

SAN JOSE POLICE DEPARTMENT DUTY MANUAL



Policies, Rules, Procedures

Public Version

Security Procedures Redacted Pursuant to
California Government Code Section 7923.600(a)

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ADMINISTRATIVE STRUCTURE AND MANAGEMENT FUNCTION

A 1100 – A 3000



San Jose Police Department Duty Manual



A 1100 - GENERAL ELEMENTS – VISION, MISSION, VALUES:

Revised 12-10-23

VISION: The San Jose Police Department will build community relationships and deliver exceptional service at all levels, so every member of our community has the highest trust in the Police Department.

MISSION: The San Jose Police Department is dedicated to providing public safety through community partnerships and 21st Century Policing practices, ensuring equity for all. The Department is committed to treating all of San Jose's diverse community members with dignity, fairness, and respect, while protecting their rights and providing equal protection under the law.

VALUES: The San Jose Police Department is committed to the following values:

Integrity: We are truthful and honest, acting with moral courage, always striving to do what is right.

Accountability: We take responsibility for our conduct, communicating transparently with the community about our actions, motives, plans, and programs.

Collaboration: We work together with the community and within the Department, engaging with each other cooperatively in order to solve problems and achieve shared goals.

In addition to these primary values, the Department remains committed to Courage, Excellence, Service, Diversity, Innovation, and Respect.

PROCEDURE

A 1101 MAINTENANCE OF MISSION:

To maintain and ensure the achievement of the Department's mission, the following procedures and terms will be utilized.

A 1102 AUTHORITY TO AMEND OR REVOKE ORDERS:

Whenever an amendment or revocation of any material contained in the "Duty Manual" is contemplated or proposed, the official planning process will be adhered to and, in any event, no amendment or revocation will occur without obtaining the approval of the Chief of Police.

A 1103 MANAGEMENT RESPONSIBILITY:

Each supervisor will be responsible for periodically taking the steps necessary to ensure that assigned subordinate Department members have access to an up-to-date copy of the Department Duty Manual.

A 1104 EMPLOYEE RESPONSIBILITY:

Revised 06-21-22

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Department members will be responsible for adhering to all the provisions contained within the Duty Manual. This responsibility continues even if the Department member is not assigned as the primary responding officer to an event. Department members who are reasonably unaware of violations of the Duty Manual will not be held responsible for those violations.

Example: Two officers respond to a domestic violence event. The primary officer, Officer A, speaks with the survivor, provides resources, and leaves the scene without taking a report. Officer B is on scene and is aware of the decision to not take a report. Officer B is responsible for Duty Manual section L 7307 - DOMESTIC VIOLENCE REPORTING and shall take a report, even if Officer A does not.

A 1105

DEFINITIONS OF THE FUNCTIONAL TERMS:

The following are definitions of terms used throughout this manual:

- AREA: A geographic section or territorial subdivision of the city comprised of a given number of districts. Areas are used for managing the delivery of police services.
- BEAT: Subdivisions of districts and designate a geographic area assigned for patrol purposes.
- BUREAU: The largest organizational component of the Department.
- CHAIN OF COMMAND: A series of positions, each of which is directly commanded by the one immediately above it. At any given time, there is only one position in any echelon above a given position within the chain of command. There may be many positions in each echelon below a given position.
- CHIEF OFFICER: A Department member assigned or holding the rank of Chief of Police, Assistant Chief of Police or Deputy Chief of Police.
- CITIZEN (or PRIVATE CITIZEN): Any individual who is not acting as a sworn or civilian member of any law enforcement agency.
- CIVILIAN: Any department member who is not a sworn peace officer.
- COMMAND: "Command" is the exercise of authority and direction by a properly designated department member.
- COMMAND OFFICER: An officer who has attained the rank of lieutenant or higher.
- COMMANDING OFFICER: Any employee who exercises authority over and is responsible for the functioning of a subdivision of the Department.
- COMPETENT AUTHORITY: Any person in the organization who has the legally delegated or invested authority, capacity, or power to perform a designated function.
- DEPARTMENT: Designates the San Jose Police Department, to include all subdivisions and department members.
- DEPARTMENT MEMBER (or MEMBER): Any individual assigned to the Police Department, including officers or civilians.
- DETAIL: The smallest organizational components of a section and may be formed on a permanent or temporary basis.
- DISTRICT: Subsections of an area and designate a geographic subdivision of the City

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comprised of a given number of beats.

- DIVISION: The largest functional subdivision of a Bureau.
- HIGHER AUTHORITY: A person who has more authority than a given department member or has authority over that member.
- OFFICE: Refers to a functional entity, not to be confused with "Officer" which is a specific Civil Service Classification.
- OFFICER: A peace officer or law enforcement officer whose duties involve the enforcement of laws. This refers to all peace officer ranks within the San Jose Police Department.
- PERSONNEL FOLDERS: Refers to those department member's records maintained by the Personnel Unit.
- POLICE RESERVE OFFICER: "Police Reserve Officer" designates an Office of Emergency Services volunteer who receives training to provide professional assistance to the Department in law enforcement activities during disaster and other public service activities.
- POLICY: A governing principle of management and reflects the objectives, philosophy and direction of the department.
- PROCEDURE: A step-by-step outline of action to be followed for the accomplishment of a task.
- PROGRAM: A department subdivision which is separately defined and budgeted in the Department Program Budget.
- PROGRAM MANAGER: The department member directly responsible for the management of a program. A Program Manager can be a civilian or an officer.
- RESERVE DIRECTOR: "Reserve Director" designates the department member responsible for the execution of all orders governing the Police Reserve,
- RULE: A specific course to be followed or avoided and governs conduct, action, usage or regulation.
- SECTION: The functional subdivisions of a unit.
- SENIOR MEMBER: The department member in any classification or rank with the longest time in rank.
- SHIFT: A period of time that a department member is assigned to work.
- SUBDIVISION: Any organizational entity within the Department, either on the basis of function, time or area.
- SUBORDINATE: Any department member that is under the authority or control of another within the department.
- SUPERIOR OFFICER: Any officer that holds a higher rank than another officer.
- SUPERVISOR: A department member assigned to directly supervise one or more department member.
- TEAM: Groupings of unit members performing the same function.

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- UNIT: Subdivisions of a division.



A 1200 – POLICY ORGANIZATION STRUCTURAL COMPONENTS

In order to accomplish goals as efficiently and effectively as possible, the Department maintains organizational and geographic units to coordinate functional efforts by its members.

PROCEDURE

A 1201 ORGANIZATION STRUCTURAL COMPONENTS

The established organizational and geographic units of the Department are as follows:

A 1202 GEOGRAPHIC COMPONENTS:

- CITY: The "City" is that area contained within the incorporated boundary limits of the City of San Jose.
- AREA: "Area" designates a geographic section or territorial subdivision of the City comprised of a given number of districts. Areas are used for managing the delivery of police services.
- DISTRICT: "Districts" are subsections of an area and designate a geographic subdivision of the City, comprised of a given number of beats.
- BEAT: "Beats" are subdivisions of districts and designate a geographic area assigned for patrol purposes.

A 1203 ORGANIZATIONAL COMPONENTS:

Refer to Duty Manual section A 1105 - DEFINITIONS OF THE FUNCTIONAL TERMS for definitions of the following Organizational Components:

- Department
- Bureau
- Division
- Unit
- Team
- Section
- Detail



A 1300 - ORGANIZATIONAL OFFICES & CHART:

To aid in achieving Department goals, organizational offices are established. In addition, the Department maintains an organizational chart depicting the functional relationship between bureaus and subdivisions.

PROCEDURE

A 1301 ORGANIZATIONAL OFFICES AND BUREAUS:

Revised 01-21-21

The following Offices and Bureaus are hereby established and will consist of the respective Commanding Officer or Director and the staff assigned to aid in the operation of the Office or Bureau.

- OFFICE OF THE CHIEF OF POLICE
- OFFICE OF THE ASSISTANT CHIEF OF POLICE
- OFFICE OF THE CHIEF EXECUTIVE OFFICER
- BUREAU OF FIELD OPERATIONS
- BUREAU OF INVESTIGATIONS
- BUREAU OF TECHNICAL SERVICES
- BUREAU OF ADMINISTRATION

A 1302 ORGANIZATIONAL CHART:

Revised 01-21-21

The Department maintains an Organizational Chart. It depicts what Divisions and Units are under the command of each organizational Office or Bureau listed in Duty Manual section A 1301 - ORGANIZATIONAL OFFICES. The chart is available for review on the Department's Internet and Intranet websites.



A 1400 - COMMAND POSITIONS:

Subject to direction from higher authority, command officers maintain direct authority over all members within a command. The command officer exercises direction, control and inspection of subordinates; maintains morale, harmony and discipline within the command; properly organizes and assigns functions and tasks to units and members of the command; provides for appropriate training; communicates organizational needs via budget requests; and performs other duties as assigned by competent authority. A command officer may delegate the position's authority or duties but not the ultimate responsibility of the command.

PROCEDURE

A 1402 CHIEF OF POLICE:

The position of Chief of Police (Department Head) is established pursuant to Section 2.04.1010 of the San Jose Municipal Code. The Chief of Police is appointed by the City Manager to provide administrative and command direction for the Department.

A 1403 ASSISTANT CHIEF OF POLICE:

The position of Assistant Chief of Police (Assistant Department Head) is appointed by the Chief of Police to assist in the administration and command of the Department. Additional responsibilities of the Assistant Chief of Police include command of selected line functions (Bureau of Field Operations, Bureau of Investigations, and Bureau of Technical Services) and other responsibilities as assigned by the Chief of Police.

A 1404 DEPUTY CHIEF:

Deputy Chiefs (Bureau Chiefs) exercise command over members assigned to a Bureau and assist in implementing Department policies and directives. In addition, a Deputy Chief will assume control of all matters relating to or concerned with the fulfillment of the functions and goals assigned to the Bureau.

A 1405 DIVISION COMMANDER:

Division Commanders will exercise command over employees of the assigned division. In addition, Division Commanders will assume staff control over all matters relating to or concerned with the fulfillment of the functions of the assigned division.

A 1406 UNIT COMMANDER:

Unit Commanders, regardless of classification or position, exercise command over the functions of a unit.



A 1500 – DEPARTMENT ORGANIZATIONAL STRUCTURE:

Revised 01-21-21

The San Jose Police Department’s organizational structure is comprised of Offices and Bureaus, each represented by a Chief Officer or Director, whose duty is to uphold the Department’s mission, values, and standards.

PROCEDURE

A 1500.5 OFFICE OF THE CHIEF OF POLICE:

Added 01-21-21

To achieve the Department's mission, the Office of the Chief of Police is created.

- Provides broad administrative and command direction through establishment and maintenance of policy to guide departmental actions and programs.
- Ensures that Department policies, actions and programs are efficiently and effectively performed.
- Determines departmental and community needs and relays those needs to the City administration.
- Maintains contact with the community to ensure a productive police/community spirit.

The Office of the Chief of Police provides departmental leadership and administration and is comprised of functional units designated by the Chief of Police to provide assistance to, and ensure cooperation with, subdivisions of the Department, other agencies, other City departments, members of the community, and the City administration.

A 1501 OFFICE OF THE CHIEF OF POLICE - FUNCTIONAL DESCRIPTION:

Revised 01-21-21

In order to ensure maintenance of departmental policy and achieve departmental goals, the Office of the Chief of Police is organized by function.

Various Units are assigned to the Office of the Chief of Police for the purpose of achieving the functions of the office. The current list of Units assigned to the Office of the Chief of Police is contained on the Department’s Organizational Chart as described in section A 1302. The functions, duties, and responsibilities of each Unit are determined at the behest of the Chief of Police. Any questions or disputes regarding the functions, duties, or responsibilities of a Unit assigned to the Office of the Chief of Police will be resolved by the Chief of Police or their designee.

The Office of the Chief of Police contains Units whose functional responsibilities include, but are not necessarily limited to:

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- Media Relations
- Website Maintenance
- Strategic Communications and Community Partnerships
- Video and Social Media Production

A 1502 CHIEF OF POLICE:

Deleted 01-21-21

A 1503 SPECIAL INVESTIGATIONS UNIT:

Deleted 01-21-21

A 1504 INTERNAL AFFAIRS UNIT:

Deleted 01-21-21

A 1505 LIABILITY INVESTIGATOR:

Deleted 01-21-21

A 1506 RESEARCH AND DEVELOPMENT UNIT:

Deleted 01-21-21

A 1510 OFFICE OF THE ASSISTANT CHIEF OF POLICE:

Added 01-21-21

- In the absence of the Chief, assumes the duties of the Office of the Chief with authority to act in accordance with City and departmental policy.
- Provides command direction to specific subdivisions of the Department.
- Releases information concerning Department operations and procedures.
- Ensures that departmental policies, actions, and programs are efficiently and effectively performed.
- Assists the Chief of Police in matters concerning Department operations.

The Office of the Assistant Chief of Police provides leadership and administrative direction to functions of the Department as designated by the Chief of Police.

A 1511 OFFICE OF THE ASSISTANT CHIEF OF POLICE – FUNCTIONAL DESCRIPTION:

Added 01-21-21

To achieve the Department's mission, the Office of the Assistant Chief of Police is created.

Various Bureaus, Divisions, and Units are assigned to the Office of the Assistant Chief of Police for the purpose of achieving the functions of the office. The current list of Bureaus, Divisions, and Units assigned to the Office of the Assistant Chief of Police is contained on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Bureau, Division, or Unit are determined at the behest of the Assistant Chief of Police. Any questions

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or disputes regarding the functions, duties, or responsibilities of a Bureau, Division, or Unit assigned to the Office of the Assistant Chief of Police will be resolved by the Assistant Chief of Police or their designee.

The Office of the Assistant Chief of Police contains Bureaus, Divisions, and Units whose functional responsibilities include, but are not necessarily limited to:

- Executive Officer
- Field Operations
- Investigations
- Administration
- Technical Services & Support
- Gaming Control
- Special Investigations
- Internal Affairs Investigations
- Vice Investigations
- Criminal Intelligence Investigations

A 1520 OFFICE OF THE CHIEF EXECUTIVE OFFICER:

Added 01-21-21

The Chief Executive Officer maintains police service to the community by assisting the Office of the Chief of Police in administrative matters; serving as a liaison to various City Departments and Committees; and overseeing fiscal, budget, research & development, cannabis control, and the criminal intelligence data center.

A 1521 OFFICE OF THE CHIEF EXECUTIVE OFFICER (XO) – FUNCTIONAL DESCRIPTION:

Added 01-21-21

To achieve the Department mission, the Office of the Chief Executive Officer is organized by function.

Various Units are assigned to the XO for the purpose of achieving the functions of the Office. The current list of Units assigned to the Office is on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Unit are determined at the behest of the XO. Any questions or disputes regarding the functions, duties, or responsibilities of a Division, or Unit assigned to the Executive Office will be resolved by the XO.

The functional Units and responsibilities of the Office of the Chief Executive Officer include, but are not necessarily limited to:

- Personnel Functions
- Fiscal Functions

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- Research & Development
- Public Records Act Services
- Permitting
- Secondary Employment
- Cannabis Control
- Crime Data Intelligence Center
- Liaison to City Hall

A 1530 BUREAU OF FIELD OPERATIONS:

Added 01-21-21

Assists in maintaining police service to the community by providing for continuous availability of field units to respond to calls for service; to deter crimes by visible patrol; to detect, apprehend and process persons actively involved in criminal activity; to recover and return lost or stolen property; to ensure the safe movement of vehicular and pedestrian traffic; to provide follow-up investigation of offenses when warranted by time or circumstances; and to reduce both immediate and potential hazards to the community. Administration and management of those functions are accomplished through the Bureau Chief and assigned Department members.

A 1531 BUREAU OF FIELD OPERATIONS (BFO) - FUNCTIONAL DESCRIPTION:

Revised 08-09-23

To achieve the Department's mission, the Bureau of Field Operations is organized by function.

Various Divisions, and Units are assigned to BFO for the purpose of achieving the functions of the Bureau. The current list of Divisions, and Units assigned to the Bureau is on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Division or Unit are determined at the behest of the Bureau Deputy Chief. Any questions or disputes regarding the functions, duties, or responsibilities of a Division, or Unit assigned to the Bureau will be resolved by the Bureau Deputy Chief.

The Bureau contains Divisions and Units whose functional responsibilities include, but are not necessarily limited to:

- Patrol Services
- Special Operations
- Community Services
- Airport Services
- Wellness and Employee Support
- Reserve Police Services
- Community Service Officer Program

- Administrative and Support Functions

A 1540 BUREAU OF INVESTIGATIONS:

Added 01-21-21

Assists in maintaining police service to the community by using analysis of reported crime to determine feasibility of follow-up investigation; the investigation of crimes deemed solvable; the investigation of the sale, distribution and use of illegal narcotics; the investigation of cases involving the sale or possession of stolen goods; the investigation of sex crimes; and the investigation of crimes committed by, against or involving juveniles. Administration and management of these functions are accomplished through the Bureau Chief and assigned Department members.

A 1541 BUREAU OF INVESTIGATIONS (BOI) - FUNCTIONAL DESCRIPTION:

Added 01-21-21

To achieve the Department mission, the Bureau of Investigations is organized by function.

Various Divisions, and Units are assigned to BOI for the purpose of achieving the functions of the Bureau. The current list of Divisions, and Units assigned to the Bureau is on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Division or Unit are determined at the behest of the Bureau Deputy Chief. Any questions or disputes regarding the functions, duties, or responsibilities of a Division, or Unit assigned to the Bureau will be resolved by the Bureau Deputy Chief.

The Bureau contains Divisions and Units whose functional responsibilities include, but are not necessarily limited to:

- Investigation of General Crimes
- Investigation of Person Crimes
- Covert Investigations
- Court Liaison Services
- Administrative Functions

A 1550 BUREAU OF ADMINISTRATION:

Added 01-21-21

Assists in maintaining police service to the community by providing recruitment, selection, and screening programs which ensure entry of the highest caliber Department members; the maintenance of Department member's records; the development and presentation of training programs; photo lab services and maintenance of fiscal and property control systems. Administration and management of these functions are accomplished through the Bureau Chief and assigned Department members.

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A 1551 BUREAU OF ADMINISTRATION (BOA) - FUNCTIONAL DESCRIPTION:

Added 01-21-21

To achieve the Department mission, the Bureau of Administration is organized by function.

Various Divisions, and Units are assigned to BOA for the purpose of achieving the functions of the Bureau. The current list of Divisions, and Units assigned to the Bureau is on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Division or Unit are determined at the behest of the Bureau Deputy Chief. Any questions or disputes regarding the functions, duties, or responsibilities of a Division, or Unit assigned to the Bureau will be resolved by the Bureau Deputy Chief.

The Bureau contains Divisions and Units whose functional responsibilities include, but are not necessarily limited to:

- Recruiting & Backgrounding Operations
- Police Basic Training
- Training Services
- Property & Evidence Management
- Supply Services
- Records & Support Services
- Radio Communications & 911 Services
- Administrative Functions

A 1560 BUREAU OF TECHNICAL SERVICES:

Added 01-21-21

Assists in maintaining police service to the community by providing crime analysis, systems development, information technology support.

A 1561 BUREAU OF TECHNICAL SERVICES (BTS) - FUNCTIONAL DESCRIPTION:

Added 01-21-21

To achieve the Department mission, the Bureau of Technical Services is organized by function.

Various Divisions, and Units are assigned to BTS for the purpose of achieving the functions of the Bureau. The current list of Divisions, and Units assigned to the Bureau is on the Department's Organizational Chart as described in Duty Manual section A 1302 - ORGANIZATIONAL CHART. The functions, duties, and responsibilities of each Division or Unit are determined at the behest of the Bureau Deputy Director. Any questions or disputes regarding the functions, duties, or responsibilities of a Division, or Unit assigned to the Bureau will be resolved by the Bureau Deputy Director.

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The Bureau contains Divisions and Units whose functional responsibilities include, but are not necessarily limited to:

- Systems Development
- Information Technology Services
- Crime Analysis Functions
- Administrative Functions

A 1600 - OFFICE OF THE ASSISTANT CHIEF OF POLICE:

Revised & Moved to A 1510 1-21-21



PROCEDURE

A 1601 OFFICE OF THE ASSISTANT CHIEF OF POLICE:

Revised & Moved to A 1511 01-21-21

A 1602 COMMAND FUNCTIONS:

Deleted 01-21-21

A 1603 FUNCTIONAL SUBDIVISIONS:

Deleted 01-21-21

A 1604 BUREAU OF FIELD OPERATIONS:

Deleted 01-21-21

A 1606 BUREAU OF INVESTIGATION:

Deleted 01-21-21

A 1607 BUREAU OF TECHNICAL SERVICES:

Deleted 01-21-21

A 1608 BUREAU OF ADMINISTRATION:

Deleted 01-21-21

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A 1700 – BUREAU OF FIELD OPERATIONS:
Revised & Moved to A 1530 1-21-21



PROCEDURE

- A 1701 BUREAU OF FIELD OPERATIONS - FUNCTIONAL DESCRIPTION:**
Revised & Moved to A 1531 01-21-21
- A 1702 BFO ADMINISTRATION:**
Deleted 01-21-21
- A 1703 BFO HEADQUARTERS:**
Deleted 01-21-21
- A 1704 BFO PATROL DIVISIONS (FOOTHILL, CENTRAL, WESTERN, SOUTHERN):**
Deleted 01-21-21
- A 1705 SPECIAL OPERATIONS DIVISION:**
Deleted 01-21-21
- A 1706 COMMUNITY SERVICES:**
Deleted 01-21-21
- A 1707 AIRPORT DIVISION:**
Deleted 01-21-21
- A 1708 POLICE ACTIVITIES LEAGUE:**
Deleted 01-21-21

A 1800 – BUREAU OF INVESTIGATIONS:
Revised & Moved to A 1540 01-21-21



PROCEDURE

- A 1801 BUREAU OF INVESTIGATIONS–FUNCTIONAL DESCRIPTION:**
Revised & Moved to A 1541 01-21-21

- A 1802 BOI ADMINISTRATION:**
Deleted 01-21-21

- A 1803 BOI FUNCTIONS:**
Deleted 01-21-21

A 1900 – BUREAU OF ADMINISTRATION:

Revised & Moved to A 1550 01-21-21



PROCEDURE

- A 1901 BUREAU OF ADMINISTRATION - FUNCTIONAL DESCRIPTION:**
Revised & Moved to A 1551 01-21-21
- A 1902 BOA ADMINISTRATION & FUNCTIONS:**
Deleted 01-21-21
- A 1903 FISCAL UNIT**
Deleted 01-21-21
- A 1904 PERSONNEL UNIT**
Deleted 01-21-21
- A 1905 TRAINING UNIT**
Deleted 01-21-21
- A 1906 PROPERTY AND EVIDENCE UNIT:**
Deleted 01-21-21
- A 1907 PSYCHOLOGICAL SERVICES:**
Deleted 01-21-21
- A 1908 CITY ATTORNEY INVESTIGATORS (SERGEANTS AND OFFICERS):**
Deleted 01-21-21

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A 2000 – BUREAU OF TECHNICAL SERVICES:

Revised & Moved to A 1560 01-21-21



PROCEDURE

A 2001 BUREAU OF TECHNICAL SERVICES - FUNCTIONAL DESCRIPTION:

Revised & Moved to A 1561 01-21-21

A 2002 BTS ADMINISTRATION:

Deleted 01-21-21

A 2003 COMMUNICATIONS DIVISION:

Deleted 01-21-21

A 2004 OPERATIONS SUPPORT SERVICES DIVISION:

Deleted 01-21-21



A 2100 – MAINTAINING ORGANIZATION:

In order to achieve goals and objectives in an orderly and efficient manner, the organizational structure and integrity must be maintained. Thus, functional units have been established with specifically defined responsibilities with the goal of accomplishing objectives as efficiently as possible. Coordination of this effort is accomplished by requiring that Department members pursue their tasks within the official organizational structure and utilize the chain of command.

PROCEDURE

A 2101 GENERAL RULES:

In accomplishing Department goals, objectives and programs, the following rules will be adhered to.

A 2102 COORDINATION:

Members of the Department will coordinate their functions so as to maintain a high standard of efficiency and maintain unity of command. Department members will perform their tasks and duties within the official organizational structure and use the chain of command.

A 2103 ESTABLISHMENT OF TEMPORARY SUBDIVISIONS:

With approval of the Chief of Police, establishment of details, units or task forces may be initiated by any commanding officer if directly under the command of the officer concerned and functionally unique to the command. Establishment of such details, units or task forces are made for a specific purpose and are limited to the fiscal year of implementation.

A 2104 DETERMINING OFFICIAL DUTIES:

Department members will seek information concerning their official duties from their immediate superior officer.

A 2105 DEPARTMENT CORRESPONDENCE:

All official correspondence directed outside the Department will contain the signature or name of the Chief of Police countersigned by the originator.

A 2106 CORRESPONDENCE WITH OUTSIDE AGENCIES:

Department members will not make any request for equipment or services to agencies outside the Department unless authorized to do so by the Chief of Police. With the approval of their commanding officer, members of any subdivision may communicate with agencies outside the Department to gain information but may not commit the Department to any type of action without proper authorization.

A 2107 MODIFYING EXISTING FACILITIES OR EQUIPMENT:

When a Department member intends to procure the services of another agency, business or City Department in order to modify existing facilities or equipment, such member will adhere to the following procedures:

- REQUIRED DOCUMENTATION: The requesting member will complete the following

documents:

- Memorandum Detailing the Request. A City memorandum detailing the modification to be made and why it is necessary.
 - Department "Transmittal Form" (Form 210-1). A "Transmittal Form" attached to the memorandum.
- SUBMISSION: The requesting member will then submit the required documentation through the chain of command to the involved Bureau Chief.

The Bureau Chief will then review the request and, if approved, forward the required documents to the Office of the Chief for final review and approval to proceed.

When approval is obtained, implementation may begin and will be coordinated through the Office of the Chief.



A 2200 – UNITY OF COMMAND:

To facilitate management of an organization, the principle of "unity of command" is employed so that an employee receives orders from only one superior. To ensure unity of command and maintain efficient management of the San Jose Police Department, clearly defined lines of authority are established enabling a structural relationship between each Department member and the Chief of Police.

PROCEDURE

A 2201 UNITY OF COMMAND:

To ensure unity of command and maintain the efficiency of the Department, Department members will adhere to the following procedures:

A 2202 GENERAL RESPONSIBILITY:

Direct supervisors and subordinates will keep each informed of the other's activities. Additionally, Department members will keep themselves aware of their relative position in the organization, to whom they are accountable and who are accountable to them.

A 2203 TABLE OF ORGANIZATION AND CHAIN OF COMMAND FOR THE DEPARTMENT:

The chain of command of the Department is as follows:

- Chief of Police
- Assistant Chief of Police
- Deputy Chief of Police
- Captain
- Lieutenant
- Sergeant
- Police Officer

EXCEPTIONS: A Department member, regardless of classification, assigned to a command position will report to the immediate higher authority within the chain of command and will exercise authority over all subordinate Department members, within the command assigned.

A 2204 ORDER OF SUCCESSION:

Revised 09-08-21

In the absence of the Chief of Police, the Assistant Chief of Police will serve as the Acting Chief of Police. The order of succession and/or order of notification in the event of an emergency will coincide with the chain of command and is as follows:

- a. Chief of Police

- b. Assistant Chief of Police
- c. Deputy Chief, Executive Officer
- d. Deputy Chief, Bureau of Field Operations
- e. Deputy Chief, Bureau of Investigations
- f. Deputy Chief, Bureau of Administration

A 2205 NOTIFICATION OF CHIEF OF POLICE:

Revised 06-24-13

Department members will ensure that the highest ranking officer on duty, in a Patrol capacity, is advised of the following incidents:

- Homicide
- In-Custody Death
- Injuries to Officers Requiring Admission to a Hospital
- Mutual Aid
- Officer Criminal Conduct (Note: No Captain's Page)
- Officer Involved Shootings
- Significant Use of Force Requiring the Suspect to be Admitted to a Hospital
- Unusual incidents or any event of sufficient magnitude wherein a notification of Chief of Police would seem appropriate. Some examples are: hostage situation, kidnapping, significant case involving a political figure, cases involving media sensitivity, etc.

The highest ranking officer on duty will then notify, through their chain of command, the Assistant Chief of Police who will, when necessary, notify the Chief of Police.

A 2206 AUTHORITY WITHIN THE CHAIN OF COMMAND:

Sound management practice demands that each command or supervisory person issue specific orders only to immediate subordinate Department members. The subordinate person then issues orders in the same manner until the point of implementation is reached. When a deviation of the normal practice is believed justified, direct orders may be issued by higher authority to any subordinate within the higher authority's chain of command. However, when such a course of action is necessary, all intermediate command or supervisory Department members in the chain of command affected are informed.

A 2207 AUTHORITY OUTSIDE THE CHAIN OF COMMAND:

Department members will strive to issue orders only within the chain of command. When a violation of normal practice is believed justified, a senior member outside a subordinate's chain of command may issue an order to a subordinate, but will notify the subordinate's supervisor of the order.

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A 2300 – WRITTEN DIRECTIVES:

In order to accurately and effectively communicate information, the Department maintains a system of written directives consisting of the Police Duty Manual, General Orders, Temporary Orders and Personnel Orders. Each reflects the authority of the Chief of Police. Additionally, memoranda are utilized for written communications to inform or inquire and to implement existing policy and/or procedures.

PROCEDURE

A 2301 WRITTEN DIRECTIVES:

Following are the established written directives in use by the Department.

A 2302 POLICE DUTY MANUAL:

The Duty Manual is the Department's operations manual and contains official information relating to ongoing police operations for which members are accountable.

A 2303 GENERAL ORDERS:

General Orders have reference to the entire organization, define policy, direct procedures, and result in a change in or addition to the Police Duty Manual. Except in unusual circumstances, General Orders are reviewed by staff prior to being issued.

A 2304 TEMPORARY ORDERS:

Revised 12-10-21

Temporary Orders provide information, define policy, or direct procedures. They pertain to special situations or events and are of limited duration and/or are self-canceling. In limited duration orders, the expiration date shall be specified on the Temporary Order. In self-canceling orders, the order shall be in effect as long as the special situation or event remains. If no time limit is specified and the special situation or event no longer remains, the effect of any one Temporary Order is limited to twelve months from the date the order is issued.

Temporary Orders used to supply information or rescind existing policy or procedure shall remain in force until superseded by proper authority.

Temporary Orders are issued through Department Memorandum.

Temporary Orders do not result in a change in or addition to the Police Duty Manual.

- **OBTAINING INFORMATION COVERED BY TEMPORARY ORDERS:** Department members may obtain copies of Temporary Orders from the Intranet or the Research and Development Unit.

A 2305 PERSONNEL ORDERS:

Personnel Orders are issued under the authority of the Chief of Police for Department members transactions and pertain to Department member status changes.

A 2306 MAINTENANCE OF WRITTEN DIRECTIVES SYSTEM:

No General Order or Temporary Order is official unless signed by the Chief of Police or designee.

A 2307 DUTY MANUAL MASTER COPY:

A current master copy of the San Jose Police Duty Manual is kept on file in the Office of the Chief of Police, Research and Development Unit (R&D) and on the Department's intranet site, which is easily accessible to all members. In addition, R&D will maintain an up-to-date file on all Temporary Orders and General Orders.

A 2308 DUTY MANUAL BUREAU COPY:

Deleted 04-01-12

A 2309 PROCEDURE FOR PREPARING ORDERS:

Both General Orders and Temporary Orders may be originated by any Department member who believes the order is needed. The steps listed below will be followed:

- Two copies of a written draft of the order will be prepared by the individual originating the order and one copy forwarded through the chain of command for comment and the other copy delivered to the Research and Development Unit.
- Upon receipt of both copies, Research and Development will then coordinate the review and formulation process.

A 2310 EXCEPTIONS TO NORMAL PROCEDURE FOR PREPARING ORDERS:

Occasions may arise when it is desirable to issue an order more quickly than possible using the above procedure. The decision to bypass any portion of the usual procedure is made by the Chief of Police or designee.

A 2311 BUREAU OR DIVISIONAL DIRECTIVES:

Bureau Chiefs may utilize a memorandum for issuing orders, directives and notices pertaining to the operations of their respective bureaus after first determining that such written directives do not conflict with or alter the direction of established Department policies and procedures as contained in the written directives system. In addition, a copy of all bureau and/or divisional directives will, upon issuance, be forwarded to the Research and Development Unit where a master file of such directives is maintained.

A 2312 TRAINING BULLETINS

Added 08-18-05

Training Bulletins are issued under the authority of the Chief of Police to address those instances where critical or time sensitive information related to police operations should be quickly disseminated. Instances where a Training Bulletin might be appropriate include legal updates, vendor specific product/training issues, or officer safety information such as concealed or disguised weapons.

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A 2400 – DEPARTMENT SERIAL NUMBERS:

The San Jose Police Department assigns to all Department members permanent, individual serial numbers which are used as an identifier. Serial numbers assigned remain the identifier for present and past Department members and are never reissued to another Department member.

PROCEDURE

A 2401 USE OF SERIAL NUMBERS:

Serial numbers will appear on each member's Police Department Identification Card and, when applicable, on the Department member's badge. All members below the rank of Captain will use their respective serial number on all forms and correspondence.

A 2402 CONTROL OF SERIAL NUMBERS:

The Bureau of Administration is responsible for maintaining records of all assigned serial numbers for the following class of Department members:

- Sworn
- Civilian
- Contract Employees
- Volunteers

A 2403 PERMANENCY OF SERIAL NUMBERS:

Revised 04-07-16

Serial numbers assigned to Department member are permanent and are not changed as a result of transfer or promotion. When a Department member leaves SJPD employment, the member's serial number is retired.

If the member is rehired by the Department, the member is reissued their previously assigned serial number.



A 2500 - PRINCIPLES OF COMMAND:

A command officer will exercise command authority in the interest of the Department. A Department member assigned to a position of command will carry out the policies and procedures of the Department and orders of superiors in a manner so as to enhance the accomplishment of the Department's mission, goals and objectives.

PROCEDURE

A 2501 PRINCIPLES OF COMMAND:

The following procedures for command are hereby established.

