene from the inner perimeter forward.
- The tactical response shall be designed to affect a timely and beneficial resolution of the incident.
- The scope of this response shall depend on known threat conditions, available resources to law enforcement and the likelihood of a successful tactical intervention.
- The objective of the tactical response shall be:
 - Stop criminal acts being committed by either eliminating the threat or by confining the suspects' movement to a point where a threat to others is eliminated (the threat is neutralized).

- Protect against or minimize injuries or the loss of life to victims, hostages, citizens or residents and officers who may be so imperiled by providing life saving measures as soon as possible.
- Apprehend suspects and secure a crime scene.
- Protect against, or minimize the loss of property.
- The Tactical Commander shall maintain a timely and continual line of communication with the Incident Commander keeping that command apprised of all progress and significant developments.
- The tactical response shall continue until such time as the threat is eliminated or neutralized.
- The Tactical Commander shall immediately inform the Incident Commander when the event is neutralized, contained or eliminated.
- The On-Scene Incident Commander shall provide further direction to the Tactical Commander and make other notifications consistent with agency protocol and chain of command.
- Once the threat is neutralized, the On-scene Incident Commander shall make immediate arrangements for:
 - Site security
 - Medical assistance to victims
 - Preservation of the crime scene
 - Initiation of the investigative process
 - Preparations for a return to normal activity

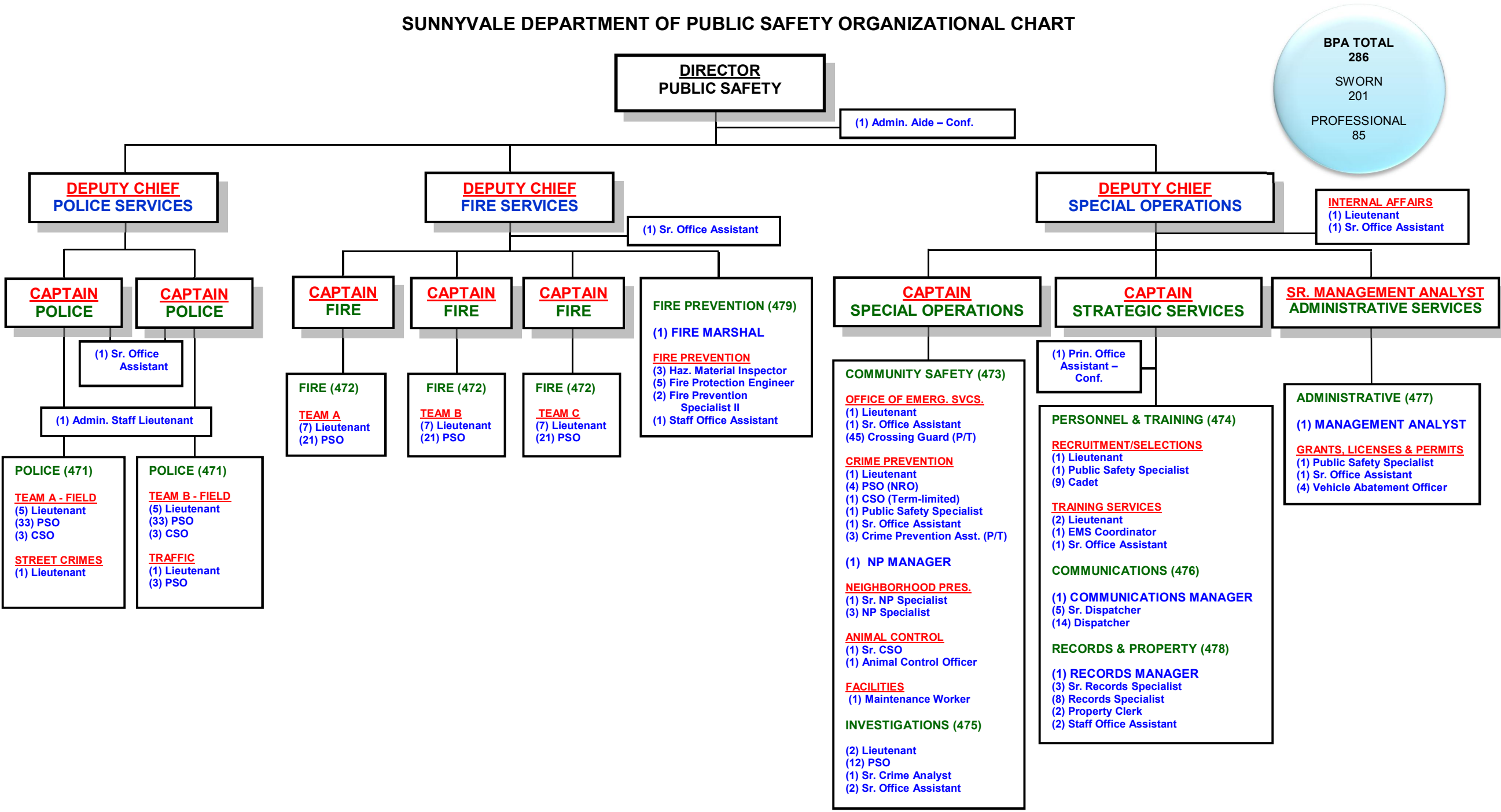
SWAT Arrival

When SWAT personnel arrive on scene, continued assistance by on scene personnel is critical. As soon as practical:

- Coordinate contact responsibilities.
- Assist with containment responsibilities, if necessary.
- Assist with Rescue Teams, if necessary.
- Assist with Rescue Task Forces if necessary.
- Act as a "pathfinder" for SWAT:
 - Direct to last known location of suspect(s).
 - Report location of explosives.
 - Provide information such as suspect(s) description and weapons.

FY 16-17 DPS Org Chart-Rev July 2016.pdf

SUNNYVALE DEPARTMENT OF PUBLIC SAFETY ORGANIZATIONAL CHART



**WC- Pre-Authorization Form for
Physical Activity rev 4-22-20.pdf**



CITY OF SUNNYVALE
PRE-AUTHORIZATION OF PHYSICAL ACTIVITY
Appendix A - DPS Policy 1005 - Employee Wellness

Date of Request:

Job Title:

Employee Name:

Employee No:

Description of Requested Activity:

Reason for Request:

_____	_____
Employee Signature	Date

_____	_____	Approval:
Immediate Supervisor	Date	
_____	_____	Approval:
Captain	Date	
_____	_____	Approval:
Deputy Chief	Date	
_____	_____	Approval:
Chief of Public Safety (Approving Authority)	Date	
_____	_____	
Risk Manager (Record Retention)	Date	

Annual Renewal Date:

Sunnyvale DPS Policy Manual

Department Policies

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