A 2502 ASSIGNMENT TO COMMAND:

The Chief of Police has final authority to select and approve assignments of Department members to command positions. If a command position must be filled by a particular classification or rank, the Chief of Police will fill that position from members holding the required classification. Assignments are determined on the basis of a combination of factors including, but not limited to, level of experience, extent of training, past performance and capability for performing the assignment.

A 2503 ACCOMPLISHMENT OF COMMAND ASSIGNMENTS:

Command officers will take all reasonable steps to accomplish their assignments. In the case of difficult or complicated assignments which cannot be accomplished immediately, command officers will make frequent progress reports to their supervisor. Reports are either oral or written depending upon the wishes of their supervisor. Command officers will assist subordinates by furnishing direction and will coordinate the work of their subordinates to best accomplish goals and objectives.

A 2504 MULTI-BUREAU ASSIGNMENTS:

When responsibility for an assignment is entirely within a single bureau but requires assistance of subdivisions from other bureaus, a command officer attached to the responsible bureau, and present for duty, will have authority over an officer of the same rank detailed from another bureau.

A 2505 DELEGATION: DUTIES - RESPONSIBILITIES:

Unless specific orders prohibit it, command officers may delegate any duty assigned to them to their subordinates. They may accept any available aid from other subdivisions of the Department in the discharge of their duties. Command officers retain the position's responsibilities until relieved of them by higher authority.

A 2506 ABSENCE OF CHIEF OFFICERS:

The senior Captain assigned to the Bureau of Field Operations will assume functional responsibility for overall departmental operations in the absence of all chief officers.

- A 2507 ABSENCE OF COMMANDING OFFICER:**
In the absence of the commanding officer of any subdivision of the Department, the senior member within the subdivision will assume command, unless an alternate has been designated by the commanding officer or by a higher authority in the direct chain of command, or unless higher authority has indicated that the position should remain temporarily vacant.
- A 2508 ASSUMPTION OF COMMAND BY HIGHER AUTHORITY:**
Subdivisions of the Department are ordinarily commanded by an officer who has been assigned to take actual charge of the unit by the Chief of Police. However, the commanding officer of each higher echelon within the direct chain of command may assume command of the subdivision if it is believed necessary to do so.
- A 2509 DIRECTING AND CONTROLLING SUBDIVISIONS:**
Commanding officers may develop rules for directing and controlling specific functions of their subdivisions, subject to the approval of the Chief of Police. When approved, these rules will apply only to the members of that particular subdivision. In an emergency, special orders deviating from the rules and regulations may be issued, lasting only for the duration of the emergency.
- A 2510 SENIORITY AS A FACTOR IN COMMAND:**
When two or more Department members of equal rank are working together on the same assignment or detail and an emergency develops requiring a command decision, and no one has been assigned command by competent authority, the senior officer will assume command.
- A 2511 DETERMINING SENIORITY:**
Seniority is determined first by rank and second by continuous service in the rank. Seniority is not used to determine command except in an emergency.
- A 2512 CHAIN OF COMMAND DURING EMERGENCIES:**
Command of all Department members assigned to the scene of an emergency is assumed by officers in the regular command structure of the geographic area in which the operation occurs, i.e., the Beat Officer, Team Sergeant, Area Lieutenant, Division Commander, Bureau Deputy Chief, and Assistant Chief of Police. In situations lacking the regular command structure, the senior officer will supervise until the arrival of any Higher Authority. Any Higher Authority assuming command at the scene of an emergency will inform the officer being relieved of their intent to assume command and will then notify Communications of the fact that command has been assumed.
- A 2513 TRANSFER OF COMMAND:**
Upon assuming a new assignment and continually thereafter, a command officer should critically evaluate all aspects of the command. Newly assigned command officers should review existing policies, procedures and programs to determine if the need for which they were enacted remains unchanged. Existing budget requests should be reviewed to ensure that any changes made or contemplated have not rendered the requests obsolete.
- Upon change of command, the command officer being replaced has a duty to lend full assistance in making the command transition as smoothly and orderly as possible. Orientation of a new command officer should include information concerning unique problems

of the command and assistance in continuing community and professional contacts relating to the command.

A 2514

MORALE:

Command officers will take positive steps to create and maintain high morale and a spirit of service among subordinates.



A 2600 - SUPERVISORY PRINCIPLES:

Supervisory Department members are appointed by higher authority to be in charge of one or more Department members. Responsibilities of supervisory officers include the supervision, direction, coordination of effort, leadership, inspection and evaluation of individual subordinates. In addition to other tasks assigned by Higher Authority, Officers assigned to a position of supervisor will organize subordinates, equipment, and tasks in a manner that ensures achievement of organizational goals and objectives with maximum efficiency and minimum expenditure of Department members and resources.

PROCEDURE

A 2601 PRINCIPLES OF SUPERVISION:

The following procedures for supervisors are hereby established.

A 2602 GENERAL RESPONSIBILITIES:

Regardless of rank or classification, a supervisor is responsible for the following basic functions.

- ADMINISTRATION: Those activities concerned with planning, organizing, directing, coordinating, recording, budgeting and public relations.
- SUPERVISION: Techniques used to achieve goals and objectives by reviewing results and determining the causes of success, failure or mediocrity. Supervision also includes the control, development and maintenance of harmonious relationships among all Department members, and the inspection, review and evaluation of work performed by subordinates.
- TRAINING: Includes instruction in the development of efficient working habits and good attitudes; practical instruction in how, what, when, where and why tasks are to be done; and development of potential in subordinates.

A 2603 KNOWLEDGE OF CONDITIONS:

Supervisors have a duty to be thoroughly familiar with the conditions which affect the work of their subordinates. Supervisors will inform their superiors concerning such conditions in as much detail as the superior requires.

A 2604 INFORMATION TO SUBORDINATES:

Supervisors will disseminate information concerning policies and procedures and will inform their subordinates of decisions by higher authority which affects them unless such information is confidential.

A 2605 TRAINING AND ASSISTANCE:

Supervisors will ensure that their subordinates are given all necessary practical assistance and training in the discharge of their duties.

A 2606 KNOWLEDGE OF SUBORDINATES:

Supervisors will closely observe the work of their immediate subordinates and be prepared to evaluate it accurately for their superiors in as much detail as the superior wishes. They will

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submit a written report to their supervisor of any serious misconduct, unfitness or outstanding work of a subordinate.

A 2607 DETAILED ORDERS AND INSTRUCTIONS:

Supervisors will issue any order to their subordinates necessary to implement orders from their superiors and will carry out their assigned function within the framework created by orders from their superiors.

A 2608 REPORT REVIEW:

The responsibility for review of all reports generated through the automated field reporting system, and direct entry reports into the records management system is common to all supervisors regardless of rank or classification. Initial responsibility will begin with a Department member's direct supervisor. However, all supervisors will make themselves available for report review and approval and strive to maintain a high level of quality in reports generated by subordinates.

A 2609 MORALE:

Supervisors will take positive steps to create and maintain high morale and a spirit of service among subordinates.



A 2700 - STRUCTURES AND DELEGATION OF DUTIES:

The structure of the Department is designed to assure the effective performance of functions and tasks that are necessary to achieve the Department's mission. The Chief of Police remains responsible for the overall performance of the Department but cannot personally plan, direct, coordinate and supervise every function and task. Functions and tasks must be assigned to subordinates who are responsible for their achievement. Therefore, the Department is rank structured and includes both officers and civilian Department members. Within this rank structure, Department members may delegate tasks to subordinates when appropriate.

PROCEDURE

A 2701 MANAGEMENT/DEPARTMENT MEMBER LEVELS:

The established management/Department member levels within the Department are Top Management, Middle Management, Direct Supervisors and Non-Supervisory Department members.

A 2702 DEGREE OF AUTHORITY:

The Department is rank structured as defined in Duty Manual section A 2203 - TABLE OF ORGANIZATION AND CHAIN OF COMMAND FOR THE DEPARTMENT.

EXCEPTION: A Department member, regardless of classification, assigned to a position of command will report to the immediate higher authority within the chain of command of the organizational component affected and will exercise authority over all subordinate Department members, whether sworn or civilian, within the command assigned.

A 2703 TOP MANAGEMENT:

A Department member assigned or holding the rank of Chief of Police, Assistant Chief of Police or Deputy Chief of Police is considered "Top Management." Officers holding these ranks are known as "Chief Officers."

A 2704 DELEGATION OF DUTIES:

Deleted 03-01-12

A 2705 MIDDLE MANAGEMENT:

A Department member assigned to a position of command over a major subdivision of the Department is considered a "Middle Manager." Officers holding the rank of Captain or Lieutenant are considered "Middle Managers" regardless of assignment.

A 2706 DELEGATION OF DUTIES:

Deleted 03-01-12

A 2707 DIRECT SUPERVISORS:

A Department member assigned to directly supervise one or more Department members is considered a "Direct Supervisor."

A 2708 DELEGATION OF DUTIES:

Deleted 03-01-12

A 2709 NON-SUPERVISORY DEPARTMENT MEMBERS:

All Department members not considered Top Management, Middle Management, or Direct Supervisors are considered "Non-management/Non-supervisory Department members."

EXCEPTION: Any Department member assuming a position of command or supervision as a result of an emergency will also assume the authority to delegate tasks commensurate with the level of command or supervision until relieved by a higher authority.

A 2710 DELEGATION OF DUTIES:

Top Management, Middle Management, or Direct Supervisors may delegate to subordinates specific projects or tasks as appropriate.



A 2800 - RESPONSIBILITY OF RANK:

All Department members have a basic responsibility to perform assigned tasks and duties in a manner that ensures the success of the Department's mission. In addition to this basic responsibility, and other responsibilities and duties contained in the Department Duty Manual or assigned by competent authority, Department members have responsibilities which are commensurate with rank, including the provision of direct supervision when appropriate.

PROCEDURE

A 2801 DUTIES AND RESPONSIBILITIES - CHIEF OF POLICE:

The Chief of Police is the chief executive officer of the Department and the final authority regarding all matters of policy, operations and discipline. Responsibilities of the Chief of Police include the execution of laws and ordinances and providing for the efficient operation of the Department.

A 2802 EXAMPLES OF DUTIES - CHIEF OF POLICE:

- Plans, organizes resources, directs, and coordinates the activities of the Police Department.
- Ensures the enforcement of laws and municipal ordinances.
- Formulates departmental rules, policies and procedures.
- Approves, assigns, and reassigns Department members.
- Formulates the annual Department budget and has final authority over Department budget expenditures.
- Directs the preparation of internal Department reports, the Annual Report and reports addressed to the City Manager.
- Directs the preparation of external reports to outside agencies in conformance with federal, state and municipal laws or Department policy.
- Has charge of the law enforcement and traffic control function of the City Civil Defense Program.
- Coordinates the activities of the Police Department with other agencies concerned with law enforcement and criminal justice.
- Attends county, area and state criminal justice conferences and meetings to enhance local law enforcement programs.
- Appears before civic organizations and addresses or answers questions concerning law enforcement.
- Promotes public cooperation and goodwill through membership in civic organizations, lectures to civic, fraternal and other groups and by making regular reports through the news media.

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- Maintains efficiency and effectiveness within the Department.
- Maintains effective Department discipline.
- Responsible for processing requests for required regulatory licenses.

A 2803 DUTIES AND RESPONSIBILITIES - ASSISTANT CHIEF OF POLICE:

The Assistant Chief of Police is the second highest ranking officer in the Department. Responsibilities of the Assistant Chief include command of major functions of the Department, and as Acting Chief of Police in the absence of the Chief.

A 2804 EXAMPLES OF DUTIES – ASSISTANT CHIEF OF POLICE:

- Assists the Chief of Police in directing the day-to-day operation of the Department and, in the Chief of Police's absence, assumes command of the Department.
- Ensures the enforcement of laws and ordinances.
- Assists the Chief of Police in administrating the budget process.
- Assists in establishing and maintaining direct contact with the citizens of the community.
- Serves as liaison to other criminal justice agencies as required.
- Maintains relations with the news media and may serve as coordinator for the release of departmental information.
- Performs administrative and command duties to support the management of the Department.

A 2805 DUTIES AND RESPONSIBILITIES - DEPUTY CHIEF OF POLICE:

A Deputy Chief of Police is the third highest ranking officer in the Department. Responsibilities of a Deputy Chief include the command of a Department Bureau, assuming general responsibility of overall Department operations in the absence of superior ranking command Department members, and the execution of policies and directives emanating from the Office of the Chief of Police, and the performance of other tasks assigned by competent authority.

A 2806 EXAMPLES OF DUTIES – DEPUTY CHIEF OF POLICE:

- Administers and actively participates in the Department's community policing efforts.
- Responsible for the administration of a Bureau and the supervision of Department members assigned.
- Ensures the enforcement of laws and ordinances.
- Responsible for the development and review of Bureau programs, records, and reports relevant to the bureau and recommends changes as necessary.
- Ensures the preparation of individual Bureau budget and provides administrative guidance for the control of Bureau expenditures.
- Confers with the Chief of Police and with other Deputy Chiefs in planning and coordinating departmental operations, programs, and projects.
- Manages and controls the preparation of plans to improve Bureau operations to

handle emerging and future problems.

- Consults with other criminal justice agencies in the solution of mutual problems.
- May serve as a member of committees dealing with law enforcement and crime prevention programs and problems.
- Represents the Department at meetings, conferences and other public functions as required.

A 2807 DUTIES AND RESPONSIBILITIES - CAPTAINS:

A Police Captain is the highest middle management rank in the Department. Responsibilities of a Captain may include command and management of a major subdivision of a bureau and other duties as assigned.

A 2808 EXAMPLE OF DUTIES - CAPTAINS:

- Administrates and actively participates in the Department's community policing efforts.
- Responsible for the administration of major programs, projects or functions within the Department.
- Ensures the enforcement of laws and ordinances.
- Coordinates the work of subordinate Department members assigned.
- Assigns functions and tasks to subordinate Department members.
- Assists superior officers in the preparation and management of the bureau budget.
- Assumes command of the Department or bureau in the absence of the chief officers.

A 2809 DUTIES AND RESPONSIBILITIES - LIEUTENANT:

A Police Lieutenant is the beginning middle management rank in the Department. Responsibilities of a Lieutenant include the command and management of programs or functions and the supervision of assigned subordinate Department members.

A 2810 EXAMPLE OF DUTIES - LIEUTENANT:

- Oversees/actively participates in the Department's community policing efforts.
- Plans, assigns, reviews and supervises the work of Department members in the assigned command.
- Ensures the enforcement of laws and ordinances.
- Enforces rules, regulations and policies of the Department.
- Interprets orders and directives from direct supervisors.
- Advises and assists subordinates in proper disposition of complex or difficult assignments or situations.
- Ensures the development and implementation of assigned programs or functions.

A 2811 DUTIES AND RESPONSIBILITIES - SERGEANT:

Police Sergeants supervise and evaluate assigned Department members and are responsible for the efficient and effective accomplishment of functions and tasks assigned to them.

A 2812 EXAMPLE OF DUTIES - SERGEANT:

- Actively participates in the Department's community policing efforts.
- Supervises or participates in the enforcement of laws and ordinances.
- Supervises or participates in criminal investigations.
- Assigns tasks to Department members that are subordinate.
- Provides direct supervision in complex cases or situations.
- Responsible for supervision of assigned Department members.
- Responsible for review and approval of all reports that require supervisor approval.
- Resolves or, if required, submit to higher authority for resolution, conflicts, problems or disciplinary matters arising from assigned Department members.
- Submits to higher authority suggestions from subordinates that enhance Department operations programs or functions.
- Represents the interest and well-being of non-management Department members to higher authority and transmits management concerns and directives to non-management Department members.

A 2813 DUTIES AND RESPONSIBILITIES - POLICE OFFICER:

A police officer performs law enforcement duties to protect life and property and has the greatest influence over the achievement of the Department's mission. The officer is the most visible Department member. Conduct displayed by officers set the tone for the public's response to all other Department members and programs. Success or failure of the Department's mission is directly dependent upon the officer's professional conduct, knowledge, and sense of duty.

A 2814 EXAMPLES OF DUTIES – POLICE OFFICER:

- Enforces laws and ordinances.
- Responds to calls for service and investigates complaints of disorder or criminal conduct.
- Makes arrests of persons who have violated laws and ordinances.
- Reports all criminal activity assigned or observed to higher authority for proper disposition in the criminal justice system.
- Actively participates in the Department's community policing efforts.
- Collects and preserves evidence pertaining to criminal activity for presentation to appropriate prosecuting authorities.
- Investigates conditions hazardous to life or property and takes appropriate actions to remedy the conditions.

- Participates in the prosecution of law violators by appearing in court to testify to situations observed and actions taken.
- Performs other tasks serving the public interest and well-being.
- Ensures the continual enhancement of the Department image by displaying professional conduct at all times.

A 2815

DUTIES AND RESPONSIBILITIES - AIRPORT POLICE OFFICER:

Department members classified as Airport Pay Car Police Officers are assigned to perform law enforcement duties and special airport-related security functions within the geographic boundaries of the Airport Division's police district. This is a sworn position within the Department whose members in this classification have primary jurisdiction within the boundaries of the Mineta San Jose International Airport. These members will not perform law enforcement duties outside of their primary jurisdiction, unless they are responding to assist officers in an emergency or otherwise authorized by proper authority.

A 2816

EXAMPLES OF DUTIES – AIRPORT POLICE OFFICER:

- Works under the supervision of a Police Sergeant assigned to Airport Division.
- To maintain a safe and secure environment for the airport community and traveling public by enforcing laws and ordinances.
- Responds to calls for service and investigates complaints of disorder or criminal conduct.
- Collects and preserves evidence pertaining to criminal activity for presentation to appropriate prosecuting authorities.
- Investigates conditions hazardous to life or property and takes appropriate actions to remedy the conditions.
- Participates in the prosecution of law violators by appearing in court to testify to situations observed and actions taken.
- Develop and actively foster community-policing partnerships at the Airport.
- Performs other tasks serving the public interest and well-being.
- Ensures the continual enhancement of the Department's image by displaying professional conduct and appearance at all times.
- Support and enforce the Transportation Security Administration (TSA) mandated Airport Security Program, and coordinate security-related matters with air carriers, tenants, Airport Operations employees, and the TSA.
- Support and assist Airport Operations Staff on a routine basis.
- Assists local, state and federal law enforcement agencies (TSA, FBI, Secret Service, etc.) on a routine basis.
- Employ innovative and proactive patrol and investigative strategies to address the security, crime and traffic problems unique to the airport environment.

A 2817 DUTIES AND RESPONSIBILITIES - CIVILIANS:

Department members who are civilians perform duties and tasks which support the Department's goals and objectives. Assignments are made in relationship to the Civil Service Classification held and may range from the performance of only one task to the command of a subdivision of the Department.

A 2818 EXAMPLES OF DUTIES - CIVILIANS:

- Assists Bureau or Division Commanders in administration of their units.
- Analyzes Department operations and suggest methods of improvement.
- Provides clerical support in processing correspondence, reports, and indices.
- Provides information from automated systems to line officers for operational decision making.
- Serves as interfaces between the Department and other agencies in development of new programs and systems.
- Performs other tasks as assigned to accomplish the Department's mission.



A 2900 - POLICE RESERVES GENERAL PROVISIONS:

The San Jose Police Department is augmented by a Police Reserve Force. A regular Department member serves as Director, appointed by the Chief of Police. Members are Office of Emergency Services volunteers who receive training to provide professional assistance to the Department in law enforcement activities during disaster and other public service activities. The regulations establishing the organization and function of the Police Reserve are found in the San Jose Municipal Code Sections 2.16.150 through 2.16.250.

PROCEDURE

A 2901 POLICE RESERVES ORGANIZATION:

Following is the established organizational structure of the Police Reserve.

A 2902 RESERVE DIRECTOR:

The Director of Police Reserve (Reserve Director) is appointed from within the San Jose Police Department to serve at the direction of the Chief of Police in their capacity as Chief Executive Officer of the Reserve.

The Reserve Director is responsible for the execution of all orders governing the Police Reserve, and will enforce all orders, written or verbal, issued by the Chief of Police. They have control, management and direction over all members of the Police Reserve with authority to detail any member to such services as may be necessary together with the power to suspend any member for insubordination or dereliction of duty, pending a review by the Reserve Director's chain of command. They have custody of all property of the City of San Jose that may be assigned to the Police Reserve. They maintain complete records, coordinate all activities and establish courses of instruction as deemed necessary to the efficient operation of the Police Reserve.

The Reserve Director will attend or assign a reserve command officer or other supervisory officer to attend all meetings of the Police Reserve.

A 2903 RESERVE DEPUTY DIRECTORS:

Reserve Deputy Directors are appointed by the Reserve Director to assist, advise and perform such other duties as designated. One will command each of the Divisions and one will serve as Reserve Deputy Director of Administration. They are selected from the ranks of Reserve Captain and Reserve lieutenant. Each will serve no more than two years in a single Reserve Deputy Director's assignment and then may be reappointed to a different Reserve Deputy Director's assignment at the discretion of the Reserve Director. The Reserve Deputy Directors are empowered to sign all warrants or checks for payment of monies from the Police Reserve Fund.

RESERVE ASSISTANT DEPUTY DIRECTOR: The Reserve Assistant Deputy Director and the Reserve Deputy Directors are appointed by the Reserve Director with the approval of the Captain of the Community Services Division. The Assistant Director will assist the Reserve Director in the day-to-day operations of the Reserve Unit and oversee Internal Affairs and

Administration. The Reserve Assistant Director will serve for a period of three years. After three years, the Reserve Assistant Director is reassigned to a vacancy in the Reserve Command Staff. The position of Reserve Assistant Director is selected from the remaining Reserve Deputy Directors.

The Reserve Deputy Directors will command the three divisions within the Reserve Unit, Level I, Level II and Training. They are selected from the ranks of Reserve Captain and Reserve lieutenant. Each will serve no more than two years in a single Reserve Deputy Directors assignment, and then may be moved to a different Reserve Deputy Director's assignment at the discretion of the Reserve Director. The Reserve Deputy Directors are empowered to sign all warrants or checks for payment of monies from the Police Reserve Fund.

A 2904 RESERVE DIVISIONS:

For organizational purposes, the Police Reserve is divided into divisions:

- ADMINISTRATIVE DIVISION: The Office of the Reserve Director is responsible for administering the affairs of the Police Reserve. The Administrative Division is composed of the Reserve Director, a Reserve Deputy Director, Internal Affairs Unit, clerical support and other persons and functions determined by the Reserve Director.
- PERSONNEL AND TRAINING DIVISION: A Reserve Deputy Director and reserve officers responsible for recruiting, testing, selecting and training reserve officers.
- OPERATIONS DIVISION: This is the primary operational component of the Police Reserve, responsible for fulfilling field assignments and is commanded by Reserve Deputy Director(s).

A 2905 DUTIES ASSOCIATED WITH RESERVE RANK:

Members holding rank in the San Jose Police Reserve shall do so in accordance with direction supplied to regular officers of similar rank in Duty Manual section A 2800 - RESPONSIBILITY OF RANK through Duty Manual section A 2818 - EXAMPLES OF DUTIES.

Reserve rank shall be displayed and exercised for purposes of administering Reserve business.

The Police Reserve is a volunteer organization, and the time required to fulfill the duties and responsibilities associated with rank above that of officer could easily exceed the minimum attendance requirement. For this reason, if a reserve officer is unable to fulfill their duties and responsibilities because of time constraints, they may be subject to non-disciplinary reduction in rank.

A 2906 ON-DUTY ASSIGNMENTS:

When on regular duty with the San Jose Police Department, the Police Reserve is under the supervision of the San Jose Police chain of command, to include police officer, at all times. The reserve officer's name will appear on all reports.

A 2907 SAN JOSE POLICE RESERVE MEMBERSHIP:

Following are the Police Reserve procedures, rules and regulations governing membership.

A 2908 MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR POLICE RESERVE MEMBERSHIP:

Applicants for the position of officer in the San Jose Police Reserve must possess and meet the following minimum qualifications and requirements.

- Be a high school graduate or pass the general education development test indicating high school graduation level, and have successfully completed (grade "C" or better) three college semester units of Basic Reserve Officer's Academy or equivalent.
- Reside within a radius of 40 statute miles measured from the intersection of First and Santa Clara streets, San Jose, or within the boundaries of the County of Santa Clara.
- Be 21 years of age.
- Have vision no poorer than 20/70 uncorrected, correctable to 20/20 in both eyes.
- Be in excellent physical health.
- Have no background indications of present unfitness.
- Be psychologically stable and emotionally mature.
- Be physically agile.
- Have no felony conviction in this or any other state, or have been convicted of any offense in any other state which would have been a felony if committed in this state.

A 2910 POLICE RESERVES APPLICATION:

Each applicant for membership will file an application with the Director and will submit a complete medical history and a set of photographs and fingerprints taken by the Operations Support Services Division of the Department. The application, medical history, photographs and fingerprints will be on standard forms furnished by the Department.

A 2911 POLICE RESERVES EXAMINATIONS:

All applicants are required to pass a physical agility examination, psychological examination, a physical examination, an oral interview, and an extensive background investigation.

A 2912 POLICE RESERVES PROBATIONARY PERIOD:

Newly appointed officers will initially serve in a probationary capacity, during which no officer will accept an assignment or perform outside assignments for compensation in the capacity of reserve officer unless authorized by the Reserve Director.

Every officer prior to the end of the probationary period will complete an In-Service Training Guide. An officer is considered off of probationary status:

- Upon completion of one year of satisfactory service; and
- Upon review and approval by the Reserve Director of the officer's probationary record to include the In-Service Training Guide; and
- Upon successful completion (grade "C" or better) of the second three college semester units, for a total of six, of the basic Reserve Officer's Academy, or other equivalent education found sufficient by the Reserve Director.

Completion of probation does not signify that a reserve officer is authorized to work an on-duty assignment alone. This status is only conferred after the reserve officer has satisfactorily demonstrated this level of competency through actual field performance.

A 2913 POLICE RESERVES PROMOTIONS:

Promotion to and demotion from reserve rank is based on procedures established by the Reserve Director.

A 2914 POLICE RESERVES ATTENDANCE:

During each "reporting period" every reserve officer will attend General Assembly, unit meetings and assigned training. The fiscal year will coincide with that of the Police Department. Reporting periods will coincide with Department Management Reporting periods. Reserve officers may be excused from the meeting requirements only by the Reserve Director.

A 2915 POLICE RESERVE OFFICER MAXIMUM AGE FOR ASSIGNMENTS INVOLVING ENFORCEMENT ACTION:

Revised 06-08-17

No member of the Police Reserve Program shall work an assignment involving enforcement action (e.g. patrol, secondary employment, etc.) past their 70th birthday. Nothing herein, however, changes a reserve officer's volunteer status, and the Department remains free to release the reserve officer from the Police Reserve at any time.

A 2916 POLICE RESERVES LEAVES OF ABSENCE:

The Reserve Director may approve requests for leaves of absence, during which the officer will not wear the uniform or perform any duties as a reserve officer.

A 2917 POLICE RESERVES COMPENSATION:

While assigned to police responsibilities for the City, members of the Police Reserve are compensated for their time with uniform points which are distributed at the rate of one point per hour of time worked. All requests for uniform points are subject to approval of the Reserve Director.

Members of the Police Reserve are not City employees, and Worker's Compensation benefits are those provided by the State of California to Office of Emergency Services volunteers.

A 2918 POLICE RESERVES RETURN FROM MEDICAL LEAVE:

Any reserve officer who has been unable to fulfill their duty obligations for medical reasons is required to submit to the Reserve Director for approval a written clearance for duty from their attending physician prior to returning to duty.

A 2919 POLICE RESERVES INSIGNIA OF RANK:

Following are the established rank insignia for the Police Reserve:

- Reserve Deputy Directors will wear one silver star no larger than 1/2-inch in diameter on the collar points of their shirts.
- Reserve Captains will wear two plain flat silver bars 3/4-inch long and 1/4-inch wide on the collar points of their shirts.

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- Reserve lieutenants will wear one plain flat silver bar $\frac{3}{4}$ -inch long and $\frac{1}{4}$ -inch wide on the collar points of their shirts.
- Reserve Sergeants will wear one silver three-bar chevron on the collar points of their shirts. The chevrons will not be larger than $\frac{3}{4}$ -inch horizontally or vertically.

A 2920 WEARING OF INSIGNIA FOR RESERVES:

Insignia of rank are worn only at inspections, General Assemblies and at other times when ordered by the Reserve Director. Officers will not wear any insignia of rank when working with regular members of the Police Department.

A 2921 SERVICE STRIPES FOR RESERVES:

Reserve officers may wear one service stripe for each five years of service completed.

A 2922 RESERVE BADGES:

Reserve badges are silver in color and consistent with the design established by the San Jose Police Department.

A 2923 UNIFORM PURCHASE:

Members of the Police Reserve are responsible for the initial purchase of their uniform, with the exception of the safety equipment issued by the Department. Uniform repairs made necessary by City service will be made at City expense.

A 2924 RULES AND REGULATIONS:

Reserve officers are subject to all laws, policies, procedures, rules and regulations affecting officers of the San Jose Police Department, except those clearly inapplicable. Reserve officers will also be subject to such additional policies, procedures, rules and regulations as may be promulgated by the City Manager or their designee.

A 2925 DISCIPLINE:

Procedures for discipline of members of the Police Reserve are specified in this Manual under Duty Manual section C 1800 - DISCIPLINE and are the same as for regular officers of this Department.

A 2926 CONFLICT OF INTEREST:

The services of the San Jose Police Reserve will not be used in any manner that would interfere with employment in, or adding of officers to, the San Jose Police Department.

A 2927 HANDGUN:

All reserve officers will, while on duty in uniform, carry the standard Department-issue weapon. Reserve officers assigned to plainclothes duty may, while so assigned, carry the same weapon(s) authorized for regular officers under similar circumstances.

A 2928 RANGE TRAINING QUALIFICATIONS:

No reserve officer will carry any weapon for which they are not currently qualified.

A 2929 GENERAL PROVISIONS:

The following provisions will be adhered to by members of the Police Reserve:

A 2930 TYPES OF DUTIES:

Reserve officer duty is defined as attending meetings, range, emergency duty, regularly assigned duty or special duty assigned by the Reserve Director.

A 2931 DEPARTMENTAL RELIEF AND CALL-UP:

The Reserve Director is responsible for formulating procedures for departmental relief and Emergency Call-Up. These procedures are updated as needed and submitted to the Deputy Chief, Bureau of Field Operations.

A 2932 DUES OR ASSESSMENTS:

There are no dues or assessments levied against reserve officers.

A 2933 CONTRIBUTIONS:

Contributions from the public may be received to finance special activities of the Police Reserve.

A 2934 RECOGNITION OF SERVICE:

Members of the Police Reserve are not eligible for regular retirement from City employment, but a form of recognition for their volunteer service is appropriate. The Reserve Director may recommend "honorary retirement" recognition for members who have served for at least fifteen years or who have suffered disability in the line of duty. Such recognition may include a "retirement" badge, identification card, certificate or other acknowledgment. Badges shall be the same color as the duty badge, and badges and identification cards shall display the word "RESERVE" preceding the rank. Identification cards shall include the word "RETIRED."

A 2935 COMPENSATED ASSIGNMENTS:

After completing the probationary period, members of the Police Reserve are eligible to work compensated assignments. In order to work a compensated assignment, the reserve officer must have met all training requirements and fulfilled all obligations and commitments to the Police Reserve. Reserve officers working compensated assignments will comply with Duty Manual section C 1500 - SECONDARY EMPLOYMENT through Duty Manual section 1559 - SECONDARY EMPLOYMENT OVERTIME, as well as the following guidelines. All compensated work assignments performed by reserve officers will be in uniform and within the City of San Jose, unless previously authorized by Higher Authority.

EXCEPTION: Exceptions to these guidelines may be made on a case-by-case basis by the Reserve Director or designee.

A 2936 SOLICITING COMPENSATED ASSIGNMENTS:

No member of the Police Reserve will solicit compensated assignments from any public or private person or organization.

A 2937 APPLICATION FOR OUTSIDE WORK PERMITS:

Members of the Police Reserve will apply for authorization to perform outside work on a "San Jose Police Reserve Application for Outside Work Permit" (Form SJR 200-24). The completed form will be submitted via Police Reserve channels to the Reserve Director prior to performing outside work.

A 2938 TEMPORARY OUTSIDE WORK ASSIGNMENTS:

Compensated assignments of a short, temporary nature will not require submittal of a formal request for an outside work permit for that specific job. Such requests are approved by the Director on the "Reserve Compensatory Referral Service Request" (Form SJR 200-25), provided that the member has a current work permit on file.

A 2939 MAXIMUM NUMBER OF HOURS:

Revised 05-01-14

No reserve officer will work more than thirty (30) hours of compensated assignments in a one-week period. In addition, the combination of compensated assignments and the reserve officer's regular employment shall not exceed fourteen (14) hours in a 24-hour period. Department reliefs, parades and other volunteer departmental responsibilities will generally be considered to be exceptions to the time limitations. When it is necessary to work emergency or departmental assignments which exceed the time limitations, the reserve officer is responsible for notifying an on-duty supervisor if relief is necessary.

A 2940 DEPARTMENTAL RELIEFS:

Departmental assignments shall be given preference over compensated assignments. When necessary to meet a departmental need, the Reserve Director may cancel compensatory assignments. The Reserve Director is responsible for advising the affected reserve officers 24 hours in advance whenever possible.



A 3000 - COMMUNITY SERVICE OFFICER (CSO) PROGRAM:

Added 10-19-16

CSO is a professional staff position in the Department. CSOs wear uniforms in accordance with the Uniform & Equipment Specification Manual and drive CSO-specific marked vehicles. As with other Department members, CSOs are subject to the policies and provisions spelled out in the Duty Manual. The following sections, however, apply directly to the CSOs and the sworn personnel who work with them.

PROCEDURE

A 3001 CSO GOALS AND OBJECTIVES:

Revised 07-01-24

Goals

The primary goal of the CSO Program is to supplement patrol officers in the Bureau of Field Operations by responding to identified lower priority calls for service. This will assist in allowing patrol officers to remain in service and available to respond to higher priority and emergency calls and provide more time for patrol officers to conduct proactive enforcement. CSOs shall also supplement patrol officers in the Main Lobby/Information Center by completing written reports on incidents that do not require follow-up.

The CSO Program is also responsible for community policing activities. During free patrol time, CSOs will conduct outreach with citizens, provide crime-prevention information, answer questions, and educate citizens about the various programs the Police Department and other City Departments have to offer.

Objectives

1. Respond to lower priority calls for service and complete the evidence collection and reporting process associated to those calls.
2. Provide assistance to Bureau of Field Operations personnel, including special events.
3. Enhance the Department's Community Policing efforts by conducting outreach.

A 3002 CSO CHAIN OF COMMAND:

Revised 07-01-24

1. The CSO Program is assigned to the Bureau of Field Operations, Support Services Division.
2. CSOs are administratively supervised by the CSO Lieutenant.
3. CSOs are supervised in the field by their assigned patrol sergeant.

A 3003 DUTIES OF THE CSO:

Revised 07-01-24

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CSOs shall perform a wide variety of non-enforcement duties and limited enforcement duties, as assigned. The purpose of the CSO Program is to supplement patrol officers in the field by responding to, investigating, and completing the written reports for lower priority calls for service. CSOs shall also supplement patrol officers in the Main Lobby/Information Center by completing written reports on incidents that do not require follow-up (refer to the Main Lobby Standard Operating Procedures Manual for further details on the types of reports CSOs will be responsible for taking).

The CSO Program is comprised of, CSO I's (entry level), CSO II's, and the CSO Lieutenant.

CSOs shall only be dispatched and respond to select lower priority calls in which there are no suspects on-scene and no identifiable suspect information is available.

The following is a list of duties and responsibilities regularly undertaken by CSOs:

1. Assist patrol teams with non-enforcement duties; complete routine police reports; maintain records of daily work activities.
2. Perform non-hazardous investigative duties related to the commission of crimes against property, such as residential, commercial, and vehicle burglary, petty theft, grand theft, vehicle theft, and vandalism.
3. Collect and preserve evidence at crime scenes, which includes the processing and lifting of latent fingerprints, taking photographs at designated crime scenes, and collecting video evidence.
4. Recover and process stolen vehicles for evidence where found unattended.
5. Mark and tow abandoned vehicles.
6. Respond to and investigate traffic complaints such as road hazards.
7. Facilitate information exchange for non-injury vehicle accidents which are reported as traffic hazards or when the reporting party requests PD contact.
8. Direct and control vehicle and pedestrian traffic at accidents, special events, and crime scenes when it is safe to do so. This task includes setting up cone and/or road flare patterns.
9. Receive and respond to citizen inquiries; give general assistance or directions as appropriate.
10. Perform routine office functions such as word processing, filing, and record keeping, including the preparation of police reports.
11. Assist law enforcement in taking reports of and searching for persons reported as missing.
12. Protect crime scenes from bystanders.
13. Transport seized, found, lost, or abandoned property or evidence (excluding controlled substances and firearms).
14. Administer first aid as necessary.

15. Assist in the training of new employees and less experienced subordinates.
16. Testify in court when necessary.
17. Issue parking citations. NOTE: It is not the intent of this policy for CSOs to assume primary responsibility for parking enforcement for the City. However, a CSO may enforce parking violations when dispatched to an incident (e.g., 11-25, etc.) or when on-viewing a parking violation in which a parking citation is deemed appropriate.
18. Assist patrol in staffing the Main Lobby and complete routine police reports that do not require follow-up (refer to the Main Lobby Guidelines for a list of the reports).
19. Collect and preserve sexual assault evidence kits, including toxicology samples. Document non-investigative sexual assault reports.

CSOs shall not process narcotics or firearms. If narcotics or firearms are encountered in the field, the CSO shall request assistance from a patrol officer.

If a CSO is directed by a patrol officer or higher-ranking officer to perform a task which is not part of their responsibility, as listed above, the CSO shall advise the person asking them to undertake the task and attempt to resolve the issue. If the issue cannot be resolved, the CSO shall immediately advise their assigned patrol sergeant, who will make a determination as to whether or not the CSO should undertake the task. The patrol sergeant shall advise the CSO Lieutenant and the Area Lieutenant or on-duty Watch Commander.

If the CSO is directed to perform any task that the CSO believes may put them in a dangerous or unsafe situation, the CSO shall not perform that task. The CSO shall immediately notify their assigned patrol sergeant, who shall advise the CSO Lieutenant and the Area Lieutenant or on-duty Watch Commander.

A 3004 DUTIES OF THE SENIOR CSO:

Deleted 07-01-24

A 3005 NOTIFICATIONS:

Revised 07-01-24

At their earliest convenience, the sergeant assigned to supervise a CSO will notify the Area Lieutenant and CSO Lieutenant when any of the following occur:

1. On duty injury to the CSO.
1. Any use of force by the CSO.
2. On duty traffic collision involving the CSO.
3. Citizen complaint or potential complaint against the CSO.
4. Any time a notable person in the community is involved in an event or case the CSO is handling.

A 3006 SUPERVISORY DUTIES REGARDING CSOS:

Deleted 07-01-24

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A 3007 DISPATCHABLE CALLS FOR CSOS:

Revised 03-22-21

When available, CSOs shall be dispatched to select lower priority calls for service, where there is no suspect on scene and/or any identifiable suspect information or leads that can be immediately followed-up upon. The types of calls CSOs shall respond to are:

Type Code	Response Parameters
1065	<ul style="list-style-type: none"> • Non "At Risk" Missing persons. • At-risk missing person reports shall be handled by PATROL OFFICERS.
10851/10851R	<ul style="list-style-type: none"> • Stolen vehicle reports and recovered stolen vehicle reports when suspects are not present. • If the Registered Owner (RO) is not available for a field release, CSOs may tow the vehicle after attempting to locate the R.O. (refer to Duty Manual section L 5403 - PROCEDURES TO FOLLOW IN ORDER TO STORE/IMPOUND A VEHICLE).
1124	<ul style="list-style-type: none"> • Abandoned vehicles
1125	<ul style="list-style-type: none"> • Traffic hazards
1184/Crowd Control	<ul style="list-style-type: none"> • Traffic/Crowd control. This can be for accidents, special events, at fires, for another City agency, PG&E, etc. It includes setting up cones and/or road flare patterns.
1182	<ul style="list-style-type: none"> • Non-injury vehicle collisions with no known disturbance. In the event a non-injury vehicle collision involves a disturbance, patrol officers shall be dispatched to the incident in addition to a CSO. Officers may also be dispatched to a non-injury vehicle collision if the CSO on scene assesses the situation and deems police presence necessary. CSOs shall adhere to L 6901 TRAFFIC ACCIDENTS when responding to non-injury vehicle collision • CSOs shall NOT be dispatched to non-injury vehicle collisions involving government vehicles, city vehicles or city property. Patrol Officers shall be dispatched to complete the investigation and appropriate reports.
459/459R	<ul style="list-style-type: none"> • Residential and commercial burglary reports (scene is secured/no suspects present). • If the RP/victim is uncertain if the structure is secure, PATROL OFFICERS shall be dispatched to the location: <ul style="list-style-type: none"> ○ If PATROL OFFICERS locate a subject and enforcement action is taken, the PATROL OFFICERS shall complete the reporting and investigative process. ○ If PATROL OFFICERS secure the scene and no enforcement action is taken a CSO can complete the reporting and processing of the scene.

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Type Code	Response Parameters
459VEH	<ul style="list-style-type: none"> Vehicle burglary reports when there is evidence left at the scene and/or when the RP/victim refuses to complete the report online or by phone and there is no suspect present.
FNDPRP	<ul style="list-style-type: none"> Found Property This includes picking up video surveillance evidence from a prior report. CSOs shall NOT process narcotics or firearms. A PATROL OFFICER shall be dispatched to the scene to handle narcotics or firearms.
487	<ul style="list-style-type: none"> Grand theft reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
484	<ul style="list-style-type: none"> Petty theft reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
594/10852	<ul style="list-style-type: none"> Vandalism and vehicle tampering reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
261NIR	<ul style="list-style-type: none"> Sexual assault events when the victim does not want to report the incident to law enforcement but does want a medical evidentiary exam (SART)

If Location of Interest or Event Warnings information indicate a hazardous location, dispatchers shall dispatch patrol officers to the scene.

Prioritization of Dispatch for CSO Calls for Service:

Generally, the following order of precedence shall be used when dispatching CSOs when there is more than one pending dispatchable event. The duration a call has been pending should also be taken into consideration. The Area Commander the CSO is reporting to may re-prioritize the order of dispatch.

1. 1065
2. 10851/10851 R
3. 1125 (Including 1182s that are 1125)
4. 1184/Crowd Control
5. 1182 (1125 and/or RP/victim requesting contact)
6. 459/459R
7. 261NIR
8. 459 VEH
9. FNDPRP
10. 487

- 11. 484
- 12. 594
- 13. 1124

A 3008 USE OF A CSO FOR FOLLOW-UP:

Added 10-19-16

If a unit of the Bureau of Investigations (BOI) would like to request that a CSO retrieve evidence on a particular case, the investigator should first contact the Area Commander of the division the follow-up is to occur for approval.

A 3009 COMPLAINT PROCESS:

Deleted 07-01-24

A 3010 ON-DUTY VEHICLE ACCIDENTS:

Added 10-19-16

Refer to Duty Manual section A 3005 - SUPERVISORY DUTIES REGARDING CSOS

A 3011 USE OF FORCE BY CSOS:

Added 10-19-16

In order for a CSO to use any type of force, they must meet all of the following criteria:

Self Defense

A CSO may use force in self-defense or in defense of another person under the following circumstances:

1. The CSO reasonably believes that they are in imminent danger of being killed, injured, or touched unlawfully, AND
2. The CSO reasonably believes that they need to use force to prevent that from happening, AND
3. The CSO uses no more force than that which is reasonably necessary to prevent that from happening.

Moreover, the CSO is under no obligation to retreat or attempt to escape before they use force in self-defense.

Defense of others

The requirements for defending others are the same as for defending yourself. You must:

1. Reasonably believe that the other person is in imminent danger of being killed, injured, or touched unlawfully, AND

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2. Reasonably believe that you need to use force to prevent this, AND
3. Use no more force than is reasonably necessary.

A 3012 USE OF CHEMICAL AGENTS BY CSOS:

Revised 05-22-20

Only chemical agents authorized by the Chief of Police as specified in Duty Manual section S 1100 - AUTHORIZED AND REQUIRED EQUIPMENT will be used. A CSO may only use their OC Spray in self-defense situations or in defense of others as long as their conduct was reasonable under the circumstances. Such use must comply with Duty Manual section L 2609 – USE OF CHEMICAL AGENTS.

A 3013 REQUEST ASSISTANCE AND MEDICAL AID:

Revised 07-01-24

When a CSO has deployed OC in defense of themselves or in the defense of others, the CSO will immediately get to a safe location, advise communications of the situation, and request emergency assistance from patrol units.

The CSO should provide their exact location and, if possible, a description of the suspect. Medical aid should be requested for the suspect and advised to stage in a safe location until the suspect is taken into custody by patrol units. Refer to Duty Manual section L 2610 – PROVIDING FIRST AID.

A 3014 NOTIFICATION OF PATROL SUPERVISOR:

Revised 07-01-24

Once the situation is under control, the CSO should ensure that a patrol supervisor has been advised and is responding to the scene to handle the use of force investigation. Refer to Duty Manual section L 2605 – SUPERVISOR’S RESPONSIBILITY. The involved CSO will also advise the CSO Lieutenant when able to do so.

A 3015 REPORTING USE OF FORCE:

Revised 07-01-24

When force is used by a CSO in the course and scope of their duties, the district sergeant will respond to the scene and oversee the investigation. A patrol officer will respond and document the details of such use in a general offense crime report and/or a Narrative/Supplemental Report (Form 200-3A-AFR).

**Professional Conduct
And
Ethics
C 1100 – C 2400**



**San Jose Police Department
Duty Manual**



C 1100 - DISCRETIONARY JUDGMENT:

Reasonable and appropriate police action varies with each situation. Different facts or circumstances may justify an investigation, a detention, a search, an arrest or no further action. Thus, Department members must continually exercise discretionary judgment in order to ensure that the safety and security of the public is properly protected.

PROCEDURE

C 1101 EXERCISING DISCRETIONARY JUDGMENT:

Revised 06-09-22

Department members will exercise discretionary judgment in a reasonable manner and remain within the limits of their authority as defined by law, judicial interpretation, and departmental directives.

Department members shall not exercise discretionary judgment in a retaliatory manner.

Example 1: An officer stops a vehicle for speeding. During the interaction, the officer decides to give the driver a warning. While finishing the stop, the driver tells the officer they don't think the officer should have stopped them and asks for the officer's name and badge number. The officer cites the driver and tells them their name and badge number are on the bottom of the citation. This may be perceived as retaliation for asking for the officer's name and badge.

Example 2: An officer is parked on the side of the road, watching an intersection. A vehicle with a local business name passes the officer. The driver of that vehicle makes a rude gesture toward the officer. The officer goes to the business and tells the business owner their driver made a rude gesture. This may be perceived as retaliation for the rude gesture.

C 1102 QUESTIONS PERTAINING TO DEPARTMENTAL PROCEDURE:

A Department member receiving an inquiry pertaining to departmental procedure will explain the procedure's content and purpose or refer the person making the inquiry to a Department member having that information. Department members will not release any information pertaining to confidential or tactical procedures and will advise the person making the inquiry of this restriction. When necessary, the person initiating the inquiry pertaining to confidential or tactical procedures will be referred to the Office of the Chief of Police.

C 1103 PURPOSE OF PROCEDURES AND GENERAL RESPONSIBILITY:

The procedures contained within this manual are intended to indicate methods that are of aid in successfully responding to an incident involving a violation of law or disturbance of the public peace. Because of the uncertainties involved in such incidents, these procedures

cannot cover every situation. The assigned officer will often be required to use initiative, discretion and common sense, supported by the law and reasonable cause.



C 1200 - CONFLICT OF INTEREST:

As required by the Political Reform Act of 1974, designated employees of the San Jose Police Department will file statements disclosing certain economic interests which may be affected materially by decisions made or participated in by such designated employees.

PROCEDURE

C 1201 DESIGNATED EMPLOYEES:

A "Statement of Economic Interests for Designated Employees" form is filed by those Department members assigned to specific positions within the Department.

A list of assignments which are currently "Designated Positions" is maintained and available in the Department's Conflict of Interest Code. The current code is on file in the Personnel Unit and in the City Clerk's Office.

C 1202 DATES OF FILING:

The annual statement is filed in accordance with the following time schedule:

- EMPLOYEES CURRENTLY ASSIGNED: Members currently assigned to a "Designated Position" will file a statement by February 1 of each year.
- RECENTLY ASSIGNED EMPLOYEES: An employee newly assigned to a "Designated Position" will file a statement ten (10) days prior to assuming the position.
- TRANSFERRED EMPLOYEES: An employee being transferred from a "Designated Position" to any other position will file a statement within thirty (30) days of the date of transfer (including transfers from one "Designated Position" to another).

C 1203 NOTIFICATION:

The Department's Personnel Unit will notify all "Designated Employees" by January 1 of each year, or as required by status changes, that filing of a "Statement of Economic Interest for Designated Employees" is necessary. Notification will be made through the employee's Bureau Commander.

C 1204 FILING PROCEDURES:

When notified that filing of an annual "Statement of Economic Interest for Designated Employees" is necessary, Department members will adhere to the following procedures:

- Obtain a copy of the Department's Conflict of Interest Code and disclosure forms from the Department's Personnel Unit. Disclose all interests which are designated in the code as reportable for the employee's position.
- Complete reports in conformance with the "Instruction Manual for Statement of Economic Interests." The Instruction Manual is available in the Department's Personnel Unit.

- Submit the statement to the Personnel Unit of the San Jose Police Department by the required due date.
- The Personnel Unit will make one copy of each report. The copy remains in the departmental file and the original is transmitted to the City Clerk.

C 1205

DETERMINING "DESIGNATED EMPLOYEES":

Each Deputy Chief will annually, but prior to December 1 of each year, review the criteria in the Department's Conflict of Interest Code and determine which current positions should be added or deleted from the "Designated Employee" list. The proposed deletions or additions will then be submitted to the Chief of Police. The approved list will be submitted to the Personnel Unit prior to December 15.



C 1300 - ETHICAL RESPONSIBILITIES:

The highly complex nature of the law enforcement profession makes success dependent upon the individual character and excellence of each Department member. In addition, each member's character determines the character of the Department, which is reflected in the services provided to the community. To achieve progress, Department members must combine high personal integrity with commitment. From this union, the character necessary to maintain a high ethical standard will provide equitable treatment for all citizens, and will reflect positively upon the Department, the city and the community.

PROCEDURE

C 1301 GENERAL PROVISIONS:

The mark of every profession is a code of conduct. The Law Enforcement Code of Ethics is such a statement. In addition, the code exemplifies the Department's concern for the preservation of constitutional rights for all persons, as well as the protection of the community from those who would choose to violate the law. Therefore, the Law Enforcement Code of Ethics is hereby adopted by the San Jose Police Department and serves to remind Department members and citizens that the objectives of professional law enforcement are of the highest order.

C 1302 LAW ENFORCEMENT CODE OF ETHICS:

Revised 10-30-20

"As a law enforcement officer, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against 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 be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

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

* Reference to religious affirmation may be omitted where objected to by the officer.

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C 1303 CONSTITUTIONAL RIGHTS:

No person has a constitutional right to violate the law, nor can any person be deprived of constitutional rights for committing or being suspected of committing a crime. The task of determining the constitutionality of a statute lies with the courts, not with the officer who seeks to properly enforce the law as it exists. The Department will enforce any federal, state or local statutes. An officer who lawfully acts in this capacity is within the scope of their authority and does not deprive persons of their civil liberties. Officers will, within the scope of their authority, make reasonable inquiries, conduct investigations and arrest on probable cause.

C 1304 TREATMENT OF OFFENDERS:

To offend a police officer's personal feelings is not a crime. A citizen will not be mistreated physically or psychologically, nor will the processes of booking and charging be delayed as a means of punishing an offender or gaining revenge.

C 1305 EQUALITY OF ENFORCEMENT:

People throughout the city have a need for protection, administered by fair and impartial law enforcement. As a person moves about the city, that person must be able to expect a similar police response to their behavior - wherever it occurs. When laws are not evenly enforced, a reduction in respect and resistance to enforcement follows.

The element of evenhandedness is implicit in uniform enforcement of law. The amount of force or the method employed to secure compliance with the law is governed by the particular situation. Similar circumstances require similar treatment - in all areas of the city as well as for all groups or individuals. In this regard, Department members will strive to provide equal service to all persons in the community.

C 1306 BIAS-BASED POLICING:

Revised 11-10-21

Bias-Based Policing occurs when an officer engages in conduct based on a person's race, color, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identity, medical condition, or disability.

Bias-Based Policing can occur not only at the initiation of a contact but any time during the course of an encounter between an officer and a member of the public. Officers shall carry out their duties, including the use of force, in a fair and unbiased manner.

Officers will not engage in biased and/or discriminatory-based policing as this undermines the relationship between the police and the public and is contradictory to the Department's mission and values.

C 1307 RESPONSIVENESS TO THE COMMUNITY:

Department members will strive to be responsive to the needs and problems of the community consistent with the Department's mission. While the law governs the Department's task, the policies formulated to guide the enforcement of the law must include consideration of the public will. This responsiveness will be evident at all levels of the Department by a willingness to listen and a genuine concern for the problems of individuals and/or groups. The total needs of the community are an integral consideration of the programs designed to carry out the Department's mission.

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C 1308 **COURTESY:**
Revised 10-14-10

Department members will be courteous and professional to the public. Department members will be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or derogatory language. The Department recognizes that there are an extremely limited number of investigative situations where profane or derogatory language may be a reasonable tactic or tool (i.e. undercover assignments). In these specific situations, the use of profanity or derogatory language must be justified by the Department member based on the totality of the circumstances.

Members are reminded that their conduct, either on or off duty, which adversely reflects upon the Department is deemed to be conduct unbecoming an officer refer to Duty Manual section C 1404 - CONDUCT UNBECOMING AN OFFICER.

C 1309 **KNOWLEDGE OF CONDITIONS:**
Department members have the responsibility of being thoroughly familiar with conditions which affect their assignments. Department members will inform superiors of these conditions in as much detail as their superior requires.

C 1310 **BEHAVIOR TOWARD OTHER DEPARTMENT MEMBERS:**
Revised 10-10-06

Department members will be respectful, courteous and considerate in their demeanor toward co-workers in the Department.

C 1311 **BEHAVIOR INVOLVING DISCRIMINATION OR HARASSMENT:**
Revised 11-21-23

The City of San Jose does not tolerate or condone discrimination or harassment and is committed to providing a work environment free of discrimination and harassment. All Department members are expected to be familiar with and comply with City Policy Administrative Manual section 1.1.1 – Discrimination and Harassment. Discrimination or harassment based upon any of the following protected categories/ or statuses is prohibited:

- Race
- Color
- Religion (Religious Creed)
- National origin
- Ancestry
- Age
- Sex
- Gender

- Pregnancy, childbirth, breastfeeding and/or related medical condition
- Sexual orientation
- Marital status
- Disability (e.g., physical or motor, sensory, intellectual, psychosocial, visceral, etc.)
- Medical condition (e.g., cancer, genetic information or characteristics, HIV, AIDS, etc.)
- Any actual or perceived gender identity or gender expression (e.g., chosen name)
- Military or veteran status

"Discrimination" includes, but is not limited to, any practice, process or action in the workplace which works against equality of opportunity and against the ability of each person to be employed and to advance on the basis of merit without regard to the foregoing protected categories.

"Harassment" is defined by the existence of all of the following elements:

- Conduct that is based on a protected category and/or status; and
- Conduct that is unwelcome; and
- Workplace harm which creates a hostile working environment or results in a tangible employment action (e.g., quid pro quo).

Department members will not engage in conduct in violation of the City's Discrimination and Harassment Policy, and no member will bring any racist, sexist, or otherwise discriminatory material into any San Jose Police facility, other than for legitimate law enforcement purposes. Members are responsible for maintaining a work environment free of discrimination and harassment, complying with the Duty Manual and City policies on the matter and taking appropriate measures to ensure that such conduct does not occur. Accordingly, acts of discrimination or harassment in the workplace in violation of City Policy Administrative Manual section 1.1.1 are unacceptable and will not be tolerated.

Department members who violate the City's Discrimination and Harassment policy are subject to disciplinary action, up to and including termination.

C 1312 SEXUAL HARASSMENT:

Revised 10-10-06

Sexual harassment is a form of workplace harassment prohibited by City Policy Manual section 1.1.1. Refer to the City Policy Manual section 1.1.1 for descriptions of the type of conduct that can be considered sexual harassment, as well as for the City's policy on consensual sexual or romantic relationships.

**C 1313 REPORTING POTENTIAL DISCRIMINATION/HARASSMENT, INCLUDING
SEXUAL HARASSMENT:**

Revised 10-10-06

Employees who believe they have been discriminated against or harassed are to report immediately the act or occurrence, in writing or verbally, to a supervisor in the chain of command; the Deputy Chief, Bureau of Administration; the Chief of Police; the Assistant Chief of Police; or the City's Office of Employee Relations. Any supervisor who receives a complaint of discrimination or harassment or who becomes aware of a situation involving potential discrimination or harassment shall immediately notify the Deputy Chief, Bureau of Administration or the Assistant Chief of Police.

Supervisors/managers who know or should have known of discrimination or harassment and fail to report such conduct and fail to take immediate corrective action are subject to disciplinary action up to and including termination from City service.

Retaliation or reprisals against witnesses or employees who in good faith file harassment or discrimination complaints or provide information in an investigation are not tolerated. Intentionally making a false report or providing false information is cause for discipline. Department members who violate the City's Non-Retaliation Policy are subject to disciplinary action, up to and including termination. Please refer to the City's Non-Retaliation Policy under section 1.1.4 of the City Policy Manual for further information.

Nothing in this procedure shall relieve the member receiving a complaint of harassment or discrimination of the responsibility to take immediate corrective steps to ensure that any harassment or discrimination ceases promptly and to ensure compliance with all applicable sections of the Duty Manual, and the City Policy Manual. Please refer to City Policy Manual sections 1.1.1 and 1.1.4 for further information.

Employees remain free to pursue complaints of discrimination or harassment with two outside agencies: the State of California Department of Fair Employment and Housing or the United States Equal Employment Opportunity Commission, whether or not complainants choose to use the internal reporting options and complaint procedures. Time limits for filing complaints with State and Federal compliance agencies vary and those agencies should be contacted directly for specific information.

C 1314 HANDLING OF COMPLAINTS OF POTENTIAL DISCRIMINATION OR HARASSMENT:

Revised 10-10-06

Any supervisor receiving a complaint of harassment or discrimination will ensure that the following guidelines are followed:

- Interview the complainant and determine the nature of the complaint.
- Ask the complainant if they have any suggested corrective action to remedy the problem or complaint.
- Depending on the circumstances and the nature of the complaint, consider taking immediate corrective action to ensure cessation of the offensive behavior while the complaint is being investigated.
- Immediately report the complaint, including corrective action taken, if any, to the Deputy Chief, Bureau of Administration. The Deputy Chief will review the nature of the complaint and any immediate corrective action taken with the Department

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member who documented the complaint. Depending on the seriousness of the complaint and/or prior complaints of a similar nature made against the offending member, the Deputy Chief will determine, in consultation with the Assistant Chief of Police, if the matter will be handled informally or through a formal investigative process. In making this determination, per City Policy Manual section 1.1.1, the Department will advise and consult with the City Manager's Office of Employee Relations.

- The Deputy Chief, Bureau of Administration, will follow up with the complainant after the resolution of the complaint to review the effectiveness of any corrective action taken to ensure that the conduct in question has ceased and that no other issues have arisen.
- The Department recognizes the sensitivity of discrimination and harassment complaints and respects the confidentiality and privacy of the individual reporting and of the individual accused of harassment or discrimination, or the individual who is providing information in connection to a complaint of harassment or discrimination, to the extent reasonably or legally possible.

C 1315 FORMAL COMPLAINT PROCESS:

Revised 06-17-04

Any Department member receiving a complaint of sexual harassment or discrimination via the "Formal Complaint Process" will ensure that the following guidelines are followed:

- Reduce the complaint to writing in the form of a confidential memorandum and forward to the next level in the chain of command during the same work shift.
- Forward the memorandum without delay through the chain of command to the Chief of Police or their designee, who will assign the matter to the Internal Affairs Unit for investigation.
- The investigation will be given priority by the Internal Affairs Unit. A complete investigation will be conducted in accordance with Duty Manual section C 1700 - ALLEGATIONS, COMPLAINTS, NON-MISCONDUCT CONCERNS AND SUPERVISORY REFERRALS INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS through Duty Manual section C 1743 - PLACEMENT OF OFFICERS WITH DISCLOSURE REQUIREMENTS.
- Upon completion of the investigation, the Internal Affairs Unit will forward a synopsis of the incident to the Department's Equality Assurance Officer for statistical tracking purposes.

C 1316 RESPONSIBILITY OF THE DEPARTMENT'S EQUALITY ASSURANCE OFFICER:

The Department's Equality Assurance Officer (Deputy Chief, Bureau of Administration) is responsible for the administration of the Department's Equal Employment Opportunity Plan and its adherence to applicable provisions of the City's Equal Employment Opportunity Affirmative Action Plan. The Department's Equality Assurance Officer shall maintain confidential files containing the synopses of all formal investigations, as well as all copies of all "Discrimination Complaint Forms" documenting allegations of sexual harassment or discrimination via the "Informal Reporting Process," These files are maintained for a period

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of one year and are not open to inspection, except to provide documentation for subsequent complaints of sexual harassment or discrimination.

The Department's Equality Assurance Officer will schedule follow-up review dates with the complainant after the resolution of the incident to assess progress, review effectiveness of corrective action taken, ensure conduct constituting sexual harassment or discrimination has ceased, and to ensure that the employee is not being subjected to retaliation for having reported the complaint. The Department's Equality Assurance Officer is responsible for providing a synopsis of all complaints received via the "Formal Complaint Process" to the City Equality Assurance Officer.

C 1317 PROCEDURES DURING ENCOUNTERS WITH LIMITED ENGLISH PROFICIENT (LEP) PERSONS:

Revised 09-26-18

Department members shall provide language assistance services to LEP individuals whom they encounter or whenever an LEP individual requests language assistance services. Members shall not solely rely on their own assessment of an individual's English proficiency in determining the need for an interpreter or a translator, especially when an individual may be subjected to stressors or specialized terms that would make it difficult for that individual to communicate in English. If a person requests an interpreter or a translator, the Department member shall take reasonable steps to provide one.

Department members shall refrain from asking opinions of the interpreter or translator and shall not ask the interpreter or translator to undertake any role that may conflict with their function as a professional responsible for providing language assistance services. In addition, an interpreter does not make language proficiency assessments to determine how much English a person may understand or speak.

C 1317.1 PROCEDURES FOR PROVIDING ORAL INTERPRETATION SERVICES:

Revised 09-26-18

1. Civilian Calls to 3-1-1 or 9-1-1

The Department shall maintain a contract with an interpretation service to assist with all incoming calls ("911" and "non-emergency") for SJPD Communications. The Department's interpretation services may vary depending on the contracted service at that particular time.

All incidents shall be processed in accordance with the protocol utilized in the SJPD Communications Policy Manual. When a call is received from a LEP caller, the call taker shall keep the caller on the line and conference with the identified and contracted interpreter service if necessary. The interpretation service is used when a call taker receives a call from a reporting party who speaks a language other than English, unless the call taker is certified bilingual by the Human Resources Department in that particular language. When receiving a call from an LEP caller, call takers shall determine the nature of the call via the appropriate interpretation service without delay as follows:

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- a. 9-1-1 or 7 digit emergency lines – use the emergency interpretation service. When the telephone line to the emergency interpreter is busy or unavailable, ascertain if there is a certified bilingual call taker available to interpret. If there is no one available, use the non-emergency interpretation service.
- b. 3-1-1 or 7 digit non-emergency lines – ascertain if there is a certified bilingual call taker available to interpret. If there is no one available, use the non-emergency interpretation service. If there is an indication of an emergency or there is uncertainty about the nature of the call, the emergency interpretation service should be used.

If a call necessitates dispatch, the call taker shall utilize the interpretation service to complete the event regardless of the role assigned to the call taker. The text of the event shall indicate the language spoken and that the information has been obtained through an interpreter. If the caller is requesting contact, the text shall include whether or not there is someone available on scene to interpret for the officer(s).

2. Department Members Requiring Interpretation Services During Field Encounters, Including Those Resulting in Arrests.

Department members in need of interpretation services shall attempt to identify the LEP individual's primary language through the following available means:

- a. Identify the LEP person's self-identification of their language; or
- b. Identify the unknown language by using the "I Speak" Limited English Proficiency Form developed by the SJPD (SJPD I-Speak Form).

When an officer requests an interpreter, the dispatcher shall attempt to contact an on-duty certified interpreter (sworn or professional staff).

a. Skills Inquiry of SJPD Personnel

Sworn Department members who are certified interpreters have been assigned in the Computer Aided Dispatch (CAD) System. Upon receiving a request for interpretation services, dispatch shall perform either a language inquiry in CAD or a radio inquiry to identify which officers are working who can provide interpretation assistance for the language needed.

b. Officer Availability and Assignment

Upon determining a certified officer is working, the dispatcher shall determine if the officer is available to respond to interpret. If the officer is on a call or out of service, the officer does not have to respond to interpret. If the officer is available and agrees to respond to interpret, the officer shall be attached to the event.

c. Interpreter Services

If an on-duty certified interpreter is unavailable, the officer shall call the contracted language interpretation service for the SJPD. The officer shall do the following:

- i. Call the contracted language services.

- ii. Provide the proper account number pertaining to the officer's bureau (BFO or BOI).
- iii. Follow the steps prompted over the phone.
- iv. Provide their name and badge number to the interpreter and obtain the interpreter's ID for documentation purpose later.
- v. Determine if the conversion needs to be recorded.
- vi. Add a comment to the event to reflect the language requested.

Department members are expected to follow the general procedures outlined in this policy; however, exigent circumstances may require deviations. Examples may include the need to obtain descriptive information on a fleeing suspect or identifying information of an injured person. In such situations, personnel are to use the most reliable, temporary interpreter available. However, once the exigency has passed, personnel are expected to revert to the general procedures.

Other than exigent circumstances, Department members should avoid using family, friends, or bystanders for interpretation. Using family, friends, or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation. Barring exigent circumstances, Department members should not use minor children to provide interpreter services.

3. Criminal Interrogations and Victim/Witness Interviews

Miscommunication during interrogations or victim/witness interviews may have a substantial adverse impact on the evidence presented in any related criminal prosecution. Victim/witness interviews potentially involve statements with evidentiary value upon which a victim/witness may be impeached in court, so accuracy is a priority. Moreover, a failure to protect the rights of LEP individuals during arrests and interrogations presents risks to the integrity of the investigation. Every effort should be made to use a qualified interpreter identified by the City's bilingual list for any interrogation or taking of a statement where the legal rights of a suspect or victim/witness could be adversely impacted. The Department member shall utilize the contracted interpreter services to assist with any interpreter services when an on-duty certified interpreter is unavailable.

Miranda warnings will be available in English, Spanish, and Vietnamese. Other vital documents will be available to the suspect or victim/witness in their primary language. If a document needs to be translated during the course of an investigation and certified personnel are unavailable, the Unit Commander or designee shall determine the need for the document to be translated and shall make the appropriate arrangements with the contracted interpretation/translator service.

If a document is not identified as a "vital document," the document shall be read to the suspect or victim/witness in their primary language using an interpreter. This occurrence shall be documented in the SJPD General Offense Crime Report.

4. Other Telephonic or In-Person Interactions with LEP Persons

The Department distributes the "I Speak" Limited English Proficiency Form (SJPD I-Speak Form – 2010) to all personnel and posts the document on the SJPD's intranet. The "I Speak" form gives individuals the opportunity to inform Department

members of their language abilities and preferences. The form contains 38 numbered check boxes next to sentences that direct the individual to check the box where they read and write a particular language. When the individual checks a box, the Department member can find the number on the form that indicates which language was chosen.

Department members working in the Main Lobby should assist individuals via the lobby phones when access to the “interpreter-line” is necessary to communicate with the requesting individual.



C 1400 - STANDARDS OF CONDUCT:

Department members are highly visible representatives of government and are entrusted with the responsibility of ensuring the safety and well-being of the community as well as the delivery of police services. Since the functions of SJPD have a major impact upon the community, standards of conduct for Department members are higher than standards applied to the general public. In this regard, Department members will conduct themselves in a manner that does not bring discredit upon individuals, the Department, the City, or the community.

PROCEDURE

C 1401 GENERAL RULES:

The following rules are established to implement policy and assist Department members in conducting themselves in a professional manner.

C 1402 GENERAL RESPONSIBILITIES:

Revised 12-23-21

All Department members will become thoroughly familiar with these rules and regulations and will abide by them. They will observe and obey all:

- Federal, state, and local laws.
- General, Special and Members Orders of the Department and of the Bureau to which they are assigned.
- Provisions of the San Jose Police Department Duty Manual.
- Other lawful orders of their superiors.

Upon observing or otherwise becoming aware of a violation of the rules, procedures or policies as set forth in this manual, each department member is obligated to immediately report such violation to a superior officer.

Additionally, sworn personnel shall:

- Immediately report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.
- Intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

Government Code section 7286 provides the following definitions:

- “Excessive force” means a level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by this section, or any other law or statute.
- “Intercede” includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer’s excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer’s name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

C 1403 ENFORCEMENT OF ALL LAWS:

The special delegation of certain laws to particular subdivisions of the Department does not relieve officers of the responsibility of taking prompt and proper police action relative to violations of other laws observed by them or coming to their attention.

C 1404 CONDUCT UNBECOMING AN OFFICER:

An officer’s conduct, either on or off duty, which adversely reflects upon the Department is deemed to be conduct unbecoming an officer. Each case of misconduct will be examined to determine if the act was such that a reasonable person would find that such conduct was unbecoming an officer.

C 1405 COORDINATION:

In carrying out the Department’s mission, members will coordinate their efforts in a manner that will establish and maintain the highest possible standard of efficiency and conduct.

Department members will cooperate with and assist other members in their departmental work. Any deliberate and unjustified withholding of police information from other Department members is prohibited.

C 1406 MEMBERS TO ACCEPT ASSIGNMENTS:

Revised 10-01-22

Notwithstanding the assignment of specific duties and responsibilities, Department members will perform all other duties required of them by higher authority. For additional information, see Duty Manual section C 1422 - CONFLICTING ORDERS regarding conflicting duties and responsibilities and Duty Manual section C 1424 - IMPROPER OR QUESTIONABLE ORDERS regarding improper or questionable duties and responsibilities.

C 1407 PROVIDING SERVICES:

Department members are responsible for providing such services as may be assigned to them in pursuit of the Department’s goals and objectives.

C 1408 OFFICIAL BUSINESS:

Department members will not enter into correspondence with any person concerning their official activities except as provided by departmental order.

C 1409 SUPPLYING IDENTIFICATION:

Consistent with officer safety and protection of public, Department members, while acting in an official capacity, will supply their name, rank and position, and similar identifying information in a professional manner to any person who may inquire. Officers will identify themselves, when requested, by using an Incident Card (Form 200-45a) or Department approved business card.

C 1410 INDIVIDUAL RESPONSIBILITIES:

The following procedures will be adhered to by each individual Department member.

C 1411 CIVIL CASES AND PROCESSES:

Revised 05-29-14

Department members shall not serve civil process (e.g., civil summons and complaints, subpoenas and court orders) on or off-duty, nor will they render assistance in civil court cases, except when required or authorized to do so within the course and scope of their official duties. They will, however, prevent breaches of the peace or quell disturbances growing out of such matters and advise the parties concerned why police action may not be possible.

C 1412 CONSUMPTION OF ALCOHOL:

Department members are considered unfit for duty due to excessive indulgence in alcoholic beverages. No member will consume any alcoholic beverage when on duty except when required or expected by assignment.

No Department member will consume any intoxicating beverage while on any property occupied or administered by the Police Department without the express permission of the Chief of Police.

While in uniform, no Department member, even if off duty, will consume any alcoholic beverage nor will they consume any beverage, including soft drinks, at a bar, tavern or cocktail lounge. It is the member's responsibility to maintain an image of high ethical conduct.

C 1413 USE OF DRUGS:

Revised 02-18-18

No Department member will use any illegal drug or narcotic. Any Department member who is under the influence of any substance which impairs the mental or physical ability of such member to perform assigned duties will adhere to the procedure contained in Duty Manual section C 1412 - CONSUMPTION OF ALCOHOL. Unless done for legitimate law enforcement purposes (such as transporting and booking as evidence or for safe keeping), Department members are prohibited from possessing marijuana on duty and off duty. Department members are also prohibited from using marijuana on duty and off duty.

Note: It is not a violation of this section for a Department member to be with a non-Department member who is lawfully in possession of marijuana under the Compassionate Use Act, the Adult Use of Marijuana Act (Proposition 64, or "AUMA"), or the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), as long as the Department member is not in physical possession of the marijuana themselves (e.g., Department member's civilian spouse lawfully possesses marijuana in the family residence or vehicle).

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C 1414 INCAPACITY TO PERFORM DUTIES:

Department members, while on duty, who are unable to perform their duties due to illness, exhaustion or any other impairment will report this fact to their supervisor who will then determine the proper disposition.

C 1415 RECOMMENDING SERVICES:

When acting in an official capacity, Department members will not recommend or suggest the employment or purchase of any specific professional or commercial service or product. This rule does not affect a member's duty to inform people in need of the availability of municipal, county, state or federal services.

C 1416 PRIVATE USE OF DEPARTMENT ADDRESS:

Department members will not use the Department as a mailing address for private purposes. The Department's address will not be used as the primary address on any motor vehicle registration or operator's license.

C 1417 HAIR, MAKEUP, FINGERNAILS, AND JEWELRY OF DEPARTMENT MEMBERS:

Revised 05-27-21

Head and facial hair of Department members will be clean and well-groomed, consistent with contemporary community standards. The spirit and purpose of this section is to prevent personal grooming from constituting an interference or distraction and to permit the evaluation of performance of duty on its own merit, independent of appearances.

- Head Hair: Head hair will not extend beyond the bottom of the uniform shirt collar while in a standing position. Hair longer than the collar will be worn up in a neat fashion and securely fastened. Hair worn in front of the ears shall not extend below the bottom of the ear. Hair styles shall be no longer than three inches from any part of the head. Unacceptable hair styles include, but are not limited to, designs or images sculpted into the hair, mohawks, or tufts of hair on a shaved head. In all cases, head hair may be permitted to grow naturally, but will be clean and neatly trimmed so as not to present a ragged, bushy, unkempt, extreme, or eccentric appearance.

Note: California Government Code section 12926 provides additional information on authorized hair styles.

- Color: Hair may be dyed or highlighted to any natural hair color (e.g. black, brown, blonde, auburn, etc.), without any obvious blocks, patterns, or spots of color.
- Hair pieces or Wigs: Hair pieces or wigs, if worn while in uniform, shall be of good quality, fit well, present a natural appearance, not present a safety hazard, and will conform to all grooming standards as set forth in these regulations.
- Hair Ornamentation: Hair ornamentation (e.g. beads, fabric, pins, sticks, combs, jewelry, etc.) is not authorized while in uniform.
- Hair Control Devices: Hair control devices, such as rubber bands, elastic bands, barrettes, clips, and headbands may be used to secure head hair. Items used to hold or secure hair will be similar in color to the individual's hair color and/or the duty

uniform. Hair control devices shall not be so conspicuous as to detract from the employee's uniform appearance.

- Goatees and Beards: Goatees and beards are not authorized. The face will be clean shaven except mustaches and sideburns will be permitted if neatly trimmed and well-groomed. Sideburns may have a natural flare, but will not be extreme in width or extend below the ear lobe.
- In no event shall the length or style of head or facial hair interfere with the prompt and proper placement of Department head gear or equipment (e.g. helmet and gas mask). In no event shall the length or style of head hair obstruct the Department member's vision.
- Makeup: The use of facial makeup shall be professional in appearance.
- Fingernails: Fingernails shall be neat, clean, and shall not display decals or ornamentation. Fingernails shall not extend more than one-fourth inch beyond the tip of the finger. Fingernail polish may be clear or neutral in color (e.g. matching the natural nail bed). White nail tips are allowed. Fingernails shall not be sharpened to a point. They shall not interfere with the performance of duties, such as the manipulation of safety equipment or a firearm.
- Jewelry: No jewelry will be visible around the neck. Small silver or gold colored "stud-type" earrings may be worn where the ear lobe is pierced. No dangling, hoop, or clip-on earrings will be allowed.
- Supervising Department members may require Department members to be photographed for documentation in enforcing the provisions of this section.

The Chief of Police or their designee may exempt Department members from these regulations when:

- Appropriate for a law enforcement purpose.
- Requested for reasonable accommodation based on a protected category/status (as listed in City Policy Manual section 1.1.1) or medical need, if such exemption may be reasonably accommodated within the course and scope of the member's job duties. The Chief of Police or their designee shall take into account any potential health, safety and/or operational concerns that the exemption may present to the member, the Department, and/or the public. The Chief of Police or their designee shall make the final determination regarding all requests for exemptions from these regulations on a case-by-case basis.

C 1417.5 APPROPRIATE ATTIRE FOR IDENTIFICATION CARD PHOTOGRAPHS:

Revised 05-27-21

When required to obtain a Department issued identification card, Department members will dress in appropriate business attire or wear their class "A" uniform. In the event that a Department member arrives at the Permits Unit for an identification card photograph without appropriate attire, a uniform shirt and tie may be provided for the photograph, if available. If no uniform shirt and tie are available, the Department member will be directed to return for the photograph when appropriately attired.

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C 1418 HEAD HAIR, MAKEUP AND JEWELRY OF SWORN FEMALE DEPARTMENT MEMBERS:

Deleted 05-27-21

C 1418.5 BODY ART, TATTOOS, BRANDS, INTENTIONAL SCARRING, MUTILATION OR DENTAL ORNAMENTATION:

Revised 09-17-20

All department members are prohibited from displaying body art, tattoo(s), brand(s), intentional scarring, mutilation or dental ornamentation while on duty or representing the Department in any official capacity.

Any current department member with existing body art, tattoo(s), brand(s), intentional scarring, or mutilation that is visible shall have the following options:

- On-duty department members shall cover existing body art, tattoo(s), brand(s), intentional scarring or mutilation by wearing a long-sleeve uniform shirt and/or uniform trousers/breeches, or;
- Cover the existing body art, tattoo(s), brand(s), intentional scarring or mutilation with a skin tone patch or make-up, or;
- Have the tattoo(s) or brand(s) removed at the employee's expense.

Body art, tattoo(s), brand(s), intentional scarring, or mutilation that is not able to be covered or concealed is prohibited. This includes, but is not limited to, foreign objects inserted under the skin; pierced, split or forked tongue and/or stretched out holes in the ears.

On-duty department members shall not have any dental ornamentation. The use of gold, platinum, silver or other veneer caps for the purpose of ornamentation are prohibited. Teeth, whether natural, capped or veneered, shall not be ornamented with designs, jewels, initials, etc.

Any exceptions to this policy must be approved by the Office of the Chief of Police.

Hiring Prohibition:

Having body art, tattoo(s), brand(s), intentional scarring, mutilation or dental ornamentation that depicts racist ideals or is associated with a hate group shall be a bar to being hired as a police officer or police recruit with the Department.

C 1419 CONDUCT DURING DISPLAY OF NATIONAL COLORS:

Courtesy to the national colors will be displayed by officers at retreat ceremonies, the playing of the National Anthem, and parades.

TYPES OF SALUTES

- When in Uniform: When in uniform, the officer will salute in the following manner: Raise the right hand smartly until the tip of the forefinger touches the lower part of the headdress and slightly to the right of the right eye, thumb and fingers extended and joined, palm to the left, upper arm horizontal, forearm inclined at forty-five degrees,

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hand and wrist straight. To complete the salute, drop the arm smartly to its normal position.

- When Not in Uniform: When not in uniform, stand at the position of attention, uncover the head and hold the hat in the right hand over the heart. If not wearing a hat, stand at attention and hold the right hand over the heart.

WHEN TO SALUTE

- Parades: When passing a flag not cased in a standard, the officer will begin the salute six paces before reaching the flag and hold the salute until past the flag. When members are in ranks, each unit salutes together at the command of its leader.

When the flag is passing, the Officer should take the position of attention and salute when the flag is within six paces of the Officer's position and hold the salute until the flag has passed the officer. The Officer should drop the salute smartly.

- Public Ceremonies. When the National Anthem is being played in any public ceremony, the salute should be given at the first note of the Anthem and held until the last note is completed. If this is done at a flag raising or retreat ceremony, the officer should face in the direction of the flag.

C 1420 SPECIAL OVERTIME ASSIGNMENTS:

Deleted 05-10-13

C 1421 DUTY TO OBEY LAWFUL ORDERS:

Revised 10-01-22

Department members will obey lawful orders from a superior officer. Department members are not expected to obey an unlawful order. See Duty Manual section C 1424 - IMPROPER OR QUESTIONABLE ORDERS regarding improper or questionable orders.

C 1421.1 SUPERVISOR ORDERS:

Added 10-01-22

For the purpose of this section, the term "supervisor" applies to all Department members of a superior rank, position, or assignment to the Department member receiving the order or directive. This includes sworn and professional staff.

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of:

- Any federal, state, or local law
- Orders of the Department
- Provisions of the Duty Manual
- Provisions of the City Policy Manual

Supervisors should not issue orders that conflict with any previous order without making a reasonable effort to clarify that the new order is intended to countermand the earlier order.

C 1422 CONFLICTING ORDERS:

If a subordinate receives instructions from a senior member conflicting with the instructions received from proper or higher authority, the subordinate will inform the senior member of the conflict. If the senior member still desires that the order be carried out, the subordinate will do so, and the senior member will review the order with the subordinate's supervisor.

C 1423 CRITICISM OF ORDERS:

No member of the Department will publicly disparage or ridicule written or oral orders or instructions issued by a senior officer.

C 1424 IMPROPER OR QUESTIONABLE ORDERS:

A Department member receiving orders which they believe to be improper or in violation of this manual will express their concern to the senior member directly issuing the order. When the senior member directly issuing the order indicates that the order is to be complied with, the subordinate will adhere to one of the following appropriate procedures.

- ORDERS REQUIRING IMMEDIATE COMPLIANCE:

Orders pertaining to situations which require immediate compliance will be carried out as directed. Once such orders are complied with, the member receiving the order may then appeal in writing through the chain of command to the Chief of Police.

Department members are not expected to carry out orders which violate the law. In the event that such an order is received, the Department member will immediately appeal the order to a higher authority.

- ORDERS REQUIRING FUTURE COMPLIANCE:

Orders which pertain to situations that do not require immediate compliance may be appealed prior to execution as long as such appeal does not frustrate or impede the operation that the order was intended to implement. The appeal will be in person or in writing through the chain of command to the Chief of Police.

C 1425 CONFIDENTIALITY:

Members will adhere to the following procedures pertaining to the confidentiality of official business of the Department.

C 1426 IDENTITIES:

The identity of persons connected with an incident shall be protected and may only be released consistent with Duty Manual section C 1900 - SUPPLYING INFORMATION.

C 1427 INFORMATION ON OPERATIONS

Department members will not release to anyone information which may delay an arrest, aid a person to escape, destroy evidence or remove stolen or embezzled goods, or which may in any other way hinder the effective performance of police responsibilities.

C 1428 OFFICIAL STATEMENTS AND APPEARANCES

Department members will not make any official public statements relating to departmental business without the consent of the Chief of Police.

C 1429 PRIVATE USE OF DEPARTMENTAL INFORMATION

Members are prohibited from using confidential or official information to advance the financial or other private interest of themselves or others.

C 1430 REPORTING FOR DUTY:

Department members will be punctual in reporting for duty at the time and place designated by their senior officers. Members will report for duty in the regular uniform of the day, and apparel and equipment will be in a presentable condition. Members who report for duty at a later time than is required by their commanding officers may be subject to dismissal from duty for that watch or tour of duty. Immediate supervisors may allow tardy subordinates to assume their duties when notified by members that lateness will occur. However, repeated failures to report promptly may be deemed neglect of duty and made the subject of departmental discipline.

C 1431 ABSENCE WITHOUT PROPER LEAVE:

Members will not be absent from duty without proper permission or leave, except when unable to report for duty at the assigned time due to sickness or injury, at which time the Department must be notified.

C 1432 PERSONAL ACTIVITIES ON-DUTY:

Department members will not devote any of their on-duty time to any activity that does not relate to a police function. They will not perform any police duty for the purposes of private gain.

C 1433 GRATUITIES AND BRIBES:

Department members will not receive any rewards for services rendered in the line of duty. The following rules will be adhered to:

- Members will not accept a bribe or engage in any act of extortion or other unlawful means of obtaining money or property through their position with the Department.
- Members will not accept, directly or indirectly, a fee, loan, reward or gift of any kind from any person in custody, discharged from custody, liable to arrest or complaint, or from any friend or relative of such person.
- Members, individually or collectively, will not solicit any reward for the performance of duties or seek or ask for a gratuity of any kind.
- Members will not use their positions to seek, nor will they accept favors or gratuities which would not ordinarily be accorded private persons.

C 1434 MISUSE OF AUTHORITY:

Department members will not engage in any act that could reasonably be construed to constitute misuse of authority. Members will not use their position in the Department to obtain any money or property except as required by law or departmental procedures.

C 1435 SOLICITATION:

Department members will not solicit, collect or receive money or other things of value for charitable or testimonial purposes except as approved by the Chief of Police.

C 1436 MISUSE OF PROPERTY:

Department members will handle property in the manner directed by the Police Duty Manual. Under no circumstances will members appropriate property of the Department, property of another Department member or any other property for their own use.

C 1437 POLITICAL CAMPAIGNING:

Revised 10-26-09

On-duty Department members will refrain from engaging in activities related to political campaigning. Improper activities include, but are not limited to, engaging in campaign speeches; distribution of pamphlets; posting of campaign ads; willfully being photographed in uniform (on or off duty) with political candidates. Nothing in this policy precludes Department members from working off duty, out of uniform, in a non-law enforcement capacity in support of or in opposition to any political campaign. Additionally, it does not preclude candidates from approaching employee groups for purposes of endorsement or, in fact, employee organizations endorsing specific candidates, propositions or measures.

C 1438 SOCIAL CONDUCT ON AND OFF DUTY:

While on duty, department members will not:

- Encourage, suggest, offer or accept sexual favors.
- Encourage, suggest, offer or provide leniency in enforcement in return for sexual or social encounters.
- Encourage, suggest, offer or perform any services in the line of duty in return for sexual or social encounters.
- Engage in sexual activity.
- Engage in any form of sexual harassment.

While off duty, officers will not use their official police capacities to further the above activities.

C 1439 USE OF FORCE:

The improper use of force can constitute gross misconduct. See Duty Manual section L 2600 - USE OF FORCE.

C 1440 MAINTENANCE OF DEPARTMENT PROPERTY:

Department members are responsible for the proper care of Department property and equipment. Damaged or lost property may subject the responsible individual to reimbursement charges and/or appropriate disciplinary action.

C 1441 REPORTING DAMAGE:

Accidents involving Department members, property and/or equipment must be reported in accordance with procedures in this manual and those hereafter established by order of the

Chief of Police. Lost or stolen equipment is reported in accordance with Duty Manual section R 1908 - REPORTING LOST OR STOLEN CITY EQUIPMENT.

C 1442 CONSUMPTION OF INTOXICANTS:

While off-duty, Department members will not consume intoxicants in a public place to the extent that they are unable to care for themselves and/or become discourteous. Such conduct reflects adversely upon the Department.

C 1443 GAMBLING:

No games of chance for stakes or wages or other gambling are allowed at any Police Department building.

C 1444 OFF-DUTY ENFORCEMENT ACTION:

Deleted 10-21-21

C 1445 NEIGHBORHOOD DISPUTES:

When on or off duty, Department members will avoid becoming officially involved in quarrels or disputes occurring in their own neighborhoods, unless the incident involves an immediate threat to human life. In any event, Department members will give first consideration to their capacity to render an appropriate and adequate response before any action is taken.

C 1446 CHEMICAL TESTS OF DEPARTMENT MEMBERS:

Revised 07-02-15

Department members may be required to submit to a chemical test if they are involved in certain, but not all, enforcement situations. When required by a superior officer, Department members will submit to a test following an incident. Circumstances which may require chemical tests are as follows:

- The Department member injures or kills another person.
- The Department member or a superior officer determines that a Department member's sobriety should be documented.

Chemical tests may include, but are not limited to, a test of the blood, breath or urine.

C 1447 CARRYING EQUIPMENT OFF DUTY:

Revised 05-12-22

Officers may carry firearms, Department-issued chemical agents, or Electronic Control Weapons when off-duty at their discretion. Whenever an officer carries a firearm, Department-issued chemical agent, or Electronic Control Weapon, the Department badge and Department-issued identification card must be carried. Absent taking enforcement action as a peace officer or in self-defense, officers will avoid intentionally exposing their weapon to public view.

C 1447.1 CARRY CONCEALED WEAPON (CCW) ELIGIBILITY:

Added 05-12-22

Qualified active Reserve officers and honorably retired officers are eligible to receive a Carry Concealed Weapon (CCW) endorsement.

Active Reserve officers must adhere to the guidelines specified in SJPD Reserve Unit Procedures Manual section A 602 to qualify for a CCW endorsement.

Honorably retired full-time officers must have qualified for and accepted a service or disability retirement to be eligible for a CCW endorsement. An officer who separates from City service may apply for a retired identification card with CCW endorsement when they have qualified for and accepted a service or disability retirement.

Honorably retired Level 1 Reserve officers must have served an aggregate of 15 years to be eligible.

C 1447.2 RETIRED OFFICERS NOT ELIGIBLE TO CARRY CONCEALED WEAPON:

Added 05-12-22

Officers who retired because of a psychological disability are not eligible for a Carry Concealed Weapon (CCW) endorsement (CA Penal Code section 26305(a)). Retired officers may have their CCW endorsement revoked or denied if:

1. They violated any departmental rule, or state or federal law that, if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from the agency, or
2. They engaged in conduct that compromises public safety.

An identification certificate authorizing an officer to carry a concealed and loaded firearm or an endorsement may be permanently revoked or denied only upon a showing of good cause. Good cause shall be determined at a hearing before a three-member hearing board as specified in CA Penal Code section 26320.

C 1447.3 DENIAL OR REVOCATION OF CARRY CONCEALED WEAPON ENDORSEMENT FOR RETIREES:

Added 05-12-22

If a CCW endorsement has been denied, the retired officer shall have 15 calendar days from the date of denial to request a hearing for a showing of good cause. Such request should be made to the Chief Executive Officer. Failure to submit a timely request for a hearing shall be deemed a waiver of such right.

If a CCW endorsement has been temporarily revoked, such revocation shall be effective upon personal service or upon receipt of a notice that was sent by first-class mail, postage prepaid, return receipt requested, to the retiree's last known place of residence. Proof of service shall be in accordance with SJMC section 1.04.150. The retiree shall have 15 days to respond to the notification and request a hearing to determine if the temporary revocation should become permanent.

Such request should be made to the Chief Executive Officer. Failure to respond to the notice of hearing in a timely manner shall forfeit the retired officer's right to a hearing. The retiree identification card with CCW endorsement shall be immediately returned to the Permits Unit when such endorsement has been permanently revoked.

If a hearing is requested, good cause for denial or permanent revocation shall be determined at such hearing. The hearing shall be held no later than 120 calendar days after the request by the retired officer has been received. Such hearing shall be held before a three-member hearing board. One member of the board shall be selected by the Department and one member shall be selected by the retired officer or their employee organization. The third member shall be selected jointly by the Department and the retired officer or their employee organization. Any decision by the board shall be binding on the Department and the retired officer.

A retiree may waive the right to a hearing and immediately return their identification card with CCW endorsement to the Permits Unit.

C 1447.4 REQUIREMENTS FOR CARRYING OF CONCEALED FIREARMS BY RESERVE OR RETIRED OFFICERS:

Added 05-12-22

Active Reserve officers and honorably retired officers will carry or have in their immediate possession their current Department-issued Reserve or retiree identification card with CCW endorsement when carrying a concealed firearm. Such officers are also required to carry or have in their immediate possession proof of their annual Department-approved range qualification. Absent taking enforcement action as a peace officer or in self-defense, Reserves and honorably retired officers will avoid intentionally exposing their weapon to public view.

C 1448 CHEMICAL AGENT DEVICES:

Revised 10-30-20

Officers will only carry chemical agents issued or approved by the Department as specified in Duty Manual section S 1100 - AUTHORIZED AND REQUIRED EQUIPMENT.

C 1449 APPROACHING OFFICERS WORKING UNDERCOVER

Officers working undercover frequently conduct operations in full view of the general public. Since it is difficult to ascertain when an officer is on such an assignment, whether on or off duty, avoid communicating with or acknowledging the officer working undercover, unless the undercover officer initiates the contact.

C 1450 CONFLICT OF INTEREST

Revised 05-12-17

Department members shall not engage in enforcement, investigative or administrative functions that create conflicts of interest or the appearance of conflicts of interest, either on or off-duty (including while on secondary employment assignments).

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In addition, Department members shall not engage in enforcement, investigative or administrative functions where the members hold a bias for or against the person who is subject to, nor is a material witness in an enforcement action, investigation or administrative decision, if the bias would be sufficient to impair the impartiality of the employee. Department members shall not engage in enforcement, an investigative or administrative function if, based upon reasonable and objective criteria, there is a serious risk of actual bias for or against the person. Examples of reasonable and objective relationships that would create a serious risk of actual bias include family members, relatives, close friends, former spouses or former domestic partners, or current or former partners of a sexual relationship. Officers shall not be the primary investigators of crimes where they or family members, relatives or close friends are involved. Department members shall exercise discretion in favor of recusing themselves from any process that might reasonably be expected to create a conflict or the appearance of a conflict of interest, actual bias, or serious risk of bias based upon reasonable and objective criteria.

For purposes of this section, the following definitions shall apply:

- Close Friend: A person who is considered a close personal friend by the Department member or the Department member's unit manager or commander. The determination of whether a person is a close friend is in the discretion of the Department member or the Department member's unit manager or commander.
- Domestic Partner: A domestic partner recognized by any California government entity.
- Family Member: A spouse, domestic partner, child, stepchild, parent or sibling.
- Material Witness: A person whose credibility and description of the incident are critical to the investigation analysis.
- Relative: A grandparent, grandchild, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law or son-in-law, and any equivalent relatives of a domestic partner.

C 1451 PROHIBITED ASSOCIATION

Revised 04-17-13

Department members shall not maintain a voluntary personal association with any person who has an open and notorious reputation in the community for criminal activity.

Department members shall not enter into any voluntary personal association with any person whom the member knows to be an involved party (i.e. victim, suspect, witness and/or informant) in any active criminal investigation or criminal prosecution involving the City if that relationship could be reasonably foreseen to:

- Influence the outcome of a criminal case, or
- Reflect adversely on or bring discredit to the Department or the employee.

Members shall not use any information gained in the course of employment to further a personal association or relationship with any person.

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A “person” means and includes not only a natural person but also any organization, entity, association, sole proprietorship, corporation, partnership, business trust or company.

A “voluntary personal association” means and includes, but is not limited to, a voluntary personal relationship with a person, a friendship, an intimate relationship or an association with or membership in a private organization or entity.

The only exceptions to this rule are when:

- The Department member is acting in the line of duty in an authorized undercover capacity or;
- The association is with the Department member’s immediate family, i.e., member’s spouse or domestic partner under California law, and their (member and spouse or domestic partner’s) parents, children (including adopted, foster, and step children and children of whom the member, spouse or domestic partner is the legal guardian), grandparents, grandchildren and siblings or;
- When the Department member is communicating with their collective bargaining agent over matters within the scope of union representation.

C 1452 ITEMS REPRESENTING THE SAN JOSE POLICE DEPARTMENT:

Added 11-30-12

Any item that displays a SJPD badge, patch, logo, or other identifiers, including but not limited to “SJPD,” “San Jose Police Department,” or any SJPD Specialized Units, connecting the item to the San Jose Police Department will require authorization from the Office of the Chief of Police prior to distribution.

C 1452.5 DEPARTMENT SYMBOLS:

Added 07-21-22

Department symbols are defined as any image, sign, symbol, emblem, icon, logo, or motto representing any event, period of time, assignment, division, district, team, unit, detail, or group of individuals within the Department. Department symbols do not, necessarily, contain the words “SJPD,” or “San Jose Police Department.”

Department symbols are meant to be ornamental in nature and are used to identify the wearer’s participation in particular events, periods of time, assignments, divisions, districts, teams, units, details, or groups. It is meant to bolster one’s pride in accomplishments, morale, camaraderie, and build esprit de corps.

Any modification of or deviation from the standard San Jose Police Department badge or patch qualifies as a Department symbol.

All Department symbols shall be submitted through the process described in Duty Manual section C 1452 - ITEMS REPRESENTING THE SAN JOSE POLICE DEPARTMENT and must be authorized by the Office of the Chief of Police. A list of authorized Department symbols shall be maintained by the Research and Development Unit.

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Some Department symbols may be authorized for use at any time by on-duty personnel (e.g., a shoulder patch identifying the wearer as a member of the MERGE Unit). In this case, those Department symbols will become part of the Uniform and Equipment Specifications Manual.

Some Department symbols may be authorized only at certain times (e.g., a polo shirt with the Assaults Unit emblem). Refer to Duty Manual section S 1151 - USE OF DEPARTMENT SYMBOLS for additional information.

C 1453 LAW ENFORCEMENT GANG DEFINITION:

Added 12-10-21

Penal Code section 13670(a)(2) defines a law enforcement gang as a “group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.”

C 1454 LAW ENFORCEMENT GANG PROHIBITION:

Added 12-10-21

Department members are prohibited from participating in a law enforcement gang. Department members who participate in a law enforcement gang are subject to discipline up to and including termination.

C 1455 EXTREMIST ORGANIZATION DEFINITION:

Added 11-02-22

An extremist organization is any organization, group, committee, club, league, society, association, or combination of individuals, or subset thereof, however named or characterized, and by whatever legal or non-legal entity or non-entity it is established, which engages in or threatens, advocates, abets, advises, or teaches, or a purpose of which is to engage in or threaten, advocate, abet, advise, or teach, activities intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government through mass destruction, assassination, kidnapping, revolution, rebellion or insurrection, force, violence, acts dangerous to human life that are in violation of federal or state criminal laws, or other unlawful means.

C 1456 HATE GROUP DEFINITION:

Added 11-02-22

A hate group is any organization, group, committee, club, league, society, association, or combination of individuals, or subset thereof, however named or characterized, and by whatever legal or non-legal entity or non-entity it is established, whose primary purpose is to advocate or promote hatred, oppression, animosity, hostility, malice, or prejudice against persons based on race; color; religion (Religious Creed); national origin; ethnicity, ancestry; sex; disability; gender, gender identity, and gender expression; or sexual orientation which differs from that of the members or the organization.

C 1457

EXTREMIST ORGANIZATION AND HATE GROUP PROHIBITION:

Added 11-02-22

Department members are prohibited from knowingly and directly aiding, assisting, becoming a member of, or being affiliated with any extremist organization or hate group, except, when necessary, in the performance of their duty, and then only by the written authorization of the Chief of Police. Department members who knowingly aid, assist, become a member of, or are affiliated with any extremist organization or hate group are subject to discipline, up to and including termination.



C 1500 - SECONDARY EMPLOYMENT:

Revised 04-18-12

Acceptance of a full-time paid position with the City of San Jose is accompanied by the mutual concurrence that the employment is to be the member's primary job. If supplemental employment is sought, such is considered to be secondary in importance and subject to the approval of the City. Therefore, all outside or supplemental employment is subject to review by the City to determine if the Department member's efficiency and effectiveness would be impaired by such outside employment, or the secondary employment would be incompatible with the member's City employment.

PROCEDURE

C 1501 SECONDARY EMPLOYMENT:

Secondary employment activity is any work, employment or occupation performed by a Department member in addition to their City work activities including, but not limited to, law enforcement-related activities or businesses.

C 1502 SECONDARY EMPLOYMENT CONDUCT:

Revised 04-18-12

When authorization is granted to engage in secondary employment, Department members are reminded that they are subject to the same rules and regulations of the Duty Manual as are on-duty members including, but not limited to, the application of Duty Manual section C 1803 - SPECIFIC CONDUCT SUBJECT TO DISCIPLINARY ACTION.

C 1503 SECONDARY EMPLOYMENT AND RECALL TO DUTY:

Revised 04-18-12

A Department member engaged in secondary employment is subject to recall to duty and is expected to leave their secondary employment assignment when recalled to duty by competent authority.

C 1504 SECONDARY EMPLOYMENT LAW ENFORCEMENT:

Revised 04-18-12

The legal authority vested in an officer while working in a San Jose Police uniform in a law enforcement or security capacity for a secondary employer is limited to the enforcement of local and state laws. Officers may act to prevent a breach of the peace or to enforce the law, but officers shall not use their police authority to enforce a secondary employer's policies and regulations.

Officers are reminded that when working a uniformed secondary employment assignment, citizens do not differentiate on-duty officers from officers working a secondary employment assignment. When working secondary employment assignments, officers have a

responsibility to take proper action when violations of the law are observed by them or come to their attention, whether or not the law violation is related to their secondary employment assignment.

C 1505 SECONDARY EMPLOYMENT OBJECTIVITY AND IMPARTIALITY:

Revised 04-18-12

When working secondary employment assignments for a private employer, officers must maintain their objectivity and impartiality. Officers are required to take appropriate action in response to observed violations whether such violations are committed by the authorized employer, their agent, or members of the general public.

Officers shall not work a uniformed secondary employment assignment for a private employer in which the officer has a monetary interest, family interest, is part owner, or is employed in any capacity other than the secondary employment role.

C 1506 SECONDARY EMPLOYMENT OFF-DUTY UNIFORM PAY:

Revised 05-07-24

The Chief of Police has the sole authority to set the pay scale for uniformed (including any modified uniformed assignments) secondary employment assignments. The intention of a standard hourly wage is to establish a uniform pay scale for all officers working in a uniformed secondary employment capacity. Officers are prohibited from negotiating pay rates or deals for uniformed secondary employment assignments.

Sergeants and lieutenants are prohibited from charging supervisor fees unless they are working a uniformed secondary employment assignment with officers who they are actively supervising or are assigned as authorized coordinators. The officer rank is prohibited from charging supervisor fees at any time while working or coordinating a secondary employment assignment.

An officer may volunteer their time or receive paid compensation but shall not accept any other form of compensation for coordinator duties. The coordinator rate shall reflect the individual SEU hourly pay rate, as set by the Chief of Police. Coordinators shall only be paid for actual hours of coordination.

Pay rates for officers working plain clothes secondary employment assignments are not subject to the uniform pay scale.

C 1507 UNIFORMED SECONDARY EMPLOYMENT CASH PAYMENTS:

Revised 04-18-12

Officers working a uniformed secondary employment assignment are prohibited from accepting cash payment for their services.

Any exceptions to this policy must be approved in writing by the Secondary Employment Unit commander prior to the secondary employment assignment. The memorandum approving

the exception to this policy shall be maintained by the SEU commander. The Chief of Police shall have final authority over exceptions to this policy.

C 1508 SECONDARY EMPLOYMENT VOLUNTEER TIME:

Revised 09-28-22

An officer may volunteer their time to provide uniformed security at charitable causes occurring in the City of San Jose. Charitable causes are defined as nonprofit events 501(c)(3), community and public gatherings, and school events. When working a uniformed volunteer position, an officer is subject to all Department policies, including having a valid work permit on file at SEU, and enrollment in the Law Enforcement Liability Insurance Program.

An officer shall not work a uniformed secondary employment assignment in which they volunteer a portion of their hours and are paid for another portion of their hours.

EXAMPLE: An officer working a uniformed 4-hour shift at a special event at their child's school cannot get paid for 2 hours of the shift and volunteer for the remaining 2 hours. The officer must either be paid for 4 hours or volunteer for 4 hours.

Volunteer hours worked in uniform are included in the limit of authorized secondary employment hours a member may work in a week. Volunteer hours worked in uniform shall be noted on the member's Secondary Employment Timecard.

C 1509 REQUESTS FOR SECONDARY EMPLOYMENT REFERRED TO SECONDARY EMPLOYMENT UNIT:

Revised 04-18-12

Department members will refer all requests from potential outside employers to the Secondary Employment Unit. The Secondary Employment Unit shall be responsible for conducting a preliminary interview with the individual or business and, if they wish to hire Department members, for providing the necessary paperwork.

C 1510 SOLICITATION FOR SECONDARY EMPLOYMENT:

Revised 04-18-12

While on-duty or in uniform, Department members shall not solicit any type of secondary employment.

Department members whether on-duty or off-duty is prohibited from soliciting any uniformed secondary employment assignments.

Department members whether on-duty or off-duty are prohibited from soliciting any change in personnel from individuals or businesses that currently employ other Department members in secondary employment assignments.

All inquiries regarding secondary employment will be referred to the Secondary Employment Unit.

Any violations of this policy should be immediately reported to the commander of the Secondary Employment Unit.

C 1511 APPLICATION PROCESS TO HIRE OFF-DUTY OFFICERS SECONDARY EMPLOYMENT APPROVAL (SJMC CHAPTER 8.16):

Revised 04-18-12

Persons (including individuals and business entities) who wish to hire off-duty San Jose police officers, including but not limited to, any uniformed or non-uniformed security, patrol, private investigation or surveillance, traffic control, bodyguard, or other law enforcement related or security related services must complete a secondary employment approval application pursuant to SJMC Section 8.16.020 and submit it to the Secondary Employment Unit. SEU shall conduct an investigation of the application to verify the information provided in the application and to determine that the secondary employer is operating in compliance with applicable provisions of the Municipal Code and all other applicable local, state and federal laws and regulations. The Chief of Police shall approve an application for secondary employment approval only if the secondary employment is compatible with off-duty officer or reserve officer status with the Department, the secondary employment is operated in compliance with the requirements of Federal, State and local law and regulations, the secondary employment complies with all Department secondary employment policies, and the secondary employer has not in the past failed to meet all the terms and conditions set by the Chief of Police on any secondary employment approval.

Secondary employment approval is also subject to the following terms and conditions:

1. The secondary employer must maintain records of each officer's hours of work in a format approved by the Chief of Police and shall make those records available for review by the Chief of Police during business hours;
2. The secondary employer shall authorize inspection of the business premises during business hours for the purpose of assuring that the premises and the business are in compliance with the terms and conditions of approval and all applicable laws and regulations;
3. The secondary employer must execute an indemnification agreement with the City as set out in SJMC Section 8.16.070(C);
4. Any other terms and conditions on the secondary employment approval as the Chief of Police determines are necessary in order to ensure that the secondary employment does not conflict with city employment.

The Secondary Employment Unit commander shall be responsible for determining whether or not a person or business shall be accepted by the Department as an authorized secondary employer. The Chief of Police shall have final authority in determining whether or not a person or business will be accepted as an authorized secondary employer.

Officers working security related (uniformed or plain clothes) secondary employment is prohibited from working for any employer that has not been authorized as a secondary employer by the Chief of Police.

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C 1512 DEPARTMENT RIGHT TO DENY, SUSPEND, REVOKE, SECONDARY EMPLOYER APPROVAL:

Revised 04-18-12

The Department retains the right to deny, suspend, or revoke secondary employer approval for any site, business or employment on the grounds set out in SJMC Section 8.16.050:

1. The secondary employer is not operating the business in compliance with the requirements of applicable provisions of this Code or any other applicable local, state or federal law or regulation.
2. The secondary employer does not comply with all the requirements of the police department policy governing secondary employment.
3. The secondary employer has failed to meet all the terms and conditions set by the Chief of Police on the secondary employment approval.
4. Continuation of the secondary employment is not in the best interest of the police department or the city.

If a Secondary Employment Unit audit or inspection at a secondary employment site reveals non-compliance with department policies and procedures, the commander of the Secondary Employment Unit shall have the authority to bring the site under the control of the Secondary Employment Unit.

The Chief of Police shall have final authority over all secondary employment sites.

C 1513 SECONDARY EMPLOYMENT COORDINATOR POSITION:

Revised 05-07-24

Any uniformed secondary employment assignment not coordinated by the Secondary Employment Unit shall have a current Department member designated as a “coordinator.” The coordinator will act as a liaison with the Secondary Employment Unit to ensure the assignment is in compliance with Department policies and procedures. A coordinator’s duties may include, but are not limited to, staffing and scheduling associated with the secondary employment assignment. The coordinator’s duties may also include any record keeping required by the commander of the Secondary Employment Unit. Coordinators shall attend any training required by the Secondary Employment Unit.

Coordinators may schedule members of a higher rank to work secondary employment assignments (Example: An officer coordinating a school secondary employment assignment may schedule a member of a higher rank to work at the school). Coordinators will not schedule members of a higher rank who are in their immediate chain of command.

The coordinator’s position is subject to the approval of the commander of the Secondary Employment Unit. A coordinator is subject to removal from their position if they do not comply with policies and procedures required of their position. The Chief of Police shall have final authority over the appointment or removal of a coordinator from their position.

The Chief of Police shall have the authority to appoint lieutenants to coordinator positions, which they identify as “Key Economic Sites” in the City. The approved Key Economic Sites

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are: the SAP Center, Team San Jose venues (San Jose Convention Center, Center for the Performing Arts, San Jose Civic, California Theatre, and Montgomery Theater), PayPal Park, The Plant, and Santana Row. The commander of the Secondary Employment Unit shall be responsible for the selection process and making a recommendation for the position to the Chief of Police; the Chief of Police shall have final authority over the appointment. The selection process shall consist of an email announcement to all eligible lieutenants. Each interested candidate shall be interviewed by the Assistant Chief of Police, or their designee.

The assignment for the Key Economic Sites shall not exceed two years. A lieutenant who has served a two-year term shall be eligible to again serve as a coordinator for one of these sites after a period of one year. Any exception to this rule must be approved by the Chief of Police in writing.

Coordination of secondary employment assignments is prohibited when a department member is on-duty.

EXCEPTION: City sponsored events, events at City owned facilities, and other events coordinated through the Secondary Employment Unit may be coordinated by a department member while on-duty. Tasks associated with the coordinator shall not interfere with the performance of a member's primary duties and responsibilities.

C 1514 SECONDARY EMPLOYMENT BROKERS:

Revised 04-18-12

Officers are prohibited from working uniformed secondary employment assignments that utilize a broker. Officers are prohibited from acting as brokers for secondary employment assignments. (A broker is defined as a person who receives compensation to function as an intermediary between a Department member and a private individual or business in negotiating agreements or who receives a finder's fee or other compensation for recruiting.)

C 1515 OUTSIDE WORK - CITY-SPONSORED/OWNED AUTHORIZATION:

Revised section number 04-18-12 (old number C1508)

The Secondary Employment Unit has sole responsibility for coordinating and staffing all City-sponsored events and all events occurring at City-owned facilities. Individual Department members shall not coordinate and/or staff City-sponsored events or events occurring at City-owned facilities without the approval of the Secondary Employment Unit Commander.

C 1516 APPLICATION FOR AUTHORIZATION FOR SECONDARY EMPLOYMENT – WORK PERMIT REQUIREMENT:

Revised 11-21-19

Department members will apply for authorization to perform outside work on a "Work Permit Application," which is located on the E-Resource home page, Secondary Employment Work Permit Application tab. Department members must submit copies of the actual permits, licenses, credentials, etc., which are required by federal, state, or local laws or ordinances and applicable to the specific employment for which they are applying; submission can be done by email or dropped off to SEU directly and must be completed prior to final approval

of the Work Permit Application. Copies of applications for permits, licenses, credentials, etc., will be considered insufficient. Incomplete applications shall not be approved by the Chain of Command until complete. Department Members are subject to all the requirements of Chapter 1.2.3 of the City Administrative Policy Manual concerning outside employment.

Department members are prohibited from engaging in any outside employment until final approval has been granted by the Secondary Employment Unit Commander.

C 1517 EVALUATION OF ON DUTY PERFORMANCE PRIOR TO AUTHORIZING SECONDARY EMPLOYMENT:

Revised 04-18-12

When a supervisor or command officer receives an "Application for Outside Work Permit," they are required to evaluate the Department member's on-duty work performance prior to giving approval. Supervisors must check the Department member's Personnel file, Training file, and Internal Affairs' file.

Supervisors and command officers shall be responsible for ensuring that secondary employment does not interfere with the member's on-duty performance.

Improper use of sick leave, tardiness, non-compliance with mandatory department training, or the failure to satisfactorily perform their job will be considered when reviewing a request for secondary employment.

C 1518 SUSTAINED MISCONDUCT COMPLAINT:

Revised section number 04-18-12 (old number C1526)

When a member receives a sustained misconduct complaint, the Office of Chief will review the member's current secondary employment authorizations and determine if it is necessary to modify, suspend, or revoke the authorizations due to the member's misconduct.

C 1519 LIABILITY INSURANCE PROGRAM:

Revised 04-18-12

Officers engaged in law enforcement or security related secondary employment, whether in uniform or plain clothes, must participate in the Law Enforcement Liability Insurance Program with the City. This includes secondary employment of short, temporary duration and received through commanding officers or the Secondary Employment Unit.

C 1520 OBTAINING AUTHORIZATION:

Revised 05-12-17

Upon application of a Department member, the Chief of Police or designee may authorize secondary employment subject to the following terms and conditions:

1. Entry level probationary Department members shall not engage in any law enforcement or security related secondary employment.

EXCEPTION: With the approval of the Field Training Program Commander, a Phase II probationary officer may be assigned to work a Special Overtime Assignment. The assignment must be for a specific reason related to the probationary officer's training and not because their Field Training Officer is working the assignment. The reason the probationary officer working the assignment shall be documented on their Daily Observation Report (DOR). Any probationary officer working a Special Overtime Assignment must be accompanied by their Field Training Officer at all times.

2. Department members of the rank of sergeant may work in uniformed, security related secondary employment assignments coordinated through the Secondary Employment Unit, which would normally be filled by an officer. However, the sergeant shall not receive compensation above what an officer would make for the same assignment.
3. The secondary employment or occupation does not conflict with the member's City employment or existing law.
4. The secondary employment or occupation is not detrimental to the Department or City.
5. The secondary employment or occupation will not impede the efficient performance of the employee's assigned duties.
6. The secondary employment or occupation meets all of the requirements of DM Chapter C 1500 (Secondary Employment).
7. All appropriate state and local laws and ordinances have been met, including the regulatory requirements of the California Department of Consumer Affairs.
8. The Chief of Police is authorized to attach any other terms or conditions to a secondary employment approval that the Chief determines to be in the best interest of the Department/City.

NOTE: The Chain of Command and the commander of the Secondary Employment Unit shall evaluate any circumstance that comes to their attention that would constitute a violation of any of the qualifying conditions for secondary employment authorization set out in this section.

C 1521 SUSPENSION, REVOCATION, OR DENIAL OF SECONDARY EMPLOYMENT AUTHORIZATION:

Revised 04-18-12

The Chief of Police or designee has the right to suspend, revoke, modify or deny any secondary employment.

C 1522 SECONDARY EMPLOYMENT AND SECONDARY EMPLOYMENT PERSONNEL:

Revised 04-18-12

The commander of the Secondary Employment Unit shall not work any secondary employment assignments.

EXCEPTION: The Secondary Employment Unit Commander may work as an instructor at an accredited school or university or as a speaker at a law enforcement-related conference or seminar.

Any exceptions to this policy must be approved by the Chief of Police in writing.

Officers who are assigned to the Secondary Employment Unit shall not work any uniformed or security related secondary employment assignments.

EXCEPTION: Officers assigned to the Secondary Employment Unit may work secondary employment assignments coordinated by the Secondary Employment Unit with the approval of the Secondary Employment Unit Commander.

When granting approval for Secondary Employment Unit members to work events, the commander of the Secondary Employment Unit may consider the amount of time their staff has been involved in pre-event planning, the availability of officers to staff the event, the size of the event, and whether or not the event is a "first time" event.

Any other exceptions to this policy must be pre-approved by the Chief of Police in writing.

C 1523 SECONDARY EMPLOYMENT COMMAND OFFICERS:

Revised 03-18-13

Officers of the rank of captain and above shall not engage in any uniformed (including any modified uniformed assignments) secondary employment.

The commander of the Internal Affairs' Unit shall not engage in any secondary employment assignments.

EXCEPTION: The Internal Affairs' Commander may work as an instructor at an accredited school or university or as a speaker at a law enforcement-related conference or seminar.

Any exception to this policy must be approved by the Chief of Police in writing.

Lieutenants may work any secondary employment assignment other than Traffic Control jobs.

C 1524 SECONDARY EMPLOYMENT RESERVE OFFICERS:

Revised 03-18-13

Current officers will be given priority when being scheduled for secondary employment assignments; any assignments which cannot be filled with current members may be made available to Reserve Officers. The use of Reserve Officers for any secondary employment assignment will require approval from the Secondary Employment Unit.

C 1525 OUTSIDE WORK PERMIT LENGTH OF AUTHORIZATION:

Revised 03-18-13

The secondary work authorization is valid for a period of one year, unless canceled sooner by the Chief of Police or designee. Members shall reapply for secondary employment authorization on their date of hire or when directed to do so by the Chief of Police, their designee, or anyone in the member's chain of command.

Reserve officers will renew their work permit on February 1st every year or when directed to do so by the Chief of Police, their designee, or anyone in the reserve officer's chain of command.

C 1526 WEARING OF UNIFORM FOR SECONDARY EMPLOYMENT ASSIGNMENTS:

Revised section number 04-18-12 (old number C 1512)

The same requirements regarding the wearing of the uniform by on-duty officers apply to off-duty officers working for secondary employers.

C 1527 WEARING OF UNIFORM DURING SECONDARY EMPLOYMENT AT SCHOOLS:

Revised section number 04-18-12 (old number C 1513)

All officers who work secondary employment at any school may do so in full San Jose Police uniform or in the approved school uniform, as described in the San Jose Police Department Uniform and Equipment Manual, at the discretion of the school.

C 1528 SECONDARY EMPLOYMENT PLAIN CLOTHES ASSIGNMENTS:

Revised 04-18-12

Officers may work security related plain clothes secondary employment assignments after obtaining any necessary State or other permits, including, but not limited to, a Guard Card and, if armed, a Firearm Permit. Officers must also have a valid work permit on file with the Secondary Employment Unit and be enrolled in the City's liability insurance program.

Officers shall not exercise their police powers while working plain clothes secondary employment assignments.

Officers shall not use their Department issued equipment during plain clothes assignments with the exception of their soft body armor and hand pack. See Duty Manual section C 1544 - USE OF CITY EQUIPMENT AT SECONDARY EMPLOYMENT ASSIGNMENTS.

Officers are prohibited from accessing any Department databases while working a plain clothes secondary employment assignment (see Duty Manual section C2000 - OBTAINING CRIMINAL RECORDS / INFORMATION).

Officers working off-duty, in plain clothes and armed, must possess a Private Patrol Operator's (PPO) license, be an employee under a PPO license, or be an employee of a company that is using the officer as plain clothes armed security. As an employee, officers must be receiving a W-2 Tax Form and not a 10-99 Tax Form.

C 1529 SECONDARY EMPLOYMENT SUBSIDIZED HOUSING:

Revised 04-18-12

Any officer who receives subsidized housing in return for security services is engaging in secondary employment. Any officer who receives subsidized housing shall have a valid work permit on file with the Secondary Employment Unit. Any time the officer spends engaged in security services in return for subsidized housing shall count toward the maximum hours a member may engage in secondary employment per week.

C 1530 SECONDARY EMPLOYMENT OUTSIDE CITY OF SAN JOSE:

Revised section number 04-18-12 (old number C 1524)

Officers may work secondary employment outside the City of San Jose as long as the officer is acting as a private citizen without exercising police officer powers in any manner.

C 1531 UNAUTHORIZED OUTSIDE WORK:

Revised 05-12-17

All Department members are prohibited from working in any of the following secondary employment situations:

- At any employment or business which would in any way reduce the effectiveness of the member in performing assigned Departmental duties.
- As a process server, bill collector, or in any employment in which police powers might be used for private purposes of a civil nature.
- Any employment which may require the member to have access to or utilize police information files, records, or services as a condition for employment.
- Any employment which assists in any manner the case preparation for the defense in any criminal action or proceeding.
- In police uniform in the performance of tasks other than those of a law enforcement nature.
- In police uniform while working for a Private Patrol Operator.
- At any employment which has a connection with the tow, taxi, massage, or ambulance business.
- At any employment which has a connection with bingo games, gambling fundraisers, or any other gambling establishment. Any exceptions to this policy with regard to bingo games must be authorized by the Chief of Police and satisfy the following requirements:
 - The secondary employment of officers must be for a festival or other special event as defined in SJMC Section 13.14.164 that is open to the public, AND
 - The secondary employment must not cover security of the specific bingo event or facility.

Any additional exceptions to this policy (with regard to bingo, gambling fundraisers, or gambling establishments) will require City Manager approval.

- At consecutive secondary employment assignments in which the first assignment ends at the same time as the second assignment begins, unless the assignments are at the same location. A member must allow a sufficient amount of travel time to arrive at their next assignment.
- At consecutive assignments in which the Department member's regular assignment ends at the same time as the member's secondary assignment begins. A member must allow a sufficient amount of travel time to arrive at their secondary employment assignment.
- While off-duty, members are prohibited from performing any secondary employment which involves the investigation of a crime or accident (reported or not) that would create a conflict of interest or substantial appearance of impropriety with the member's on-duty assignment. The member's Chain of Command and the commander of the Secondary Employment Unit will evaluate the scope of secondary employment to determine if a conflict of interest or substantial appearance of impropriety exists.
- In police uniform at a location outside the City of San Jose.

EXCEPTION: Officers may be authorized by the Chief of Police or his designee to engage in secondary employment with Campbell Union High School District at Prospect High School, but only if the officers assigned to Prospect High School work in School District police uniform approved by the District pursuant to Duty Manual section C 1527 - WEARING OF UNIFORM DURING SECONDARY EMPLOYMENT AT SCHOOLS.

VIOLATIONS OF CONDITIONS FOR AUTHORIZATION OF SECONDARY EMPLOYMENT:
In addition to the listing above of specific prohibited secondary employment, the Chain of Command and the commander of the Secondary Employment Unit shall evaluate any circumstance that comes to their attention that would constitute a violation of any of the qualifying conditions for secondary employment authorization set out in Duty Manual section C 1520 - OBTAINING AUTHORIZATION.

C 1532 SECONDARY EMPLOYMENT WHERE ALCOHOLIC BEVERAGES ARE SERVED:
Revised 04-18-12

All officers are prohibited from providing law enforcement or security related services for any employer or establishment whose major business is the sale and/or service of alcoholic beverages, e.g., bars, nightclubs and liquor stores.

EXCEPTION: City of San Jose sponsored events and events which take place at City of San Jose owned facilities pursuant to Duty Manual section C 1515 - OUTSIDE WORK – CITY SPONSORED/OWNED AUTHORIZATION.

When alcohol is sold or consumed at a City-sponsored events or City-owned facility, the Secondary Employment Unit is responsible for ensuring the sponsors of the event have obtained all of the necessary permits. The permit process may require review by the Office of the Chief and the Vice Administrative Unit before approval by the Secondary Employment Unit.

When working for any establishment where alcoholic beverages are served, a Department member will not directly supervise or regulate the sale or consumption of alcoholic beverages.

C 1533

SECONDARY EMPLOYMENT AS A CONSULTANT:

Revised 04-18-12

While off-duty, Department members shall not work secondary employment as a consultant in any field related to their specific on-duty assignment.

EXCEPTION: When a member is acting as an instructor at an accredited school or university, or as a speaker at a law enforcement-related conference or seminar.

While off-duty, Department members shall not work secondary employment and receive compensation for services as a consultant in any field related to their specific on-duty assignment in criminal or non-criminal matters in the County of Santa Clara. Department members are permitted to engage in such secondary employment outside Santa Clara County in non-criminal matters that do not involve the City of San Jose.

Members who are compensated by a secondary employer as a consultant shall not consult while on City time.

All requests for exceptions to this policy must be evaluated through the member's Chain of Command and the commander of the Secondary Employment Unit to determine if the employment is consistent with the terms and conditions listed in section(s) C 1513/1531. The Chief of Police shall have final authority to determine whether or not to allow the requested exception.

C 1534

SECONDARY EMPLOYMENT AS AN EXPERT WITNESS:

Revised 04-18-12

While off-duty, Department members will not engage in any secondary employment services as an expert witness in criminal or non-criminal matters in the County of Santa Clara.

Department members are permitted to engage in such secondary employment outside the County of Santa Clara in non-criminal matters that do not involve the City of San Jose. However, the Office of the Chief will be notified in writing prior to testimony being provided.

Members who are compensated by a secondary employer as expert witnesses shall not prepare for testimony or testify on City time.

All requests for exceptions to this policy must be evaluated through the member's Chain of Command and the commander of the Secondary Employment Unit to determine if the employment is consistent with the terms and conditions listed in Duty Manual section C 1513

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- SECONDARY EMPLOYMENT WHILE ON DISABILITY OR MODIFIED DUTY LEAVE / Duty Manual section C 1531 - UNAUTHORIZED OUTSIDE WORK.

The Chief of Police shall have final authority to determine whether or not to allow the requested exception.

C 1535 SECONDARY EMPLOYMENT WHILE ON DISABILITY OR MODIFIED DUTY LEAVE:

Revised section number 04-18-12 (old number C 1516)

All authorizations for secondary employment to a Department member are immediately suspended upon the member being placed on disability leave or modified duty. The member may appeal the suspension to their commanding officer. The member's commanding officer will then review the duties of the secondary employment and recommend to the Chief of Police whether such secondary employment should be continued. When the Chief of Police, or designee, determines that the member's secondary employment should be continued, a notice of exception will be forwarded to the involved member and a copy attached to the original request for authorization filed with the Secondary Employment Unit.

Criteria for denying the request for exception include, but are not limited to the following elements:

- The employee is on total disability and unable to perform modified duty for the Department.
- Risk Management (on-duty injuries) or Occupational Health Services (off-duty injuries) determines the outside work is medically detrimental to the total recovery of the disabled member.
- The secondary employment requires substantially the same physical ability as would be required of an on-duty member.

When a Department member who was placed on disability leave or modified duty returns to full duty, all secondary employment authorizations are automatically reinstated.

C 1536 SECONDARY EMPLOYMENT WHILE ON ADMINISTRATIVE LEAVE:

Revised section number 04-18-12 (old number C 1517)

All authorizations for secondary employment held by a Department member are immediately suspended upon the member being placed on administrative leave. The member may appeal the suspension to their commanding officer. The member's commanding officer will then review the duties of the secondary employment and recommend to the Chief of Police whether such secondary employment should be continued. When the Chief of Police, or designee, determine that the member's secondary employment should be continued, a notice of exception will be forwarded to the involved member and a copy attached to the original request for authorization filed with the Secondary Employment Unit.

When a Department member who was placed on administrative leave returns to full duty, all secondary employment authorizations are automatically reinstated.

C 1537 SECONDARY EMPLOYMENT WHILE ON SICK LEAVE:

Revised 04-18-12

Department members shall not work secondary employment while on paid or unpaid sick leave due to any non-work related illness or injury.

Department members who work a secondary employment assignment immediately prior to their regularly scheduled department shift and then use sick leave for their department shift must provide a written excuse to a command officer in their chain of command.

C 1538 SECONDARY EMPLOYMENT WHILE ON STANDBY DUTY:

Revised 04-18-12

Department members may not work a secondary employment assignment while they are performing standby duty and are receiving compensation from the City for their status. (Standby Duty shall be defined by the current MOA).

C 1539 SECONDARY EMPLOYMENT AND COURT:

Revised 04-18-12

Department members shall not miss or cancel a court date to work a secondary employment assignment. Department members shall not work a secondary employment assignment when they are the subject of a valid subpoena or court notice and there is a likelihood the member will be needed in court.

C 1540 SECONDARY EMPLOYMENT: MAXIMUM AUTHORIZED HOURS ALLOWED PER WEEK:

Revised 03-18-13

Department members shall not work in excess of thirty (30) hours of secondary employment assignments in one calendar week (Sunday-Saturday). However, during a week where the member uses compensatory time, holiday time, or vacation time, the member may increase the amount of secondary employment hours by the amount of compensatory time, holiday time, or vacation time taken.

EXAMPLE: A Department member who uses 10 hours of vacation during their 40 hour work week may increase their total of secondary employment hours from 30 to 40.

In any case, the total of on-duty hours and secondary employment hours, excluding court and mandatory Department overtime, shall not exceed 70 hours in a calendar week (see General Order 2010-29 for mandatory overtime guidelines).

The 30 hours include any combination of secondary employment (uniformed or non-uniformed, security or non-security related). For purposes of determining the 30 hour maximum for Secondary Employment, Secondary employment assignments shall include special Departmental overtime assignments and volunteer hours worked in uniform (see

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C1508 and C1552). Any hours a member is paid to coordinate and/or schedule a secondary employment assignment shall be included in the 30 hour limit.

While the Department limits the weekly hours of secondary employment, it does not relieve a Department member's supervisor of the responsibility to monitor the impact of secondary employment on the member's performance of their duties.

C 1541 SECONDARY EMPLOYMENT: MAXIMUM AUTHORIZED HOURS IN TWENTY-FOUR (24) HOUR PERIOD:

Revised 04-18-12

To address the overall health and safety of officers and to ensure that the City receives efficient performance of the officer's duties in City employment, Department members shall not work in excess of sixteen (16) hours in a twenty-four (24) period. Department members shall not work a combination of their regular shift plus a secondary employment assignment in excess of 16 hours in a 24 hour period. The 16-hour work day begins with the start of the first shift worked regardless if the first shift is a secondary employment assignment or the member's regular Department shift.

EXAMPLE: A Department member may work a secondary employment assignment from 0800-1400 hours and in the same 24 hour period complete their regular shift from 1500-0100. At 0800 hours the following day, the member would be allowed to work another secondary employment assignment.

EXAMPLE: A Department member may not work a secondary employment assignment from 0800-1700 hours and in the same 24 hour period complete their regular shift from 2100-0700 hours.

The 16 hour limit excludes court and mandatory Department overtime (See General Order 2010-29 for mandatory overtime guidelines).

C 1542 REGULAR DEPARTMENT SHIFT AND SECONDARY EMPLOYMENT ASSIGNMENT CONFLICTS:

Revised 01-06-14

Patrol briefings are an integral part of the Department's communication to officers of organizational and officer safety information and are expected to be attended prior to the start of an officer's field shift. As such officers shall not miss briefing or arrive late to their regular department shift to accommodate a secondary employment assignment. Nor shall they take beginning of shift time off in order to miss briefing and accommodate a secondary employment assignment. Officers who work a secondary employment assignment shall ensure their schedule allows for sufficient travel time to be on time and dressed in the appropriate uniform or attire for the start of their regularly scheduled department shift.

EXAMPLE: An officer assigned to second watch patrol may not work a secondary employment assignment that ends at 1500 hours on their regular workday.

Officers working an assignment other than patrol shall not adjust their shift or days off to accommodate a secondary employment assignment. No officer shall take time off in the middle of their shift to work a secondary employment assignment.

EXCEPTION: An officer may take beginning of shift (BOS) time off if they are working an authorized school related secondary employment assignment. These assignments may include, but are not limited to; school resource officer, school dances, school sporting events, and SARB meetings. Officers are still required to take the appropriate time off to allow for travel back to the Department and to be properly dressed for the start of their shift. (BOS time-off must still meet BFO Watch Guideline requirements).

C 1543 REPORTING OF SECONDARY EMPLOYMENT HOURS:

Revised 09-28-22

Officers will report all hours of secondary employment worked (uniformed, non-uniformed and Department-sponsored special overtime assignments) on the "SECONDARY EMPLOYMENT TIMECARD." Timecards shall be submitted online biweekly to coincide with the end of the City pay period.

Officers shall accurately document the actual hours worked on the Secondary Employment Timecard.

C 1544 USE OF CITY EQUIPMENT AT SECONDARY EMPLOYMENT ASSIGNMENTS:

Revised 04-18-12

Officers working a uniformed secondary employment assignment may utilize their personal Department issued equipment while working the assignment. Officers who require any additional equipment (other than department vehicles) during a uniformed secondary employment assignment shall get approval in writing for the use of the department issued equipment from the Chief of Police or designee prior to working the assignment.

Officers working plain clothes secondary employment assignments shall not utilize department issued equipment while working any assignment.

EXCEPTION: Officers may wear their department issued body armor during a plain clothes secondary employment assignment.

EXCEPTION: Officers working a plain clothes security related secondary employment assignment in the City of San Jose shall utilize a department issued hand pack to monitor department radio traffic to prevent a potential confrontation with on-duty personnel.

Any other exceptions to this policy must be approved by the Chief of Police in writing.

C 1545 DEPARTMENT VEHICLE AT SECONDARY EMPLOYMENT ASSIGNMENTS:

Revised 04-18-12

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Department vehicles shall not be utilized for secondary employment assignments. Department vehicles shall not be driven to or from a secondary employment assignment.

EXCEPTION: While working secondary employment assignments coordinated through the Secondary Employment Unit, marked Department vehicles may be used with the approval of the BFO Administrative Unit.

EXCEPTION: Marked Department vehicles may be used for Department sponsored special overtime assignments (i.e. TABS, "gang car," "special overtime cars", etc.).

EXCEPTION: With the unit commander's approval, officers assigned to the Secondary Employment Unit may use unit vehicles while working assignments related to their duties.

EXCEPTION: Officers who have completed their regularly scheduled Department shift and are driving a marked Department vehicle and are immediately scheduled to work a City-sponsored uniformed secondary employment assignment may drive the vehicle to the assignment with the pre-approval of the on-duty Watch Commander.

EXCEPTION: Officers who are allowed to drive their Department vehicle to and from home may drive the vehicle to a City-sponsored secondary employment assignment if the assignment is immediately before or after their regularly scheduled Department shift. The officer must have the pre-approval of a command officer in their chain of command.

Any other exceptions to this policy must be approved by the Chief of Police in writing.

C 1546 USE OF DEPARTMENT E-MAIL, MDT, CITY ISSUED CELL PHONES AND SECONDARY EMPLOYMENT:

Revised 04-18-12

City e-mail, MDT messages, and city issued cell phones are generally for official city purposes and shall not be used to coordinate or staff secondary employment assignments, unless the coordination is being done through the Secondary Employment Unit.

C 1547 COMMUNICATIONS NOTIFICATION OF SECONDARY EMPLOYMENT LOCATION:

Revised 04-18-12

Officers working a uniformed secondary employment assignment, or a non-uniformed secondary employment security assignment in the City of San Jose, shall contact Communications and "log-on" to CAD. Officers will provide Communications with their badge number, location, nature of assignment (e.g., traffic control, condo complex security, school security, etc.), a cell phone number where they can be reached, and an expected O.D. time. At the completion of their assignment, officers must contact Communications and "log off."

Call signs have been provided for all the high school and middle schools in the City of San Jose, regardless of the School District. Any officer working as school safety officers at a high school or middle school will log on with the pre-designated call signs for that school. At all

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off-duty uniformed pay jobs, officers will sign on with S100-S500 series for pay jobs anywhere in the city. Due to the requirement that Traffic Enforcement Unit motorcycle officers log onto CAD when operating a City owned motorcycle, officers with that assignment may use their radio call sign when working a secondary employment job.

Officers working a uniformed or plain clothes security related secondary employment assignment in the City of San Jose shall use a Department issued hand pack to monitor the district radio channel covering the area of their assignment. (If a uniformed secondary employment assignment is utilizing a backup radio channel for an event, the officer does not need to monitor the district channel.)

C 1548 SECONDARY EMPLOYMENT LOGS:

Revised 04-18-12

All uniformed secondary employment assignments shall maintain a log documenting all officers working the assignment. Individual officers working secondary employment assignments shall sign in and out each date they work an assignment at the site. The log will include the date and times the officer logged in and out, the call sign the officer used during the assignment, and a brief description of any enforcement activity along with a case number. The log shall be maintained by the coordinator responsible for the secondary employment assignment. The log will be made available upon request to the commander of the Secondary Employment Unit or their designee.

EXCEPTION: Secondary employment assignments coordinated through the Secondary Employment Unit are exempt from this provision.

C 1549 SECONDARY EMPLOYERS INVOLVED IN LABOR DISPUTES:

Revised 04-18-12

During periods of conflict between secondary employer's management and labor, authorization allowing officers, including reserve officers, to work for either party in a law enforcement or security related capacity in the dispute is suspended by the Chief of Police.

Penal Code Section 70 (d) (2) specifically states " a peace officer while off-duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency shall not exercise the powers of a police officer if employed by a private employer as a security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute at the site of the strike, lockout, picketing, or other physical demonstration of a labor dispute."

If an officer's secondary employer becomes involved in a labor dispute, the officer will immediately report this fact to the Secondary Employment Unit commander.

During labor disputes, requests for police service will be received through the normal official channels. It is the responsibility of the officer to notify the secondary employer of this procedure.

C 1550 NOTIFICATION OF DEPARTMENT CONCERNING PROBLEMS AT LOCATION OF SECONDARY EMPLOYMENT:

Revised 04-18-12

An officer working in a secondary employment capacity will immediately advise an on-duty supervisor of any and all exceptional incidents or problems encountered during the course of the officer's secondary employment that may require an on-duty police response, e.g., labor dispute, civic protests or demonstrations, need for additional resources, major crimes, etc. The on-duty supervisor will evaluate the situation and determine if there is a need to commit on-duty officers to the situation.

C 1551 TEMPORARY SECONDARY EMPLOYMENT ASSIGNMENTS:

Revised 04-18-12

Department members who fill in on an irregular basis at ongoing, established secondary employment assignments shall have a work permit on file with the Secondary Employment Unit. Officers will also be enrolled in the Law Enforcement Liability Insurance Program.

C 1552 SPECIAL OVERTIME ASSIGNMENTS:

Revised 09-28-22

Special overtime assignments include "TABS cars," "DUI cars," "gang cars", etc., and "VIS" code assignments. Officers will not take time off to work these assignments. Officers do not need to have work permits on file or participate in the Department's liability insurance program to work these assignments since the officers are not working for a secondary employer, but are still working for the primary employer, the City of San Jose. Officers are still required to complete the Secondary Employment Timecard. Reserve officers are ineligible to work special overtime assignments.

C 1553 SECONDARY EMPLOYMENT - SUBORDINATE TO LESSER RANK:

Revised 03-18-13

While working secondary employment assignments, supervisors and command officers (or civilian equivalent) are prohibited from working as a subordinate to any member of a lesser rank, including a police reserve officer. Police reserve officers may not supervise, coordinate, staff or schedule secondary employment assignments. The SEU Commander will be notified of any supervisory issues related to this section.

Any exceptions must be approved by the Chief of Police in writing.

C 1554 SUPERVISORS RESPONSIBILITY WHILE EMPLOYED OFF-DUTY:

Revised section number 04-18-12 (old number C1532)

If a supervisor is working in a law enforcement or security related secondary employment assignment, they retain their responsibility for taking appropriate action as a supervisor should the need arise.

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C 1555 SUPERVISION OF OFFICERS EMPLOYED OFF-DUTY:

Revised 04-18-12

The staffing model for all secondary employment assignments shall be one supervisor for every 10 officers working an event. For every 30 officers working simultaneously at an event, one lieutenant shall be required in addition to the three supervisors.

EXAMPLE: A parade requiring 60 officers for security and traffic control would require the assignment of 6 sergeants and 2 lieutenants.

Any sergeant or lieutenant working in the role of a supervisor shall be compensated at the prescribed supervisor's rate of pay.

The Secondary Employment Unit commander shall have the authority to alter the staffing model depending on the nature of the event. The Chief of Police shall have final authority over all staffing decisions at secondary employment assignments.

C 1556 OUTSIDE WORK INVOLVING OFF-DUTY/ON-DUTY PERSONNEL:

Revised section number 04-18-12 (old number C1534)

When a situation arises where both on-duty and off-duty officers are involved, the on-duty officers shall have the final decision to what action will take place. (In the event the off-duty officer is of greater rank, the on-duty officer will notify an on-duty supervisor of equal rank or higher to resolve the issue.)

C 1557 CRIME REPORT RESPONSIBILITY WHILE EMPLOYED OFF-DUTY:

Revised 03-29-17

Officers working law enforcement related to secondary employment shall initiate, complete and submit a crime report whenever an incident is directly related to the scope of their assignment. Officers shall only utilize hard copy crime reports (ex. Paper G.O forms) when documenting an incident related to their secondary employment assignment, with the exception of when an officer uses reportable force in the course and scope of their duties or when an officer completes a Domestic Violence Supplemental Report. When reportable force is used, the officer shall complete the automated use of force template. When an officer documents a domestic violence incident, the automated Domestic Violence Supplemental Report shall be used. Department overtimes shall be authorized at the conclusion of the officer's secondary employment assignment in accordance with Duty Manual section C 1559 - SECONDARY EMPLOYMENT OVERTIME to complete the automated use of force template and/or the automated Domestic Violence Supplemental Report.

Communications shall assign an on-duty officer to assist when it becomes necessary to process evidence, book a prisoner, conduct follow-up, or engage in any other police activity that would require the off-duty officer to leave the secondary employment site. If staffing does not permit on-duty officers from assisting with the follow-up, the district supervisor shall authorize the off-duty officer to work Department overtime at the conclusion of their secondary employment assignment. See Duty Manual section C 1559 - SECONDARY EMPLOYMENT OVERTIME.

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When an on-duty officer is called to an event that was originally handled by an officer working in a secondary employment capacity in which a crime report was not completed and a report needs to be completed, or when an officer is asked to complete a crime report, the following steps shall occur:

- The district supervisor or an available supervisor, not affiliated with the secondary employment assignment shall be notified of the event;
- The original investigating off-duty officer, when possible, shall be contacted by the field supervisor and directed to complete the report or provide information necessary for the new investigating officer to do so;
- At the direction of the field supervisor, the on-duty officer who is assigned to complete the report shall contact and interview all of the involved parties before completing and submitting the report.

Once the officer has completed their crime report, the officer shall obtain approval of the crime report from a supervisor. The officer shall submit all forms related to the incident to the Police Department at the conclusion of the secondary employment shift. If either the automated use of force template or the automated Domestic Violence Supplemental Report is required, the officer shall electronically submit the report after their secondary employment assignment in accordance with Duty Manual section C 1559 - SECONDARY EMPLOYMENT OVERTIME. The assigned supervisor/command officer who has the responsibility of approving the report must read and approved the completed automated use of force report(s) and/or automated Domestic Violence Supplemental Report prior to submitting the report(s) to OSSD.

C 1558 ARRESTS RELATED TO SECONDARY EMPLOYMENT:

Revised 05-10-13

Officers making arrests during a law enforcement related assignment for a secondary employer will complete and submit all necessary arrest documents and investigative reports to the Police Department at the completion of their assignment. Officers will obtain approval from a supervisor prior to submitting any of the arrest related investigative reports.

C 1559 SECONDARY EMPLOYMENT OVERTIME:

Revised 04-18-12

Services provided at a secondary employment assignment should be paid for by the secondary employer. However, under some circumstances additional tasks required by the Department may necessitate that an officer work past the hours of the secondary employment assignment.

If an officer must complete a task(s) required by the Department after their secondary employment assignment has ended, the following procedure will be followed:

The off-duty officer will contact Communications and request an on-duty officer to assist when it becomes necessary to process evidence, book a prisoner, or conduct follow-up, which would require the off-duty officer to work Department overtime. If staffing does not permit on-

duty officers from assisting with the follow-up, the district supervisor shall authorize Department overtime for the off-duty officer.

If reports need to be completed, the off-duty officer shall complete all of the report writing tasks. If the secondary employment assignment is on the same day, and prior to, the officer's regularly scheduled shift, the officer will complete all reports during their regularly scheduled shift. If at the end of the officer's regular shift the reports are still not complete, the officer is authorized Department overtime to complete them. If the secondary employment assignment is on a department officer's day off, the officer is authorized Department overtime to complete the reports.

In any case, overtime charged to the Department resulting from a secondary employment assignment, shall cover only the actual time spent on follow up or report writing.

Officers will not be compensated for Department overtime for plain-clothes secondary employment assignments.

Any overtime stemming from a secondary employment assignment that the officer documents on their City timecard requires an explanation as to why the task was not completed during the secondary employment assignment.





C 1600 - AWARDS AND COMMENDATIONS:

The San Jose Police Department expects a high level of professional conduct from all employees; however, Department members frequently perform their duties in a manner exceeding the highest standards of the Department. When such conduct occurs, official commendations will be made. Commendations may either originate from citizens or from within the Department. Additionally, the Department honors those citizens of the community who substantially assist the Department in an extraordinary manner beyond their normal civic responsibilities.

PROCEDURE

C 1601 GENERAL PROVISION:

An Awards and Commendations Board is hereby established, and is responsible for evaluating and classifying commendation reports and for recommending appropriate action to the Chief of Police.

C 1602 MEMBERSHIP OF BOARD:

Revised 10-25-22

The Awards and Commendations Board is comprised of nine voting members representing the following:

- One representative from the Bureau of Administration
- Three representatives from the Bureau of Field Operations
- Two representatives from the Bureau of Investigations
- One representative from the Bureau of Technical Services
- One representative from the Office of the Chief of Police
- One representative from the Office of the Executive Officer

A Captain assigned to the Bureau of Administration, or their designee will chair the board and is not one of the nine voting board members. Refer to Duty Manual section C 1604 - NUMBER REQUIRED FOR A QUORUM for additional information regarding establishing a quorum and breaking a tie vote.

Representatives are nominated by Deputy Chiefs or Deputy Directors.

C 1603 TERM OF MEMBERSHIP:

Revised 10-25-22

Each of the representatives will serve on the Board for a period of one year with a second-year option, to be determined by the nominating Deputy Chief or Deputy Director.

C 1604 NUMBER REQUIRED FOR QUORUM:

Revised 10-25-22

At least five of the nine representatives identified in Duty Manual section C 1602 - MEMBERSHIP OF BOARD must be present to vote on award and commendation reports. Each representative may cast one vote.

In the event of a tie, the chairperson may act as a voting member and cast one vote.

C 1605 FREQUENCY OF MEETINGS:

Revised 10-25-22

The Awards and Commendations Board will meet regularly at the call of the chairperson to review such award and commendation reports as are forwarded according to the prescribed procedures.

C 1606 ADMINISTRATIVE SUPPORT:

Revised 10-25-22

Administrative support is provided by the Bureau of Administration.

C 1607 RECOMMENDING POLICY CHANGES:

Revised 10-25-22

The Awards and Commendations Board is empowered to make recommendations to the Chief of Police regarding proposed policy changes pertaining to the Departmental awards system.

C 1608 AWARDS FOR MERITORIOUS SERVICE:

Revised 10-25-22

The following Departmental awards are hereby established and are presented to those Department members or persons in accordance with the criteria established for each award.

C 1609 MEDAL OF HONOR:

Revised 10-25-22

Awarded to any officer killed in the line of duty, or at the risk of such officer's own life, displays extreme courage, bravery, and devotion to duty in exposing oneself to grave danger in the face of a seemingly hopeless situation, notwithstanding the officer's own imminent peril. The Medal of Honor recipient must have demonstrated there was a conscious awareness of the imminent threat to physical safety at the time the action was performed.

C 1610 MEDAL OF VALOR:

Revised 10-25-22

Awarded to any officer who distinguishes themselves by conspicuous bravery in the performance of such officer's sworn duties under unusual, complicated, or hazardous conditions where the officer used excellent judgment in accomplishing an assigned mission, including sustaining human life.

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C 1611 WILLIAM P POELLE LIFE SAVING AWARD:

Revised 10-25-22

Awarded to any Department member who performs an exceptional act under emergency conditions, not involving bravery, wherein a service is rendered which results directly in sustaining a human life.

C 1612 HAZARDOUS DUTY AWARD:

Awarded to any officer who receives a serious wound or injury or performs an exemplary act under unusual, hazardous or complicated conditions where the officer used good or sound judgment in accordance with the high standards of the San Jose Police Department.

C 1613 OUTSTANDING POLICE DUTY AWARD:

Revised 10-25-22

Awarded to Department members for outstanding police service accomplishments in the following categories:

- Any officer for an outstanding arrest on or off duty
- Any Department member for an outstanding arrest or solution of crime through follow-up investigation

C 1614 RICHARD HUERTA SPECIAL MERIT AWARD:

Revised 10-25-22

Awarded to any officer for performing other especially meritorious police work not covered in the above categories, such as:

- Community service work
- Outside volunteer services
- Day-to-day excellence

C 1615 ROSS DONALD GOOD PERSON AWARD:

Revised 10-25-22

Awarded to any person substantially assisting the San José Police Department in the apprehension of a suspect or in any other emergency or situation in which the person contributed in an extraordinary manner to the Police Department. The award is in the form of a certificate.

C 1616 SIMPSON-SILVA AWARD:

Revised 10-25-22

Awarded to any person who distinguishes themselves by bravery while assisting an officer and/or another member of this community; or who performs an act under emergency conditions, wherein a service is rendered which results directly in sustaining a human life. The award is in the form of a certificate.

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C 1617 ELIGIBILITY AND NOMINATION:

Revised 10-25-22

All Department members, including reserve officers, are eligible within their respective award and commendation categories. Nomination is in accordance with the following procedures:

- **SOURCE OF NOMINATION:** Nominations for awards and commendations may come from any individual within or outside the Department. The nominator may not be one of nominees listed for that award.
- **METHOD OF NOMINATION:** When a Department member performs an act worthy of consideration of a Departmental award, it is submitted on a Memorandum (Form 100-40) which is forwarded to the commanding officer of the nominee's unit. Included in this Memorandum is full documentation of the incident, case numbers as applicable, and the full name and Department serial number of the person commended.

If more than one person participated in the meritorious act, all names are included in one Memorandum along with the circumstances of the event in chronological sequence: charts, diagrams, or photographs, if warranted, due to unusual circumstances.

- **COMMANDING OFFICER'S RESPONSIBILITY:** The nominee's command officer will review the report and forward it to the Awards and Commendations Board, which is responsible for evaluating, classifying, formally preparing commendation reports, and recommending appropriate action to the Chief of Police.

C 1618 AWARDS AND COMMENDATIONS COMMITTEE PROCEDURES: :

Revised 10-25-22

The Awards and Commendations Board will evaluate the basis of work from all nominations submitted and will recommend which type of award or commendation is merited, if any, in each case. It may also conduct any necessary additional investigation of the incident. In cases of group nominations, nominees will be evaluated on individual merit for award consideration.

C 1619 REVIEW OF RECOMMENDATIONS:

The chairperson, or an agent of the chairperson, will review all nominations for completion and accuracy and return, if necessary, to the originator.

C 1620 PLACEMENT IN PERSONNEL FILE:

Revised 10-25-22

The Awards and Commendations Board may return a nominee's name to the Bureau Commander, recommending the letter for commendation be inserted in the individual's personnel file. The Awards and Commendations Board may add its own Letter of Commendation to that of the original.

C 1621 SELECTION OF RECIPIENTS:

Revised 10-25-22

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The Awards and Commendations Board will select the Department members and persons to receive awards. A simple majority vote of Board members will decide.

C 1622 OBTAINING APPROVAL OF THE CHIEF:

Revised 10-25-22

The Awards and Commendations Board will present its findings to the Deputy Chief, Bureau of Administration, who will in turn convey the Board's recommendations to the Chief of Police for approval.

C 1623 DISAPPROVAL BY CHIEF :

Revised 10-25-22

The Chief of Police may disapprove of any of the recommendations of the Awards and Commendations Board. However, if this occurs, the Board and the Chief of Police will meet to discuss the recommendation.

C 1624 ABSTENTION FROM VOTING:

Revised 10-25-22

Any member of the Awards and Commendations Board may request to be excluded in consideration of a nominee for an award if the member feels biased or prejudiced toward the nominee.

C 1625 AWARD PRESENTATIONS:

Revised 10-25-22

The Chief of Police or their designee will present approved awards and commendations. Awards and commendations may be made by the Chief of Police or their designee. Wall plaques are permanently displayed within the Department with the names of officers awarded the Medal of Honor and Medal of Valor. The news media may be advised as to the recipients of these awards.

C 1626 MAJOR AWARDS CEREMONY: :

Revised 10-25-22

A review of all those receiving awards and commendations during the prior year is made during ceremonies at an annual Major Awards Ceremony.

The chairperson of the Awards and Commendations Board will plan and direct the Major Awards Ceremony as follows:

- All persons to receive awards and commendations are invited to attend with one guest. The Police Department will serve as host for these invitees. The Department may also choose to work in conjunction with another hosting organization
- Representatives of the news media may be invited to attend
- The Chief of Police is invited to host the Major Awards Ceremony

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In the event a Major Awards Ceremony is unable to be held, another ceremony honoring award recipients may be held at the direction of the Chief of Police

C 1627 MAJOR AWARD DESCRIPTIONS:

Revised 10-25-22

Meritorious service awards may consist of official Department certificates and/or medals. Medal recipients are presented with a ceremonial medal and a uniform medal. The latter may be worn on the police duty uniform as specified in Duty Manual section S 1117 - WEARING OF COMMENDATION MEDALS, AWARDS AND PINS.

C 1628 OTHER AWARDS:

Revised 10-25-22

Commendations for actions or performance, which is well above average in quality but not sufficiently outstanding to justify one of the foregoing awards, may be recognized in accordance with the following procedures:

LETTER OF COMMENDATION: To be submitted by a Department member's superior for service accomplishments in the following categories:

- Above average arrest or performance on or off duty
- Above average performance of duties during a specific case or event
- Conduct a superior believes warrants official notice

Supervisors will be alerted to incidents warranting a Letter of Commendation. When such occasions occur, supervisors will direct a Memorandum to the Department member highlighting the incident.

A Letter of Commendation may be issued at any supervisory or command level and does not require the signature of the Chief of Police. Any pertinent information, such as reports covering an incident, prior performance, etc., should be attached to the Memorandum.

As the Memorandum proceeds through the command levels upward, each subsequent supervisor or command officer will determine if the memo should proceed to the next level upward for comment or endorsement. Signature blocks are prepared by each endorsing officer at the time of signature. When the Memorandum has achieved the final endorsement, it is placed in a conspicuous place in the Assembly Room, a copy routed to the subject member(s), and a copy placed in the subject member(s) personnel file.

C 1629 VISION AWARD:

Revised 10-25-22

Awarded to Department members whose actions throughout their careers have demonstrated a vision, initiative, and organizational commitment which resulted in major Departmental improvements. Through individual ingenuity and perseverance, their ideas and actions materialized into new initiatives which have and will continue to benefit the Department, City of San José, and the community significantly.

C 1630 GEORGE W. KENNEDY EXCELLENCE IN PROSECUTION AWARD :

Revised 10-25-22

Awarded to Deputy District Attorneys who demonstrate prosecutorial skills above and beyond the call of duty. Through strong relationships and integrated efforts with law enforcement, they bring honor and integrity to the process of prosecuting criminal offenders while defending rights of victims and the community. Their reliability, dependability, and knowledge were instrumental in the successful prosecution of a complicated case. The award is in the form of a certificate.

C 1631 CHIEF'S SPECIAL MERIT AWARD

Revised 10-25-22

Awarded to a Department member who has demonstrated a long-standing commitment to the Department and has consistently performed meritorious work throughout their career; the Department member's reliability and knowledge have been instrumental in the successful day-to-day operations of the Department. The award is in the form of a certificate.

C 1632 SJPD SPECIAL MERIT AWARD:

Revised 10-25-22

Awarded to any non-sworn department member for performing especially meritorious work on behalf of the Department. The award is in a form of a certificate. Examples include:

- Support on a major incident or case
- Assisting the Department with a special event or project
- Community policing programs



C 1700 - ALLEGATIONS, COMPLAINTS, NON-MISCONDUCT CONCERNS AND SUPERVISORY REFERRALS INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS:

Revised 01-12-17

The Police Department has a continuing obligation to serve the community. One aspect of this obligation is to ensure that Department procedures and actions are reasonable and effective. To fulfill this obligation, the Department provides a readily available process in which community and Department members can have confidence that allegations against Department procedures and actions are given efficient and fair attention. Such investigations are not only provided for corrective action when appropriate, but also protect the Department and its members against unwarranted criticism when procedures or actions are proper.

PROCEDURE

C 1701 GENERAL PROVISIONS:

Revised 07-18-08

Internal Affairs (IA) members are assigned the responsibility to conduct a complete investigation of allegations made against Department members. All Department members have a responsibility to ensure that allegations are processed in accordance with official departmental policies and procedures.

C 1702 PURPOSE OF INVESTIGATIONS:

Revised 05-13-22

The fair, impartial, and thorough investigation of all allegations received serves to protect the public and Department against procedures or acts which result in misconduct by Department members. A fair, impartial, and thorough investigation further serves to protect the community, Department, and its members from allegations which are based on misunderstanding or invalid information. In all cases, fair, impartial, and thorough investigations demonstrate a dedication to accountability and serve to establish and maintain public trust.

C 1703 ACCEPTANCE OF ALLEGATIONS:

Revised 07-18-08

All Department members will accept allegations from any source, whether made in person, by mail, by telephone or by an anonymous person.

C 1704 REFERRAL OF ALLEGATIONS TO INTERNAL AFFAIRS UNIT (IA):

Revised 07-18-08

When receiving a Non-Misconduct Concern (C 1706), Conduct Complaint (C 1707), or Policy Complaint (C 1708), Department members will adhere to the following procedures:

- RECEIVED DURING BUSINESS HOURS (Monday - Friday, 0800 - 1700): Refer the

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citizen to IA.

- **RECEIVED DURING NON-BUSINESS HOURS** (After 1700 and on Weekends): Refer the citizen to the ranking on-duty command officer. Regardless of the hour, refer allegations of sufficient gravity immediately to the IA Commander, who may elect to proceed with an immediate investigation. Examples of allegations which are of sufficient gravity are allegations of criminal activity, allegations of brutality or use of deadly force, or allegations of conduct by any member that threatens the well-being of the community, the City or the Department. If unsure whether the allegation is of sufficient gravity to refer immediately to IA, immediately contact the IA Commander who will determine the appropriate response.

C 1705 ALLEGATION, MISCONDUCT, AND COMPLAINT DEFINED:

Revised 07-18-08

- Allegation: An unproven accusation that a member of the Police Department violated Department or City policy, procedure, rules, regulations or the law.
- Misconduct: Misconduct, for the purpose of the San Jose Police Department complaint classification process, is an act or omission by a Department member that is a violation of Department or City policy, procedure, rules, regulations or the law, which if proven true may result in disciplinary action.
- Complaint: A complaint is an expression of dissatisfaction that either contains an allegation which, if true, demonstrates misconduct that is later classified as a Conduct Complaint, or contains an allegation regarding a City/Department policy that the citizen believes to be inappropriate or not valid, that is later classified as a Policy Complaint.

C 1706 NON-MISCONDUCT CONCERN DEFINED:

Revised 07-18-08

During the pre-classification status, if a person alleges or raises an issue that does not rise to the level of a violation of Department/City policy, procedure, rules, regulations, or the law, the Department will classify the concern as a Non-Misconduct Concern.

Objective Criteria contains the following:

- Perception or question of Department member's conduct that is not an allegation regarding a violation of Department/City policy, procedure, rules, regulations or the law;
- Not a misconduct allegation; or an allegation of conduct that does not rise to the level of misconduct; and
- Not a complaint.

C 1706.5 DECLINE TO INVESTIGATE CONCERN (DTI) DEFINED :

Added 02-15-13

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When a member of the public makes an allegation against a Department member and the allegation encompasses fact patterns that are clearly implausible or incredible, the Department will classify the allegation as a Decline to Investigate Concern.

Objective Criteria contains the following:

- The concern is patently hallucinatory and fantastical, and the investigator cannot ascertain an alternate set of facts that might explain the complainant's experience in a way that grounds it in reality.
- The complainant's description is grossly illogical and not capable of separation into discrete facts capable of objective verification or observation.
- The concern hinges on the existence of a broad conspiracy without articulating specific facts capable of investigation.
- The concern is identical to a previous complaint brought by the individual, against the same officer(s), and the previous complaint resulted in a finding of "Unfounded".

Note: Care and compassion must be exercised with a complainant who may have a mental illness. The presence of a mental illness does not necessarily make a person less able to perceive, to recall, or to report an incident. A complaint may be valid even if a complainant has difficulty communicating the essential facts. Moreover, staff should assume that a person with a developmental disability, a neurological disorder, or a physical impairment that makes it difficult to communicate is as credible and reliable as any other person.

C1707 CONDUCT COMPLAINT - DEFINED:

Revised 07-18-08

When a member of the public files an allegation against a Department member and the Department determines that the allegation appears to contain misconduct, the allegation is classified as a Conduct Complaint. The initial investigation determines that the facts stated in the allegation are such that, if sustained, would amount to a significant violation of the law or of the Department's policies, procedures, rules or regulations, i.e., one that could result in disciplinary action.

Objective Criteria contains the following:

- Personnel related
- Allegation of misconduct must be related to action(s) or inactions by a member of the Police Department.

C 1707.5 SUPERVISORY REFERRAL COMPLAINT DEFINED:

Added 03-13-17

A Supervisory Referral complaint is a citizen-initiated allegation which involves a minor transgression that may best be handled by bringing the matter to the attention of the subject member's supervisor and chain of command. A Supervisory Referral will not require a formal investigation or investigatory questioning. Any counseling of the employee shall be conducted by the Captain in their chain of command. The Captain shall discuss the transgression and any impacts the transgression may have on Department operations. The utilization of this

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process shall not imply the subject member has in fact committed the transgression as described by the complainant. Note: A Department Initiated Investigation (DII) shall not be investigated as a Supervisory Referral.

The following objective criteria must be met in order for a citizen-initiated complaint to be investigated as a Supervisory Referral:

- The issue must be personnel-related
- Allegations of misconduct must be related to action(s) or inaction(s) by a member of the Department
- The allegation(s) must involve a minor transgression in which a finding of Sustained would not likely result in formal discipline

C 1708 POLICY COMPLAINT - DEFINED:

Revised 07-18-08

When there is an allegation regarding a current Department/City policy that was properly implemented by a Department member, but the complainant believes the policy is inappropriate or not valid, the Department will use the classification of Policy Complaint.

Objective Criteria contains the following:

- Non-Personnel related
- Allegation regarding a City/Department policy that the citizen believes to be inappropriate or not valid.

C 1709 LOGGING CONDUCT, SUPERVISORY REFERRALS, POLICY COMPLAINTS AND NON-MISCONDUCT CONCERNS:

Revised 03-13-17

Internal Affairs shall be responsible for maintaining current data bases of all Conduct, Supervisory Referrals, Policy Complaints, and Non-Misconduct Concerns. When an allegation made by a citizen involving a minor transgression is initially received by IA, IA shall record the allegation as soon as practical and notify the respective Captain the misconduct has been deemed appropriate for supervisory referral.

At the completion of Supervisory Referral counseling, the captain shall send an email to the IA Commander advising them that counseling has taken place. IA will log the Supervisory Referral in IA Pro. Supervisory Referrals will not be documented in the employee's personnel file.

Note: Supervisory referrals involving professional staff may be handled by a supervisor of a rank equivalent to Captain.

C 1710 DETERMINING THE CLASSIFICATION OF ALLEGATIONS:

Revised 04-04-24

The following definitions of allegations are used. The purpose of these definitions is to characterize objectively the conduct alleged and avoid using value-laden words that will prejudice an allegation prior to investigation.

- Procedure (P) An allegation that an action taken by a department member did not follow appropriate Department and/or City policies, procedures or guidelines.
- Search Or Seizure (SS) An allegation that a search or seizure was conducted by a department member in violation of the 4th Amendment.
- Arrest Or Detention (AD) An allegation that an arrest lacked probable cause or a detention lacked reasonable suspicion.
- Bias-Based Policing (BBP) An allegation that a department member engaged in conduct based on a person's race, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identity, medical condition or disability.
- Courtesy (C) An allegation that a department member was not courteous or professional as specified within Duty Manual section C 1308 - COURTESY.
- Conduct Unbecoming an Officer (CUBO) An allegation that a Department member's conduct was unbecoming as specified in Duty Manual section C1404 - CONDUCT UNBECOMING AN OFFICER.
- Force (F) An allegation that the amount of force used by a department member was not objectively reasonable as defined by the Duty Manual section L 2602 - OBJECTIVELY REASONABLE FORCE.
- Loss Of Property (LP) An allegation that a Department member lost Department or City equipment or property.
- Neglect of Duty (ND) An allegation that a department member neglected their duties and failed to take action as required by Department and/or City policies or procedures and/or state or federal law.
- Workplace Discrimination (WD) See City Policy Manual section 1.1.1 and Duty Manual section C 1311 - BEHAVIOR INVOLVING DISCRIMINATION OR HARASSMENT through Duty Manual section C 1316 - RESPONSIBILITY OF THE DEPARTMENT'S EQUALITY ASSURANCE OFFICER.
- Workplace Harassment (WH) See City Policy Manual section 1.1.1 and Duty Manual section C 1311 - BEHAVIOR INVOLVING DISCRIMINATION OR HARASSMENT through Duty Manual section C 1316 - RESPONSIBILITY OF THE DEPARTMENT'S EQUALITY ASSURANCE OFFICER.

The definitions of Discrimination and Harassment only apply to workplace interactions between city employees and to Department Initiated Investigations that arise from allegations of workplace discrimination and harassment. The procedures for reporting and investigating allegations of workplace Discrimination and Harassment are found in Duty Manual section C 1313 - REPORTING POTENTIAL DISCRIMINATION/HARASSMENT, INCLUDING SEXUAL HARASSMENT through Duty Manual section C1316 - RESPONSIBILITY OF THE DEPARTMENT'S EQUALITY ASSURANCE OFFICER.

Discrimination or harassment by department members toward members of the public shall be characterized as an allegation of Biased Based Policing (BBP) that is reported and investigated by the Internal Affairs Unit.

C 1711 NATURE OF ALLEGATION UNCERTAIN:

Revised 07-18-08

If, after an examination of the immediate facts, the appropriate referral or disposition remains uncertain, the Department member receiving the allegation will refer the allegation to the IA Commander in accordance with Duty Manual section C 1704 - REFERRAL OF ALLEGATIONS TO INTERNAL AFFAIR UNIT.

C 1712 CLASSIFICATION OF AN ALLEGATION AS CONDUCT, POLICY OR NON-MISCONDUCT CONCERN:

Revised 02-15-13

The classification of all allegations will be approved by the IA Commander. If during the pre-classification process, it is determined that an allegation does not rise to the level of a violation of Department/City policy, procedure, rules, regulations, or the law and the allegation is not a Policy Complaint, then the allegation will then be classified as a Non-Misconduct Concern. This classification will be based on the objective criteria identified in Duty Manual section C 1706 - NON-MISCONDUCT CONCERN DEFINED, Duty Manual section C 1706.5 - DECLINE TO INVESTIGATE CONCERN (DTI) DEFINED, Duty Manual section C 1707 - CONDUCT COMPLAINT - DEFINED, or Duty Manual section C 1708 - POLICY COMPLAINT - DEFINED.

C 1713 CIVILLIAN DISSATISFIED WITH THE CLASSIFICATION OF A NON-MISCONDUCT CONCERN:

Revised 02-15-13

If the civilian expresses dissatisfaction with the proposed disposition of a Non-Misconduct Concern or a Decline to Investigate Concern, the Department member will refer the complainant to the Commander of Internal Affairs (IA).

C 1714 CONDUCT COMPLAINTS - INITIAL PROCESSING:

Revised 07-18-08

Department members receiving an allegation which is classified as a "Conduct Complaint" will refer the complaint or the complainant to the Internal Affairs Unit for classification and investigation.

C 1715 CONDUCT COMPLAINT - INVESTIGATIONS PROCEDURE:

Revised 07-18-08

Department members will forward all Conduct Complaints to IA. The IA Commander is responsible to see that all Conduct Complaints are assigned to a member of IA for investigation or to a command officer in the direct chain of command of the involved Department member.

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A Personnel and Procedures Complaint Form and a Summary of Conduct Complaint Form is prepared by the IA member receiving the misconduct complaint and will contain the following information:

- Complainant's name, address and telephone number
- Type of allegation
- Location of occurrence
- Date and time of incident
- Allegation(s) type
- Department member(s) allegedly involved
- Witness's name, address and telephone number
- Statement of complainant
- Case number or citation number
- Signature of complainant (if taken in person)

An IA case number is assigned to each case and will consist of the calendar year followed by a progressive number.

A thorough, complete and impartial investigation is conducted. This investigation may include the taking of statements, gathering and preservation of physical evidence, and any other information relevant to the investigation. All elements of the investigation are reduced to writing and becomes a part of the case.

C 1715.1 COMPLAINT TIMELINE:

Added 08-29-24

Pursuant to the Public Safety Officers Procedural Bill of Rights Act (Government Code section 3300 et seq.) the Department must conduct its administrative investigation of misconduct and notify the employee of the proposed discipline within one year of discovery. The one-year limitations period under Government Code section 3304, subdivision (d)(1) begins to run when a person authorized to initiate an investigation discovers, or through reasonable diligence should have discovered, the allegation of misconduct. The exemptions listed in Government Code sections 3304 shall toll these time constraints.

Being mindful of the 365-day investigation limit, the Department will adhere to incremental deadlines throughout the investigative and audit process. Those deadlines are indicated below:

- Days 1-30 of the 365 total days:

The Department's Internal Affairs unit accepts the complaint and determines the proper classification of the complaint (refer to DUTY MANUAL SECTION C 1712).

- Days 31-90 of the 365 total days for cases which require neither subject officer nor witness interviews:

A completed investigation that does not require a subject officer or witness interview shall be closed with a finding (Exonerated, Unfounded, No Finding, or Complaint Withdrawn) or supervisory referral as to each allegation; then reviewed by the Administrative IA Sergeant; and then forwarded to IPA for audit. After audit, the IPA shall notify IA of their determination. If the IA Administrative Sergeant determines that additional investigation or interviews are necessary, the complaint is assigned to an IA investigating Sergeant.

- Days 90-120 of the 365 total days (IPA Audit Period) for cases not requiring finding and recommendations:

The IPA has 30 days to audit IA closed cases that do not require findings and recommendations. The audit includes reviewing the complaint, police reports and other documents, recordings, and materials involved in the IA investigation.

- Days 91-270 of the 365 total days for cases which require subject officer or witness interviews:

An IA investigating sergeant (as opposed to the IA unit Administrative Sergeant) assigned to investigate conduct complaints or DII cases may collect additional evidentiary material, ensure subject officers are notified of IA cases, and conduct follow-up interviews with witnesses and the subject officers when appropriate.

Upon completion, the entire case file is given to the IA unit Commander for review and approval. If a closed case requires findings and recommendations, it is sent to the Assistant Chief through the subject officer's chain of command. On all allegations of force, the completed case may be forwarded to the Assistant Chief of Police for review and approval.

- Days 270-300 of the 365 days (IPA audit period) for cases not requiring findings and recommendations:

The IPA shall have 30 days to audit and provide their determination on cases that do not require findings and recommendations.

- Days 91-300 of the 365 total days for cases sent for findings and recommendations:

At any point during the 91-300 day period, if IA determines the case should ultimately go to the Chief of Police for findings and recommendations for training, counseling or discipline, the IA investigation will be reviewed by the subject officer's chain of command. The findings and recommendations shall be returned to IA within 30 days of the send date (refer to Duty Manual section C 1716 COMMAND OFFICER FINDINGS AND RECOMMENDATIONS and C 1717 COMMAND OFFICER'S RESPONSIBILITIES).

- Days 91-314 of the 365 total days (IPA audit period):

The IPA has 14 days to audit cases after they have returned from the command officer for findings and recommendations. Following the audit period, the IPA shall notify IA of their determination.

Note: During any audit period, all information from the IA file will remain available for review by the IPA.

C 1716 COMMAND OFFICER FINDINGS AND RECOMMENDATIONS:

Revised 03-01-24

When a Conduct Complaint is completed by Internal Affairs investigators and the IA Commander believes that a finding of Sustained can reasonably be made, a copy of the completed investigation is forwarded through BlueTeam to the designated bureau for assignment to a command officer. The command officer will assume responsibility for reviewing the investigation, determining the findings, and making recommendations for the completed investigation. The command officer may conduct additional investigation before making a determination of findings and recommendations. The command officer may also return the complaint through BlueTeam to IA for further investigation. If the investigation remains in the bureau where the involved officer is assigned, the completed investigation, along with the command officer's findings and recommendations, will be routed through the involved officer's chain of command via BlueTeam to the Office of the Chief. See Duty Manual section C 1723 - AVAILABLE FINDINGS AND OUTCOMES for the available findings.

With respect to allegations against Civilians, the responsible supervisor will have the same responsibility as a command officer with respect to findings and recommendations.

IA investigators may determine any finding as listed in Duty Manual section C 1723 - AVAILABLE FINDINGS AND OUTCOMES except for a finding of Sustained.

C 1717 COMMAND OFFICER'S RESPONSIBILITIES:

Revised 08-29-24

The assigned command officer has the responsibility for determining the findings and making recommendations. The command officer will complete the following steps prior to submitting a memorandum in BlueTeam which recommends action:

- REVIEW OF IA INVESTIGATION: A thorough review of the investigation conducted by IA.
- REVIEW EMPLOYEE'S RECORDS: A review of the member's records including, but not limited to, IA and personnel records.
- EMPLOYEE INTERVIEW: The command officer making a finding may interview the Department member involved. If an interview is conducted, it shall be audio recorded by the command officer. The involved member has the right to decline a voluntary interview, if offered. However, they do not have a right to decline an involuntary

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interview, if requested by the command officer.

- **SUPERVISORY INPUT**: The command officer will discuss the investigation with the Department member's immediate supervisor. Information is solicited concerning the member's present job performance and any other pertinent factors that might influence a disciplinary recommendation. The immediate supervisor's input is documented in the command officer's memorandum.
- **COMPLAINT TIMELINES**: The command officer will follow the complaint timelines outlined in Duty Manual section C 1715.1. If any deviation from the prescribed timelines is needed, they will discuss the case with the IA unit Commander or the assigned IA investigating Sergeant. Any requests for extensions of audit timelines by the IPA will be discussed with the IA unit Commander.

C 1718 POLICY COMPLAINT - INITIAL PROCESSING

Revised 07-18-08

Department members receiving an allegation which is classified as a "Policy Complaint" will refer the complainant to the Office of the Chief of Police, Internal Affairs Unit.

C 1719 RECORDING POLICY COMPLAINTS:

Revised 07-18-08

IA members processing a Policy Complaint will complete the IA intake form. IA staff will attempt to include as much information as is available and then verify with the complainant, when possible, all information received. The information should include the information required in Duty Manual section C 1715 - CONDUCT COMPLAINT - INVESTIGATIONS PROCEDURE, except the name of the Department member involved in the allegation. The forms, along with the investigator's notes will then be forwarded to the IA Commander indicating the action taken.

C 1720 POLICY COMPLAINTS: INVESTIGATION PROCESS:

Revised 07-18-08

During the intake process, IA will determine if the allegation constitutes a Policy Complaint based on the objective criteria in Duty Manual section C 1708 - POLICY COMPLAINT – DEFINED.

- These cases deal with complaints against current Department/City policy, not a member of the SJPD.
- These cases are not personnel complaints. Officers' names will not be tracked in the IA Pro Database.
- As directed by the Chief of Police, the case is forwarded to the SJPD's Research and Development Unit for policy evaluation.
- Policy Complaints are tracked and monitored for the purpose of identifying trends and patterns, as well as, for identifying a possible need for training and/or policy/procedure changes.

C 1721 CONDUCT COMPLAINTS RECEIVED AND INVESTIGATED AT THE BUREAU LEVEL :

Revised 03-01-24

When an allegation is initially received at the Bureau level, the allegation is referred to an on-duty command officer in the Division to which the officer complained against is assigned. The command officer will then notify IA of receipt of the allegation and provide a brief synopsis of the event as soon as practical. It is the responsibility of the IA Commander to determine how the allegation will be classified, and with the agreement of Office of the Chief, determine if the investigation will be investigated within IA or the involved Member's Bureau.

If the investigation is assigned at the Bureau level, it will be assigned an IA case number and then assigned in BlueTeam to a command officer in the involved Member's chain of command. The command officer assigned the investigation will ensure that a proper investigation is conducted. The command officer will make a determination of findings and recommendations. Upon completion of the investigation by a command officer, the written record of the investigation will then be forwarded via BlueTeam through the chain of command to the Office of the Chief of the Police. See Duty Manual section C – 1722 DEPARTMENT INITIATED INVESTIGATIONS for necessary elements. All allegations handled by the Bureau are held to the same time periods referred to in Duty Manual section C 1736 - STATUTE OF LIMITATIONS FOR INVESTIGATING COMPLAINTS, and Duty Manual section C 1737 - 30 DAY PERIOD FOR WRITTEN NOTICE OF DECISION TO IMPOSE.

With respect to allegations against Civilians, the responsible supervisor will have the same responsibility as a command officer with respect to findings and recommendations.

C 1722 DEPARTMENT INITIATED INVESTIGATIONS (DII):

Revised 03-01-24

Department Initiated Investigations can be investigated at the Bureau level or by Internal Affairs, depending on the nature of the allegations and circumstances. The final authority for deciding at what level a Department Initiated Investigation is investigated shall rest with the Office of the Chief of Police. Once the Office of the Chief of Police has approved the investigation and decided at what level it will be investigated, Internal Affairs will assign it an IA Case number and enter it into BlueTeam. If it is to be assigned at the Bureau level, Internal Affairs will forward the investigation in BlueTeam to the designated Bureau for assignment to a command officer.

Upon completion of the investigation, the assigned command officer shall make a finding of Not Sustained, Exonerated, Unfounded, No Finding or Sustained as defined in by Duty Manual section C 1723 - AVAILABLE FINDINGS AND OUTCOMES.

The assigned command officer will complete the investigation and make a determination of findings and recommendations. If the investigation contains a finding of Sustained, the command officer will forward the investigation through the chain of command with a recommendation for discipline. Command officers in the officer's chain of command are not prohibited from making a recommendation of counseling and/or training when the finding is Exonerated or Not Sustained Duty Manual section C 1814 - EMERGENCY

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INTERDIVISIONAL NON-DISCIPLINARY ACTION. The written record of the investigation, regardless of the finding, is forwarded via the chain of command to the Office of the Chief of Police.

With respect to allegations against Civilians, the responsible supervisor will have the same responsibility as a command officer with respect to investigations, findings and recommendations.

When a Department Initiated Investigation is investigated at the Bureau level, the command officer responsible for the investigation will ensure that the investigation contains the following elements:

- **BACKGROUND**: A synopsis of the event and the allegation:
- **INVESTIGATION**: Statements, crime reports, medical reports, physical evidence, photographs and/or other supporting data.
- **APPLICABLE AUTHORITIES**: Statutes, Duty Manual sections, Administrative Code sections, etc.
- **ANALYSIS**: The application of the facts and conclusions disclosed in the investigation to the authorities cited.
- **FINDING/RECOMMENDATION**: As defined in Duty Manual section C 1723 - AVAILABLE FINDINGS and Duty Manual section C 1804 - DISCIPLINARY ACTIONS AVAILABLE.

C 1723

AVAILABLE FINDINGS AND OUTCOMES AND STANDARD OF PROOF:

Revised 05-31-19

The following findings and outcomes represent the IA Unit's options for closing out cases once the investigations are completed. By definition a Finding is the official result of a Conduct Complaint or Department Initiated Investigation. An Outcome is the official result after an investigation of a Non-Complaint (specifically Non-Misconduct Concerns, cases that result in Mediation and Policy Complaints).

The preponderance of the evidence (51%/49%) standard shall be applied to each allegation. The "preponderance of the evidence" is usually defined in terms of probability of truth, or of evidence that when weighed with that opposed to it, has more convincing force and greater probability of truth. This standard of proof means that the IA Unit determines that the existence of a fact is more probable than its nonexistence. If after weighing all of the evidence the IA Unit cannot decide that an allegation is more likely to be true than not true, the IA Unit must conclude that the allegation is not sustained.

The following findings and outcomes are available to the responsible command officer:

Findings categories:

- **Unfounded (U)** The investigation proved, by a preponderance of the evidence, that either the act or acts, which provide the basis for the allegation or complaint did not

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occur, or that the department member named in the allegation was not involved in the act or acts which may have occurred.

- Exonerated (E) The investigation proved, by a preponderance of the evidence, that the act or acts, which provided the basis for the allegation or complaint, occurred; however, they were justified, lawful and proper. The finding of Exonerated does not relieve supervisors or commanders from the responsibility for counseling or training subordinate department members (Duty Manual section C 1814 - EMERGENCY INTER-DIVISIONAL NON-DISCIPLINARY ACTION).
- Not Sustained (NS) The investigation failed to prove, by a preponderance of the evidence, that the act or acts, which provide the basis for the allegation made in the complaint occurred. The finding of Not Sustained does not relieve supervisors or commanders from the responsibility for counseling or training subordinate department members (Duty Manual section C 1812 - USE OF COUNSELING AND TRAINING).
- Sustained (S) The investigation proved, by a preponderance of the evidence, that the act or acts which provide the basis for the allegation made in the complaint occurred. The finding of Sustained may result in disciplinary action ranging from Counseling or Training up to and including Dismissal from the Department.
- No Finding (NF) The complainant failed to disclose promised information needed to further the investigation, or the complainant is no longer available for clarification of material issues, or the subject department member is no longer employed by the Department before the completion of the investigation.
- Complaint Withdrawn (CW) The complainant affirmatively indicates the desire to withdraw their complaint. Officer names are removed from the subject officer field in the IAPro database and listed as "Unknown Officer." Complaint Withdrawn cases are tracked (minus officers' names) and monitored for the purpose of identifying trends and patterns as well as for identifying training, policy or procedure changes. The final authority as to whether a case is closed out as a "CW" shall rest with the Chief of Police or his designee, regardless of the member of the public's decision to withdraw the complaint.

Outcomes:

- Mediation (M) By mutual agreement by all involved parties (e.g., Chief of Police, member(s) of the Police Department and member of the public), the case was mediated and resolved in a non-disciplinary manner.
- Supervisory Referral (SR) Before a case can be closed out as a Non-Misconduct Concern, IA officers will contact the officer's supervisor to confirm the issue of concern has been addressed.
- Within Policy (WP) A determination that the allegation constituted a Policy Complaint. These cases deal with complaints against Department/City policy, not a member of the SJPD. As directed by the Chief of Police, copies of these cases are forwarded to the SJPD's Research and Development Unit for policy evaluation. Policy complaints are tracked and monitored for the purpose of identifying trends and patterns, as well as for identifying a possible need for training and or policy/procedure changes.

Complaint Filed/Supervisor Review (CS): A determination that an allegation involves a minor transgression that may best be handled by bringing the matter to the attention of the subject member's chain of command and supervisor. Internal Affairs staff will contact the member's supervisor to confirm the allegation has been addressed.

C 1723.5 PROCESSING INTERNAL AFFAIRS COMPLAINTS "UNFOUNDED" BY BODY WORN CAMERA VIDEO FOOTAGE :

Added 03-17-17

When Internal Affairs receives a citizen complaint of officer misconduct and there is Body Worn Camera (BWC) video footage associated to the incident from which the complaint arose, IA intake officers shall conduct a thorough review of the BWC footage. In cases where the BWC conclusively demonstrates the act or acts of misconduct alleged by the complainant are "Unfounded," IA intake officers shall prepare a written analysis to support a finding of "Unfounded." The analysis shall be reviewed and approved by the IA administrative sergeant. IA shall then ensure the report is reviewed by the Office of the Independent Police Auditor (IPA). If the IPA's office concurs with the finding of "Unfounded," the case shall be closed and maintained in the Department member's IA file in accordance with the City and Department Records Retention Schedules. If the IPA disagrees with the finding of "Unfounded," IA shall formally assign the case to an IA sergeant for investigation.

C 1724 PROCESSING BUREAU RECOMMENDATIONS:

Revised 03-01-24

After having made a finding, the responsible command officer will prepare a memorandum directed to the Chief of Police, containing the following information:

- Date, location and time of the interview with the member involved, and persons present during such interview.
- A complete copy of the audio recording of the interview with the member involved.
- The finding (to include justification).
- Recommendation for departmental action
- In the event the potential disciplinary action is likely to be greater than a Letter of Reprimand (LOR), referral to the Disciplinary Review Panel (DRP) is made.

The memorandum is completed and routed via BlueTeam through the chain of command to the involved member's Bureau Commander for review and comment. The completed investigation is forwarded via BlueTeam to the Office of the Chief of Police. If the investigation was assigned to Internal Affairs, the IA Commander will review the investigation and forward it to the Chief of Police for final disposition.

C 1725 DISPOSITION BY THE CHIEF OF POLICE:

Revised 07-18-08

The Chief of Police will make the final determination on any complaint or Department Initiated Investigation against a Department member. The Chief of Police or Assistant Chief of Police

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may approve the finding and recommendation for disciplinary action by affixing their signature to the bureau memorandum. Once approved, the IA Commander will route the approved memorandum to the appropriate Bureau Chief for implementation of the disciplinary action (LOR, DOC, counseling or training). Completed investigations which are not sent to the involved member's bureau for findings and recommendations are approved by the Chief of Police or Assistant Chief of Police.

C 1726 IMPLEMENTATION OF RECOMMENDED ACTION APPROVED:

Revised 07-18-08

When notified by the Internal Affairs Unit, the Deputy Chief of the involved Department member's Bureau will ensure that the recommended discipline is implemented after the Chief's approval (LOR, DOC, counseling or training). Approved findings are processed in the following manner:

SUSTAINED CASES:

- The written notice of completion and finding is returned directly to the involved employee (DOC, Training and/or counseling).
- If the proposed discipline is anticipated to be a letter of reprimand or greater, the Internal Affairs Unit will provide the employee with a Notice of Intended Discipline (NOID) and notice of the right to a Skelly conference.
- A copy of the disciplinary record, which results in a Documented Oral Counseling, is placed in the member's IA file after the employee is given an opportunity to sign. Refusal to sign does not bar placement in the member's IA file. The original case is retained in the IA files.
- A copy of the disciplinary record, which results in a Letter of Reprimand, is placed in the member's IA file and Personnel file after the employee is given an opportunity to sign. Refusal to sign does not bar placement in the member's IA file or Personnel file. Upon refusal to sign, the administrator of departmental action will indicate on the disciplinary notice that the employee has refused to sign. The original case is retained in the IA files.
- A copy of the disciplinary record, which results in a suspension, demotion or dismissal from the Department, is placed in the member's IA file and Personnel file. The original case is retained in the IA files.

OTHER THAN SUSTAINED CASES:

- The notice of completion and finding is returned directly to the involved employee
- The original case is retained in the IA files.

C 1727 ALTERNATE FINDINGS BY CHIEF OF POLICE:

Revised 07-18-08

The Chief of Police is not bound to the finding or recommendation of a subordinate but may, at their discretion, make a new and separate finding as to appropriate departmental action.

C 1728 EMPLOYEE REQUIREMENTS:

Revised 07-18-08

When directed by competent authority, Department employees involved in a Conduct Complaint or Department Initiated Investigation will submit a written memorandum. The memorandum will contain all known information as it relates to the request and is submitted through the chain of command.

C 1729 NOTIFICATION:

Revised 07-18-08

In those cases involving full-time Department members, IA will notify the complainant of the findings of the investigation. However, the gravity of disciplinary action will not be indicated to the complainant. In cases involving reserve officers, the Director of the Reserve will make the notification.

The complainant is notified of the final finding of the complaint within thirty days after the close of the investigation.

C 1730 ALLEGATIONS OF FELONY OR MISDEMEANOR OFFENSES INVOLVING DEPARTMENT MEMBERS - CRIMINAL INVESTIGATION AND IA RESPONSIBILITY:

Revised 09-18-22

When an allegation against a Department member is received that includes elements of a felony or misdemeanor crime, or once such evidence is uncovered during the investigation of an allegation, the following procedure will be followed:

- The Department member receiving the allegation shall notify their immediate supervisor without delay. This responsibility continues even if the assertion is against the Department member receiving the allegation.

Example: A subject is being booked into jail and makes an allegation that the officer stole their money. The officer will notify their sergeant without delay.
- The immediate supervisor shall conduct a preliminary investigation to gather the facts relevant to the allegation.
- The immediate supervisor shall immediately notify IA and will provide them with the facts of the allegation. The credibility of the allegation and any required documentation will be determined in consultation with IA.
- IA is responsible for reviewing the circumstances and the Assistant Chief of Police will determine whether a criminal investigation should be initiated. In the event the Assistant Chief of Police determines that a criminal investigation will be conducted, the Deputy Chief of the appropriate Bureau is notified.
- At the direction of the Chief of Police, the IA Commander will have responsibility of placing the Department member on administrative leave. Such determination is made in consultation with the Chief of the Bureau of Investigations and the Department member's Bureau Chief or the Division Commander. Such detachment is in accordance with Civil Service rules and Department policy concerning Administrative

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- In the event the criminal allegation is credible and has the potential to impact the safety or financial health of the community and/or other City employees (examples include, but are not limited to, alleged sexual misconduct, assault or battery, and theft or bribery), the Chief of Police or their designee will have the responsibility of immediately notifying the City Manager and the City Manager's Office of Employee Relations.

C 1730.1 ALLEGATIONS OF FELONY OR MISDEMEANOR OFFENSES INVOLVING CITY EMPLOYEES OUTSIDE THE POLICE DEPARTMENT:

Added 06-10-22

In the event a Department member receives a criminal allegation against a City employee outside the Police Department that is credible and has the potential to impact the safety or financial health of the community and/or other City employees (examples include, but are not limited to, alleged sexual misconduct, assault or battery, and theft or bribery), the Department member will immediately notify their chain of command to the Chief of Police. The Chief of Police or their designee will have the responsibility of immediately notifying the City Manager and the City Manager's Office of Employee Relations.

C 1731 GENERAL PROCEDURES IN THE INVESTIGATION OF FELONY OR MISDEMEANOR CRIMINAL ALLEGATIONS INVOLVING DEPARTMENT MEMBERS:

Revised 01-07-16

When notified of the necessity of conducting an investigation of a felony or misdemeanor criminal offense allegedly committed by A Department member, the Department member investigating the allegation will ensure that:

- At the discretion of the Chief of Police, Internal Affairs is notified and the Criminal Investigations Detail (CID) will conduct the investigation unless it is determined by the Chief of Police that another unit within the Department, or an outside law enforcement agency will conduct the investigation. The IA Commander will monitor all criminal investigations of-Department members.
- If the investigation requires a custodial interrogation, the involved Department member is advised of their constitutional rights as required by the current law governed by the Fifth Amendment of the United States Constitution. The Department member is given the opportunity to exercise the same rights afforded any other person under similar circumstances.
- When the investigation is completed, the case may be submitted to the District Attorney's Office for review. The decision to submit a case for review will be determined by the facts of the investigation, and with approval of the Chief of Police.
- After review by the District Attorney's Office, the investigation is reviewed by the IA Commander. The IA Commander will advise the Chief of Police of the completed criminal investigation and outcome of DA review. At the direction of the Chief of Police,

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IA may undertake an investigation for administrative purposes.

C 1732 ARRESTS OF DEPARTMENT MEMBERS FOR ALLEGED FELONY OR MISDEMEANOR CRIMINAL OFFENSES:

Revised 01-07-16

When a Department member is arrested, or taken into formal custody for any felony or misdemeanor criminal offense in the City of San Jose by any member of the San Jose Police Department, the following procedure will be used:

- The on-duty area lieutenant for the location of occurrence is notified, and they will respond to the scene and supervise a preliminary investigation. The investigation is conducted in a manner that would be the same as for any other citizen detained under similar circumstances.
- If it appears that the incident involves a violation of the law, the area lieutenant or command officer supervising the preliminary investigation is responsible for ensuring that the following procedures are followed:
 - The Bureau Chief from the Department member's unit and the Bureau Chief of Investigations is notified without delay.
 - IA is notified without delay.
 - If the matter requires follow-up investigation, the IA Commander, at the discretion of the Chief of Police, will assign the investigation to the Criminal Investigations Detail (CID).
 - If the investigation requires a custodial interrogation, the Department member is advised of their constitutional rights as required by the current law governed by the Fifth Amendment of the United States Constitution and that this Department member is given the opportunity to exercise the same rights afforded any other person under similar circumstances.
 - Administer any appropriate tests required for the preliminary investigation of the offense.

In the event a Department member is arrested or taken into formal custody in the City of San Jose by another law enforcement agency (CHP, San Jose State Police, Sheriff's Department, etc.) for any felony or misdemeanor criminal offense, the Department member receiving such notification will ensure that notifications are made to their chain of command and the Office of the Chief of Police without delay.

When the Department is officially advised that a Department member has been arrested or taken into formal custody for any felony or misdemeanor criminal offense outside the City of San Jose, the following procedure will be followed:

- It is the responsibility of the Department member officially notified of the alleged criminal offense to notify their supervisor, who in turn shall notify the on-duty Watch Commander. The on-duty Watch Commander shall attempt to contact the agency reporting the detention, ascertain sufficient details, and subsequently notify their chain

of command and IA without delay.

C 1733 DEPARTMENT MEMBERS DUTY TO REPORT:

Revised 01-07-16

Any Department member arrested, or taken into formal custody for any felony or misdemeanor offense, by any law enforcement agency shall:

- Advise the detaining/arresting officer of their Department employment status;
- Notify their immediate supervisor without delay, who in turn shall notify the on-duty Watch Commander without delay.

Any Department member who has knowledge that they have been named as a suspect in a documented crime report or felony or misdemeanor criminal complaint shall notify their immediate supervisor without delay, who in turn shall notify IA without delay.

Any Department member cited for any drug related offense shall notify their immediate supervisor without delay, who in turn shall notify IA without delay.

Any Department member who has knowledge that they have been charged with a felony or misdemeanor criminal offense by a prosecutor or in a grand jury indictment shall notify their immediate supervisor without delay, who in turn shall notify IA without delay.

Any Department member who has knowledge that another Department member has been arrested, named as a suspect in a crime report, or charged with the commission of a felony or misdemeanor criminal offense in a court filing by a prosecutor or grand jury shall notify their immediate supervisor, who in turn shall notify IA without delay.

Any Department member who is officially notified of any civil and/or criminal court orders, which could reasonably impact the performance of their duties, shall notify their immediate supervisor without delay, who in turn shall notify a command officer in their chain of command. The command officer shall then notify the Bureau of Administration of the Department member's modified status.

Any Department member who has knowledge that their driver's license status has been restricted or suspended by the Department of Motor Vehicles, or restricted as a result of a temporary administrative action shall notify their immediate supervisor without delay, who in turn shall notify a command officer in their chain of command without delay. If the Department member's driver's license restrictions affect their ability to perform their official duties, the Department member shall not operate any City vehicle.

C 1734 STRIP SEARCHES OF DEPARTMENT MEMBERS:

Revised 05-13-22

No Department member will be subjected to a strip search for administrative investigative purposes. No Department member will be subjected to a strip search for criminal investigative purposes unless there is a reasonable suspicion that evidence will be uncovered during the strip search. A reasonable suspicion that evidence will be uncovered exists when

the person responsible for the search is aware of specific articulated facts, and inferences from those facts, which support such a suspicion.

When determining if reasonable suspicion to conduct a search exists, the Department member responsible for investigating the incident will consider such factors as the likelihood of an individual making a false accusation against an arresting officer, the existence of independent or neutral witnesses, the gravity of the alleged violation, the frequency with which the alleged contraband is encountered, etc.

Only the Chief of Police or their designee may authorize the strip search of a Department member.

When it is determined that a strip search of a Department member is to be conducted, the following procedure will be followed:

- The search is conducted according to the standards set forth in Duty Manual section L 2911 - STRIP SEARCH PROCEDURE – GENERAL.
- The search is conducted under the supervision of an IA investigator or a Department member with the rank of Captain or higher.
- The Department member is advised that they have the right to representation prior to answering any questions regarding the incident.

C 1735

ACCESS TO INTERNAL AFFAIRS RECORDS:

Revised 07-18-08

Only those Department members authorized by the Chief of Police are allowed access to IA records. The following Department members are authorized access to another Department member's IA records, with the indicated limitations:

- THE MEMBER: Department members may review their own IA records.
- THE MEMBER'S IMMEDIATE SUPERVISOR: Supervisors will review each subordinate's IA record. This will enhance the supervisor's ability to adequately evaluate the subordinate's performance and to be knowledgeable of conditions which affect the subordinate. At a minimum this review should be done on an annual basis.
- THE MEMBER'S OTHER SUPERVISORS: Any supervisor in the involved Department member's direct chain of command may review the subordinate's IA records when such review pertains to a Department function, goal, assignment or responsibility.
- THE MEMBER'S POTENTIAL SUPERVISOR: A supervisor testing to fill a vacancy in their command may review the IA records of any Department member making a request for the assignment.
- IA MEMBERS: Any Department member assigned to IA may review another Member's IA records for the purpose of effectively completing an internal investigation.
- OUTSIDE REQUESTS: Any requests to review a Department member's IA records by an outside agency must be approved by the City Attorney's Office in accordance with California Evidence Code Section 1043, or requested pursuant to a Federal court

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order.

C 1736 STATUTE OF LIMITATIONS FOR INVESTIGATING COMPLAINTS:

Revised 07-18-08

Subdivision (d) of Government Code Section 3304 creates a one year statute of limitations period for notifying an officer of a proposed disciplinary action. Subdivision (d) states as follows:

”Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency’s discovery by a person authorized to initiate an investigation of the alleged act, omission, or other misconduct.”

The Department must complete its investigation within one year of discovery of the complaint by a person authorized to start an investigation into the conduct. The Department shall complete its investigation of any allegation of misconduct and serve the Department member with a Notice of Intended Discipline (NOID), within this one year statute of limitations.

Government Code Section 3508.1(a) extends to Civilians the same procedural rule applicable to officers in Government Code Section 3304(d).

In the event that the Office of the Chief of Police is considering extending or tolling the one year statute of limitations [Government Code Sections 3304(d) (1) - (8) and 3508.1(a) (1) - (8)] for an investigation, or reopening an investigation [Government Code Sections 3304(g) and 3508.1(d)], the Office of the Chief of Police shall coordinate with the Office of Employee Relations and the City Attorney’s Office prior to making its decision.

C 1737 30-DAY PERIOD FOR WRITTEN NOTICE OF DECISION TO IMPOSE DISCIPLINE:

Revised 07-18-08

Subdivision (f) of Government Code Section 3304 requires that:

If, after investigation and any pre-disciplinary response or (grievance) procedure, the public agency decides to impose discipline on the public safety officer, that the public agency shall notify the officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable to discipline.

Under the City of San Jose’s Civil Service Rules, the written notification of the decision to impose discipline is the written notice of disciplinary action or as it is commonly called, the Notice of Discipline (NOD) under SJMC Section 3.04.1380(B). In accordance with Government Section 3304(f), the Department shall comply with the 30-day time period for serving a NOD, including the date that the discipline will be imposed if, after investigation and

any pre-disciplinary response or procedure, the Department makes the decision to impose discipline.

Government Code Section 3508.1(c) extends to civilians the same procedural rule applicable to officers in Government Code Section 3304(f).

The IA commander is responsible for promptly documenting when the decision to impose discipline is reached and include in that documentation the specific level of discipline.

C 1738 TIME LIMITATIONS FOR FILING COMPLAINTS:

Revised 07-18-08

Department members will receive all allegations made by citizens; however, cases which are received after a considerable amount of time has elapsed from the date of the incident are difficult to investigate in a thorough, fair and complete manner. Allegations which are received after one year from the date of the incident are reviewed by the Chief of Police who has the discretion to decide not to accept the allegations as a complaint for investigation. The Chief of Police may take into consideration in making this determination any policy or factual matters relevant to the particular case including, but not limited to, whether an investigation can still be conducted in a thorough, fair, complete and efficient manner.

C 1739 COMPLAINTS INVOLVING RESERVE OFFICERS:

Revised 07-18-08

Department members receiving Non-Misconduct Concerns (C 1706), Conduct Complaints (C 1707), or Policy Complaints (C 1708) involving reserve officers may adhere to the same procedures set out in Duty Manual section C 1704 - REFERRAL OF ALLEGATIONS TO INTERNAL AFFAIRS UNIT, and Duty Manual section C 1722 - DEPARTMENT INITIATED INVESTIGATIONS. The Chief of Police, at their sole discretion, may modify or forgo these procedures and those set out in Duty Manual sections C 1740 - INVESTIGATIVE PROCEDURE and Duty Manual section C 1741 - DUTIES OF INTERNAL AFFAIRS MEMBERS.

C 1740 INVESTIGATIVE PROCEDURES FOR RESERVE OFFICERS:

Revised 07-18-08

Information gathered is compiled in writing. Upon completion of the investigation, it is forwarded to the Director of the Reserve for findings and recommendations.

C 1741 DUTIES OF INTERNAL AFFAIRS MEMBERS:

Revised 07-18-08

IA will monitor complaints involving police reserve officers when the investigation is handled at the bureau level. Once the Director of the Reserve has made a finding and recommendation, the Director of the Reserve will forward the investigative package to the first level command officer in their chain of command.

C 1742 DISPOSITION BY THE CHIEF OF POLICE (CASES INVOLVING RESERVE OFFICERS):

Revised 07-18-08

The Chief of Police will make the final determination on any complaint against a member of the Police Reserve. The Chief or Assistant Chief may approve an investigation and finding or may, at their discretion, make a new and separate finding as to appropriate departmental action.

Reserve officers are volunteers and are not employees of the Department or the City. Nothing in this section or in any other provision in the Duty Manual shall confer on reserve officers any vested or property right in their position as a volunteer member of the Police Reserve. Without regard to the status of any Conduct Complaint or investigation, the Chief of Police, at their sole discretion, reserves the right to determine the appropriate departmental action to be taken on any complaint, up to and including separation from service in the Police Reserve. The decision of the Chief of Police regarding the appropriate departmental action to be taken on any complaint is the final administrative decision of the Department. There shall be no administrative hearing or appeal from the decision of the Chief of Police.

C 1743 PLACEMENT OF OFFICERS WITH DISCLOSURE REQUIREMENTS:

Added 01-20-11

Pursuant to the holding in *Brady v. Maryland*, it is the responsibility of the Santa Clara County District Attorney's Office to compile and maintain a list of Department members who have been identified as having disclosure requirements when called to testify in a criminal case. When notified by the District Attorney's Office that a Department member has been placed on the Brady list, the Chief of Police is responsible for determining the placement or assignment of that member. Brady list information shall be considered confidential and only persons authorized in writing by the Chief of Police shall be permitted to obtain this information.

C 1744 WHISTLEBLOWER POLICY:

Added 01-26-12

The City and the Department have a responsibility to conduct its affairs ethically and in compliance with the law. Employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with their immediate supervisor or another management employee within the employee's department.

When a Department member wishes to report misconduct, several options are available. One of the available options includes utilizing the City of San Jose whistleblower hotline. Possible misconduct that an employee might want to report includes:

1. Violations of City Policy or procedures
2. Theft or misuse of City Resources (e.g. cash, equipment, supplies or materials)
3. Record falsification, including timecards

4. Misuse or waste of City resources, including government funds
5. Improper activities by City officials, employees and contractors

Members wishing to report any misconduct and who choose to use the City whistleblower hotline may submit concerns through one of the following methods:

- - CALL the Whistleblower Hotline at (408) 535-8200
 - SUBMIT a concern online through the Whistleblower Hotline intranet site at: <https://www.sanjoseca.gov/residents/site-search?q=whistleblower%20hotline>.
 - FAX (408) 535-8201

You may remain anonymous. Caller ID has been disabled for the Whistleblower Hotline. Employees sending an email and wishing to remain anonymous, may send it from a non-City computer. Employees may also choose to contact the Office of Employee Relations directly at (408) 535-8150.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law. This is just a summary of your obligations, for additional information please refer to Policy 1.1.4, titled Non-Retaliation, in the City Policy Manual.

C 1745

RETALIATION:

Added 08-01-07

The Department values input regarding its Department members and their performance. Department members shall not interfere in any way with the complaint process or with any person's ability to raise concerns regarding alleged misconduct and/or violations of SJPD/City policy, or local, State or Federal law. Retaliation against any party to a complaint made to the Department, IA or the Independent Police Auditor (IPA) is prohibited. No Department member shall directly or indirectly intimidate, threaten, coerce, direct or influence any person with the intent of interfering with that person's right to disclose alleged misconduct violations. The Department will not tolerate retaliation and will take immediate disciplinary action against any member in violation of this policy.



C 1800 – DISCIPLINE:

Revised 07-18-08

The Department has a responsibility to its members and the community to seek out and discipline those whose conduct discredits the Department or impairs its effective operation. The purpose of discipline is to set a Department standard of conduct for department members and to correct an employee's behavior. Discipline has as its immediate purpose, the channeling of individual effort into effective and productive action. It may involve encouragement, inspiration, training or the imposition of negative sanctions. Negative sanctions administered internally may range from a warning where the immediate effect is on the individual, to termination where the positive result is the reassurance to other employees of the unacceptable limits of misconduct. Policies, procedures, rules, regulations and written or oral directives are promulgated as guidelines to acceptable and desired objectives. When violations of such directives occur, department members are subject to disciplinary action.

PROCEDURE

C 1801 GENERAL PROVISIONS - NATURE OF DISCIPLINE:

Revised 07-18-08

A well-disciplined police department is a department whose members voluntarily conform to all department policies, procedures and rules. It follows that the best disciplined department is least in need of corrective action. Nevertheless, a violation of the Department's policies, procedures and rules, or of the law, requires disciplinary action.

Discipline may be instruction or counseling which modifies the behavior of an individual or may be punishment. However, the use of punishment as a disciplinary technique is resorted to only when other forms of discipline have failed or the gravity of the violation dictates its use for the good of the Department.

C 1802 GENERAL CONDUCT SUBJECT TO DISCIPLINARY ACTION:

Revised 07-18-08

Any member or employee of the San Jose Police Department whose personal actions reflect against the reputation of the Police Department or the City of San Jose commits an offense punishable under the laws or statutes of the United States, the state or local ordinances, violates any provision of the rules and regulations of the Department, disobeys any lawful order or is incompetent to perform assigned duties is subject to appropriate disciplinary action.

C 1803 SPECIFIC CONDUCT SUBJECT TO DISCIPLINARY ACTION:

Revised 07-18-08

In concert with civil service rules, a Department member may be made the subject of disciplinary action whenever a member's conduct warrants.

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Examples of conduct which may result in disciplinary action include, but are not limited to, the following:

- The commission of a crime.
- Use of intoxicants in violation of the rules and regulations of this manual.
- Illegal use of narcotics or drugs.
- Willful neglect of duty.
- Willful disobedience of orders.
- Absent from duty without leave.
- Conduct unbecoming an employee.
- Use of unreasonable and unnecessary force.
- Sleeping on duty.
- Accepting or soliciting a bribe.
- Soliciting gratuities.
- Use of police badge, uniform, business card or identification card for personal gain.
- Aiding and abetting a prisoner to escape.
- Appropriating for one's own use any property, evidence or items received in the course of duty.
- Falsification of reports, official records or communications.
- Divulging confidential information that may be detrimental to an investigation or another person without first obtaining consent from a supervisor.
- Feigning sickness or injury to escape duty.
- Willful rough and careless handling of City property.
- Acts of discrimination based on race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual preference, medical condition or handicap.
- Operating an assigned motor vehicle in an unsafe manner or in disregard of the rules of the road or contrary to departmental procedures.
- Failure to supervise.

C 1804 DISCIPLINARY ACTIONS AVAILABLE:

Revised 01-28-10

When corrective action is indicated by the finding, one or more of the following actions may be taken by the Chief of Police subject to the provisions of the Charter of the City of San Jose, rules of the Civil Service Commission and, when necessary, the approval of the City Manager:

- Training
- Informal Counseling
- Documented Oral Counseling

- Written reprimand
- Disciplinary transfer
- Suspension
- Demotion
- Dismissal from the Department
- Other appropriate disciplinary action that the Chief of Police deems appropriate.

C 1805 DOCUMENTED ORAL COUNSELING:
Revised 11-07-13

A Documented Oral Counseling (DOC) is a written confirmation of verbal notification that performance or behavior needs improvement and a warning of potential future discipline if there is no improvement. Generally, counseling is administered by the first line supervisor and subsequently documented in a memo to the employee. The memo should document the discussion and the improvement expected in the employee's conduct or performance. The memo should be given to the employee and a copy will be forwarded through the Chain of Command to the Internal Affairs Unit (IA). The DOC will not go into the employee's permanent personnel file. However, the employee's supervisor should note the date and subject of discussion for future reference and the underlying conduct should be noted in the employee's performance appraisal for that rating period.

For Sworn Personnel - the DOC is a part of the IA file and will be retained in accordance with the City and Department Records Retention Schedules.

For Professional Staff - the DOC will be routed to the Bureau of Administration Deputy Chief by the IA Unit. After one year, if the problem has not recurred, the memo shall be removed from the BOA Deputy Chief's file and destroyed.

C 1806 WRITTEN REPRIMAND:
Revised 07-18-08

A written reprimand is formal discipline and shall be included in an employee's IA file and Department member's folder.

C 1807 NOTICE OF SUSPENSION, DEMOTION, DISMISSAL:
Revised 07-18-08

A notice of suspension, demotion or dismissal shall be included in an employee's IA file and Department member's folder.

C 1808 DEPARTMENTAL AUTHORITY FOR DISCIPLINARY ACTION:
Revised 07-18-08

Final departmental disciplinary authority and responsibility rests with the Chief of Police. Supervisory Department members may administer one or more of the following:

- Training

- Informal Counseling
- Documented Oral Counseling
- Written recommendations for other disciplinary actions

C 1809 **INFORMING THE PERSON OF THE DISCIPLINARY ACTION:**

Revised 07-18-08

The employee being disciplined is informed of the charges and penalties assigned at the time such action is taken. Prior to the imposition of any discipline resulting in a written reprimand, suspension, demotion or dismissal, the Internal Affairs Unit Commander, or delegate, will review with the employee the results of the investigation of the incident(s), the charges and the discipline being recommended. The employee is advised at that time of their right to present new material or to appeal the discipline prior to its imposition at a meeting with the Chief of Police or his delegate. In cases of a written reprimand, suspension, demotion or dismissal, the Chief of Police or designate will provide the employee with a formal notice of intent to discipline.

C 1810 **APPEALS FROM PENALTIES:**

Revised 07-18-08

Appeals from penalties imposed as disciplinary measures may be taken as provided in the Charter of the City of San Jose and in accordance with the Civil Service rules. Reserve officers are volunteers who are not employees of the Department. Therefore, this provision does not apply to volunteer members of the Police Reserve.

C 1811 **ENDORSEMENT AND FORWARDING OF DISCIPLINARY REPORTS:**

Each level in the chain of command must comment on and forward reports on disciplinary matters received. Such endorsement may be one of approval, disapproval or recommendation for modification. No employee will alter or cause to be altered facts or elements in the disciplinary report. However, as the investigative report package continues through the Department member's chain of command, additional factual information may arise. In this case, the Department supervisor or command officer who obtains or has knowledge of this additional factual information shall document the information on a memorandum and include it in the package. The inclusion of the information shall be highlighted on the Department transmittal form. Disciplinary reports in transit through the chain of command will not be delayed but must be reviewed, commented on and forwarded as soon as possible to the Office of the Chief of Police.

C 1812 **USE OF COUNSELING AND TRAINING:**

Conduct Complaint investigations which result in a finding of "Exonerated" or "Not-Sustained" does not relieve Department supervisors or commanders from the responsibility of counseling or training subordinate Department members who demonstrate problems of knowledge, judgment or common sense.

C 1813 **NON-DISCIPLINARY EMERGENCY RELIEF FROM DUTY:**

In those instances where emergency release from duty is believed necessary, commanding officers will adhere to the procedures contained in Duty Manual section S 2707 - NON-DISCIPLINARY EMERGENCY RELIEF FROM DUTY.

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C 1814**EMERGENCY INTER-DIVISIONAL NON-DISCIPLINARY ACTION:**

When the improper conduct of a member of one unit is of such a nature that immediate or emergency action is required of a commanding or supervisory officer of another unit, such action may be taken at once within the following limitation:

When such action is taken, the commanding or supervisory member imposing the action will notify both chains of command without delay. When the conduct is such that the commanding or supervisory member believes that other measures are required, such supervisor will submit a memorandum to the member's chain of command detailing the conduct.



C 1900 – SUPPLYING INFORMATION DEPARTMENT OPERATIONS:

Due to public expectations and because of their accessibility, an officer is frequently asked to supply information related or unrelated to the law enforcement function. An officer should appropriately answer such questions, or refer the person to the proper individual or agency. When a request concerns police matters, officers should decide if they are qualified to respond and if the person making the request is a proper person to receive the information. Generally, officers should be open in their dealings with the public and supply requested information. However, officers should be cautious to avoid representing their opinion as fact.

PROCEDURE

C 1901 INFORMATION CONCERNING DEPARTMENT OPERATIONS:

The supplying of operational information is conducted so that only information which is authorized is released. To ensure that only authorized information is released, the following procedures are established.

C 1902 NEWS MEDIA ACCESS TO POLICE INFORMATION:

Revised 07-02-15

In order to foster an atmosphere of mutual trust, cooperation and respect between the news media and the police, as well as reinforce their shared objective of serving the community, the following procedures are established.

- All employees of the Department will cooperate as completely as possible with members of the news media, consistent with departmental policies and procedures.
- Department members with specific information may make that information available to the media within the provisions of Duty Manual section C 1912 - PROHIBITED RELEASE.
- Because of the number of media contacts available, Department members shall consult with the Media Relations Unit for assistance and coordination in selecting the proper media channels in which to distribute information.
- The news media's competitive responsibilities to avail themselves of the various police resources are recognized. However, the news media is expected to recognize legal restraints upon the Police Department in the release of the information. Cases which may have some legal restrictions are referred to the Media Relations Unit.
- It is anticipated that media representatives will maintain close contact with supervising officers in order to ensure comprehensive information.

C 1903 SOURCES FOR INFORMATION:

Revised 04-09-24

The Department recognizes the mutual need for immediately releasable information in all cases of crimes or incidents of material importance or concern to the news media, notably those involving arrest and incarceration.

The Media Relations Unit was established in the Office of the Chief of Police to act as liaison between the Department and the media. Media requests should be coordinated through the Public Information Officer (PIO). Pursuant to Duty Manual section C 2202 - DESIGNATED DEPARTMENT PUBLIC RECORDS ACT COORDINATOR - ADVICE FROM CITY ATTORNEY, the PIO shall coordinate requests for records with the Commander of the Research and Development Unit, Office of the Chief. During non-operational hours of the PIO office (primarily after 5:30 p.m. weekdays, Saturdays and Sundays), the following protocol will be adhered to by Department members in reference to inquiries about "in-progress" events from the media:

Instruct members of the media to contact the Media Relations Unit at SJPDMediaRelations@sanjoseca.gov. When the area Commander deems necessary, or receives several inquiries into the same incident, they will notify the on-call PIO in order to post a social media update to the ongoing event. When deemed appropriate by the Media Relations Unit Commander, the responsible investigative unit, in coordination with the Media Relations Unit, will prepare a press release for public disclosure. It is also expected that the area Commander, or their designee, will provide "on-scene" media members with a basic interview (verbal or video) about the known details of the incident within the provisions of Duty Manual section C 1904 - INFORMATION RELEASE CRITERIA. This does not preclude on-scene Department members from requesting assistance, to include response to the scene, from Media Relations Unit members.

The assigned investigative unit, after consultation and agreement by the Chief of Police, has final authority in determining what information is released in reference to a specific "on-going" investigation. Media requests regarding on-going investigations shall be referred to the Deputy Chief of the Bureau of Investigations or the on-duty Commander of the appropriate investigative unit. On Saturdays and Sundays and other than business hours, refer requests for information to the on-duty Commander of the Bureau of Field Operations. The Department's PIO is on call through Communications seven days a week and is available to Department members for coordination of media releases or response to major incidents such as officer-involved shootings and homicides.

RELEASE OF OTHER TYPES OF INFORMATION: All other types of information to be released to the public will be coordinated through the Media Relations Unit and the Commander of the Research and Development Unit, during normal business hours, prior to being referred to the appropriate unit for response. Examples of these types of information are as follows:

- Department policy
- Statistical, budgetary and departmental planning, recruitment, training and personnel
- Major crimes and narcotics
- Gambling, prostitution and pornography.

FIELD OPERATIONS: Information regarding major accidents, crimes or activities in progress should be obtained from the area Commander of the division of occurrence or his designee. Officers who are contacted by the media at the scene of an "in-progress" event should direct

them to a supervisor or area commander. Field command officers are responsible for ensuring that a BFO Info Report is completed on major field events such as fatal traffic accidents or hostage/barricade situations for the Media Relations Unit to create a press release when appropriate.

C 1904 INFORMATION RELEASE CRITERIA

Revised 07-02-15

The information released should, to the extent available, include all the information the Department is required to release pursuant to Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE. Names of minors who have been arrested or detained who are subject to the Juvenile Court's dependency or ward jurisdiction, or who are the victim in a criminal investigation under the Child Abuse and Neglect Reporting Act, are not to be released, per Duty Manual section C 2208 - INFORMATION OR RECORDS EXEMPTED OR PRIVILEGED FROM DISCLOSURE UNDER OTHER LAW.

The press should be told that the case is currently under investigation and that more complete information may be obtained from the Media Relations Unit or the Deputy Chief of the Bureau of Investigations during normal business hours.

The following are guidelines for dealing with the press at the scene of major accidents, crimes or activities in progress:

Cooperate with the press, releasing only the following information:

- WHAT: Do give a brief, accurate account of what is happening or has happened.
- WHERE: Do provide this information.
- WHEN: Do provide this information, but only if you know it is accurate.

Information that should not be released:

- WHY: Do not provide this information.
- WHO: Do not provide names of suspects who have not been arrested except as permitted by law with the approval of the Chief of Police or Assistant Chief of Police. Names of victims should be provided in accordance with Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254.

C 1905 AUDIO, VIDEO AND PHOTOGRAPHIC RECORDINGS:

Revised 12-31-21

Department members will not interfere with members of the public and the media who take audio, video, and photographic recordings in areas to which they normally have access.

This section also applies to disasters, First Amendment activities, and crime scenes. Refer to Duty Manual chapter L 2300 – FIRST AMENDMENT ACTIVITIES AND CIVIL DISTURBANCES for additional information.

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C 1906 INQUIRIES ABOUT OPERATIONAL POLICY:

Revised 07-02-15

All news releases and responses to Public Records Act requests pertaining to operational Department, bureau, division or unit policy and procedure will be coordinated through the Commander of the Research and Development Unit. Individual Department members receiving such inquiries will refer the representative to the Media Relations Unit, who will coordinate a response with the Commander of the Research and Development Unit.

C 1907 CRITICISM OF CRIMINAL JUSTICE SYSTEM:

Department members should be aware of the effects of comments made that might be interpreted as being critical of other law enforcement agencies or individual members of the judiciary. However, this is not intended to be any infringement upon a department member's right to express personal views on issues of public concern regarding the criminal justice system in general or any trends which seem destructive to its efficacy.

C 1908 RELATION TO THE COURTS:

Department members should regard themselves as officers of the court, assisting the fair and impartial administration of law. Members will treat the courts and court officers with respect, realizing that such is necessary to the maintenance of our system of due process guarantees. The right to public and private disagreement with the courts, not otherwise prohibited, will be preserved.

C 1909 COOPERATION WITH OTHER LAW ENFORCEMENT AGENCIES:

The Department maintains a close working relationship with other law enforcement or law enforcement related agencies and makes available information concerning techniques and procedures developed or used by the Department. The Department, when possible, will disseminate to interested, outside agencies the documentation of research projects, experiments or programs implemented by the San Jose Police Department.

C 1910 SECTION ELIMINATED 12/17/08

C 1911 PUBLIC RECORDS AND INFORMATION REQUESTS:

Revised 12-17-08

Refer to the City and Department policy on compliance with the California Public Records Act as set out in Chapter 6.1.1 of the City Policy Manual and in Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT.

C 1912 PROHIBITED RELEASE:

Revised 05-29-17

The following is a short summary of information and records that will not be released except as authorized under Duty Manual section C 2000 - OBTAINING CRIMINAL RECORDS / INFORMATION, Duty Manual section C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS, and Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT:

- Safety of Person/Investigation - Disclosure of information which would endanger the

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safety of a person or persons involved or related to the investigation, or endangers the successful completion of an investigation or a related investigation. (See Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254 subsection D.2.)

- Do not speculate or offer an opinion as to why something occurred. If the information requested cannot be verified, it should not be released. Any time a request for information is denied, the requestor should be told the reason why.
- Names of minors who have been arrested or detained who are subject to the Juvenile Court's dependency or ward jurisdiction, or who are the victim in a criminal investigation under the Child Abuse and Neglect Reporting Act, are not to be released, per Duty Manual section C 2208 - INFORMATION AND RECORDS EXEMPTED OR PRIVILEGED FROM DISCLOSURE UNDER OTHER LAW. More generally, see Duty Manual section C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS.
- Records of complaints to and investigations by the Department, including but not limited to Form 2's, Supplementary Reports (F-3) and any other report connected with a complaint or an investigation. See Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE.
- Juvenile records, and Child Abuse and Neglect Reporting Act Investigation Records. See generally Duty Manual section C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS.
- Field tactics, criminal Intelligence records and records of security procedures. See Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE.
- Criminal History Records. See Duty Manual section C 2000 - OBTAINING CRIMINAL RECORDS/INFORMATION.
- Photographs of "wanted" persons or individuals in custody are discretionary and need not be released unless authorized by the Office of the Chief of Police or by the Unit to which the case is assigned.
- In accordance with Penal Code Section 293 and California Government Code Section 6254, victims of family violence related incidents (273a, 273d, 273.5), hate crimes (422.6, 422.7, 422.75), sex offenses (220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 647.6), and stalking (646.9) shall not have their names disclosed when they request confidentiality. The addresses of the victims of the aforementioned crimes shall remain confidential without a request for confidentiality.
- In accordance with Penal Code Section 293 and Government Code Section 6254, trafficking victims, as defined in Penal Code Section 236.1, and the victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, shall not have their names and images disclosed until after the investigation or any subsequent prosecution is complete when the victim requests confidentiality. The addresses of the victim and victim's immediate family will remain confidential permanently. (Refer to Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254 for a definition of "immediate family," as well

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as a list of persons and public agencies authorized or required by law to receive this information.)



C 2000 - OBTAINING CRIMINAL RECORDS / INFORMATION:

Department members are frequently asked to supply information to other agencies and individuals. The San Jose Police Department authorizes only specific Department members to release information, and only then to qualified agencies or individuals. To aid Department members in determining who may release or receive information, detailed procedures are maintained which reflect current law and thereby protect the public, the City and Department from unauthorized release of criminal record information.

PROCEDURE

C 2001 RELEASE OF CRIMINAL RECORDS INFORMATION:

Revised 12-17-08

The following procedures are established and are adhered to by all Department members. Information contained in criminal history records and crime/incident reports may not be released except as authorized by law or Department procedures.

C 2002 DEFINITIONS PERTAINING TO CRIMINAL RECORDS INFORMATION:

Revised 12-17-08

The following definitions are established:

CRIMINAL OFFENDER RECORD INFORMATION (CORI): Means records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation and release. Such information shall be restricted to that which is recorded as the result of an arrest, detention or other initiation of criminal proceedings or any consequent proceedings related thereto (California Penal Code Sections 11075 and 13102).

CORI does not include intelligence, analytical and investigative reports and files; statistical records and reports in which individuals are not identified or ascertainable. (California Penal Code Section 13102)

CORI consists of State and Local Summary Criminal History Information:

STATE SUMMARY CRIMINAL HISTORY INFORMATION (STATE CORI): State CORI is defined as the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, including, but not limited to, dates of arrest, arresting agencies, dispositions and similar data about the person. (California Penal Code Section 11105(a) (2) (A)).

State Summary Criminal History Information does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security

procedures of the office of the Attorney General and the Department of Justice (11105(a)(2)(B))

LOCAL SUMMARY CRIMINAL HISTORY INFORMATION (LOCAL CORI): Local CORI is defined as the master record of information compiled by any local criminal justice agency pertaining to the identification and criminal history of any person including, but not limited to, dates of arrest, arresting agencies, dispositions, etc. (California Penal Code Section 13300(a)(1)).

Local Summary Criminal History Information does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency (California Penal Code Section 13300(a) (2)).

CRIMINAL JUSTICE INFORMATION CONTROL (CJIC): CJIC is a Santa Clara Countywide "Local" CORI database.

SAN JOSE POLICE RECORDS MANAGEMENT SYSTEM (RMS) AND COMPUTER AIDED DISPATCH RECORDS: RMS is a database containing information on all crime and incident reports filed by the members of the San Jose Police Department. Under Penal Code Section 13300(a)(2), RMS data is not considered CORI since it consists of records of requests for service and complaints received by the Department and investigations conducted by the Department. Similarly, the records generated by the Department's Computer Aided Dispatch (CAD) System generally consist of records of requests for service and complaints received by the Department and the initial police response and investigation conducted by the Department.

DATE SPECIFIC, SINGLE-INCIDENT INFORMATION: A query run for incident information in RMS or CAD for specific dates and/or locations is not considered CORI.

CRIME/INCIDENT REPORT: Means any record of a complaint or request for assistance received by the Department and any response or investigation conducted by this Department or any other criminal justice agency. These records include crime reports, supplementary reports, property reports, minor incident reports, accident reports and any other record of information concerning a particular investigation.

Crime/Incident reports are not considered CORI. The procedures for releasing these reports are covered under separate statutes, including the Public Records Act and Department policy. Generally, see Duty Manual section C 2200.

Current arrest information and information on complaints or requests for assistance received by the Department and the Department's response thereto are not included within the definition of CORI and must be released under provisions of the Public Records Act (California Government Code section 6254(f) (1) and (2)); generally see Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT.

C 2002.1 DEFINITIONS PERTAINING TO SENSITIVE CONTROLLED INFORMATION (SCI):
Added 10-22-15

SENSITIVE CONTROLLED INFORMATION (SCI): Sensitive Controlled Information is data or information, accessible specifically as a result of employment with the Department, that requires strict controls over its distribution and access to safeguard the privacy or security of an investigation, an individual, or the Department.

DEPARTMENT OF MOTOR VEHICLES RECORDS (DMV): Any record, image, report or query results obtained from any state or national Department of Motor Vehicles database.

CALGANG: A database operated by the California Department of Justice (DOJ), Bureau of Investigation, Division of Criminal Justice Information Services to electronically share information on criminal street gangs and gang members via a statewide automated Intranet.

WSIN (Western States Information Network): Criminal intelligence information, for law enforcement investigations being conducted in Alaska, California, Hawaii, Oregon, and Washington.

NCRIC: Northern California Regional Intelligence Center information.

ANY POLICE DEPARTMENT OR CITY MANAGED RECORDS SYSTEM: Any Department or City managed data obtained through manual or electronic means including rosters, lists, license holders, applicants, certifications, citations, or personnel records. Examples include data within the Permits Unit, Personnel Unit, Gaming Control, Internal Affairs, Research and Development, or Secondary Employment.

ANY OTHER LAW ENFORCEMENT RELATED TECHNOLOGY DATABASE: Any other law enforcement related technology, both present and future, capable of obtaining, collating, or analyzing data relevant to the investigative and operational needs of the Department. Examples include: COPLINK, ALPR, I/A PRO, CRIMEVIEW DASHBOARD, and EVIDENCE.COM.

C 2003

AUTHORIZED RECEIVERS:

Revised 12-17-08

CORI - NEED TO KNOW / RIGHT TO KNOW

To obtain access to, receive and use and disseminate CORI, a person or agency must show a need to know and a right to know the information being sought.

WHO MAY ACCESS AND RECEIVE CORI (RIGHT TO KNOW):

California Penal Code Sections 11105(b) and 13300(b) identify those persons and agencies that have a statutory "right to know" criminal history information. The following list of persons and agencies authorized by statute to receive CORI is not exhaustive, and reference must be made to authorizing statutes (Penal Code Sections 11105, 13300) to determine if a person or agency not listed below is authorized to receive CORI:

- The courts of the state
- Peace officers (see limitations on specific peace officers under PC 11105(b)(2) and 13300(b)(2))

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- District Attorneys
- Prosecuting City Attorneys of any city within the state
- City attorneys pursuing civil gang injunctions pursuant to PC Section 186.22a, or drug abatement actions pursuant to Civil Code Sections 3479 or 3480 or Health And Safety Code Section 11571
- Probation officers of the state
- County child welfare agency personnel (for purposes specified in 16502.5 W&I)
- A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Penal Code Section 4852.08
- A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized, access by statutory or decisional law
- Any city or county, city and county, district or any officer or official thereof, if access is needed in order to assist that agency, officer or official in fulfilling employment, certification or licensing duties, and if access is specifically authorized by the city council, board of supervisors, governing board of the city, county or district, if the criminal history information is required to implement a statute, ordinance or regulation that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation
- The subject of the summary criminal history information under procedures established under Penal Code Sections 11120 – 11127, 13320 – 13325.

For certain categories of statutorily authorized receivers listed above, there are established procedures established by statute that OSSD uses for obtaining authorized access to CORI. For example, OSSD will provide a person seeking review of their own state CORI with a DOJ authorized form to complete in order to review the content of their State Summary Criminal History record. With respect to CORI requests from private criminal defense attorneys or attorneys employed by the Public Defender on behalf of a criminal defendant, OSSD will refer the attorney to the District Attorney's Office, which will respond as required under the criminal discovery statute.

WHEN AUTHORIZED PERSONS MAY OBTAIN CORI - STATE SUMMARY AND LOCAL SUMMARY CRIMINAL HISTORY INFORMATION (NEED TO KNOW):

Receivers must not only show that they are listed as a person or agency that is statutorily authorized to receive CORI ("right to know"), the receiver must also demonstrate that the specific CORI information is needed within the course and scope of the authorized receiver's official duties ("need to know") (Penal Code Sections 11105(b) and 13300(b)).

CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATION SYSTEM (CLETS) POLICY ON "NEED TO KNOW" AND "RIGHT TO KNOW": Department members shall follow the

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requirements of the California Department of Justice CLETS Policy, Practices and Procedures (PPP) Manual Sections 1.5.3 and 1.6, “need to know” and “right to know” in the Release of CLETS information.

REQUIREMENT TO DISCLOSE NEED TO KNOW/RIGHT TO KNOW: Department members shall follow the requirements of the California Department of Justice CLETS Policy and Santa Clara County CJIC Policy, both of which require identification of the person requesting CORI and a notation of the need for this information.

- This requirement shall be met by indicating the badge number of the person requesting the information and the case number in the appropriate query field (Refer also to Duty Manual section C 2008).

CRIME/INCIDENT REPORTS

Public Release and Release to Crime Victims: With respect to release of records of complaints and requests for service received by the Department and investigations or information contained in those records, including crime, incident and arrest reports and any other report related to an investigation to a member of the media or public pursuant to the Public Records Act, including release to a crime victim, see generally Duty Manual section C 2200 -THE CALIFORNIA PUBLIC RECORDS ACT, and specifically sections Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254 through Duty Manual section C 2208 - INFORMATION AND RECORDS EXEMPTED OR PRIVILEGED FROM DISCLOSURE UNDER OTHER LAW. With respect to juvenile records, see Duty Manual section C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS.

C 2003.1 AUTHORIZED RECEIVERS OF SENSITIVE CONTROLLED INFORMATION (SCI):
Added 10-22-15

SENSITIVE CONTROLLED INFORMATION (SCI) - NEED TO KNOW / RIGHT TO KNOW

To obtain access to, receive, use or disseminate Sensitive Controlled Information, a person or agency must show a need to know and a right to know the information being sought.

C 2004 AUTHORIZED SUPPLIERS:
Revised 04-17-13

Crime/Incident report information and/or CORI are released in accordance with statutes, current case law and Department policy. CORI and crime/incident reports shall only be released by Department members who are authorized suppliers. Authorized suppliers are the following Department members:

OPERATIONS SUPPORT SERVICES DIVISION (OSSD):

The Operations Support Services Division has general responsibility for releasing CORI and crime/incident reports to both internal and external receivers. Specifically, OSSD is:

- Responsible for the release of information related to and/or the coordination of Public Records Act (PRA) requests with the Commander of the Research and Development Unit.
- Generates logs related to crime and current arrest information as required by the Public Records Act.
- Responsible for the release of crime/incident report information to victims and/or their authorized representative in accordance with statute, case law and Department Policy.
- Generally responsible for conducting queries and releasing CORI to the members of the San Jose Police Department and other authorized receivers.
- Responsible for the release of local CORI to law enforcement requestors for license, concessionaire and employment background checks.
 - When such requests are made without fingerprints or other forms of positive verification of identity, then any criminal history data will so specify and will include a disclaimer. The disclaimer will state that the San Jose Police Department does not authenticate the true identity of the subject for whom the history was requested.
 - NOTE: Per CLETS PPP 1.6.1 C. 2. CLETS may not be used to obtain state criminal offender history information for licensing, certification or employment purposes, including pre-employment background investigations for sworn peace officers and/or law enforcement employees. Refer to CLETS PPP for exceptions.

RESEARCH AND DEVELOPMENT UNIT:

The Research and Development Unit is charged with ensuring the Department's compliance with the Public Records Act (PRA) and City and Department Public Records Policy. CORI is exempt from public disclosure under the PRA. Refer to Duty Manual section C 2208 - INFORMATION AND RECORDS EXEMPTED OR PRIVILEGED FROM DISCLOSURE UNDER OTHER LAW for specific information related to PRA requests for information that is made confidential or privileged under statutory law.

OTHER PERSONNEL INVOLVED IN INVESTIGATIONS AND/OR COURT LIAISON DUTIES:

In addition to OSSD members, Department members assigned to the BOI Court Liaison Unit and Department members involved in criminal investigations (both BOI and Communications members) may release CORI and crime/incident report information to persons or agencies authorized to receive such information when the information is needed in the course and scope of their official duties. Any other request for CORI or crime/incident report information should be treated as a Public Records Act request and the request should be subject to the policies and procedures under Duty Manual section C 2200 - RELEASE OF RECORDS AND INFORMATION.

When CORI is used as the basis for an adverse decision related to employment, licensing or certification, a copy of the CA DOJ CORI document will be provided to the subject of the

decision. The copy will be included with the notice of adverse employment, licensing, or certification decision if notice is made by mail or will be personally handed to the person if the notification is made in person. CORI will continue to be obtained through the AFIS live scan fingerprint identification process. In addition to the aforementioned units and personnel that are authorized to release CORI, Department members who work in units that are part of the Office of the Chief (including but not limited to the Permits/Secondary Employment and the Division of Gaming Control) that issue employment, licensing, or certification decisions may release CORI information as part of the notice of adverse employment, licensing, or certification decision.

The term "licensing" as used in subdivision (a) of Penal Code Section 11105.2 and in this section of the Duty Manual includes permits issued pursuant to state law or the San Jose Municipal Code.

RELEASE BY OTHERS:

The release of crime/incident reports and CORI by other Department members is prohibited except for members specifically assigned that function by the Chief of Police, Assistant Chief of Police or the Operations Manager of the OSSD.

C 2005

OTHER PROVISIONS:

Revised 12-17-08

Public Statistical Information from CORI, RMS, and CAD: State law allows for the creation and public dissemination of statistical information from CORI provided that the identity of the subject of the record is not disclosed (Penal Code Sections 11105(g), 13300(h) and 13202). State law allows the Department the discretion to provide a public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice or the custody or correction of offenders with such CORI as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed or used for other than research or statistical activities and reports or publications derived from CORI do not identify specific individuals.

- Requests to access state CORI for creation of statistical documents are referred to the California Department of Justice.
- Requests for other agencies' criminal data contained in CJIC are referred to the agency originating the record.
- The release of crime/incident report, RMS and/or CAD data for statistical purposes under this section shall be handled as a Public Records Act request.
 - Statistical information for public dissemination drawn from CAD and RMS computer databases or from crime/incident reports shall be prepared at the direction of the Office of the Chief of Police. The work is performed by the Research and Development Unit Crime Analysis Detail or as otherwise directed by the Office of the Chief of Police.

C 2006 REPLY TO UNAUTHORIZED PERSONS OR AGENCIES:

Revised 12-17-08

When a request for the release of information contained in criminal history records or case reports is received, and the requester is not an authorized receiver, OSSD or Research and Development, (R&D) will respond with a letter advising the requestor of the denial and the specific reason for the denial of the request. Please see generally Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT for Department policy on compliance with the Public Records Act.

C 2007 DISCUSSING CRIMINAL RECORD OR CASE REPORT INFORMATION:

Revised 12-17-08

CORI and crime/incident reports shall only be discussed by Department members as needed within the course and scope of their official duties.

C 2008 RECORDING RELEASE:

Revised 12-17-08

When releasing CORI, Department members authorized to supply the information will adhere to the following procedures:

- Record the badge number of the person making the request and the case number associated with the request in the appropriate field in the query window.
- Any criminal history or copy which is released to any person or agency will have stamped on its face a statement reading "CONFIDENTIAL - For Official Use Only Do Not Duplicate" together with the name of the recipient, date of release and the name or identification number of the person releasing the information.

When releasing crime/incident reports:

- It is not mandatory to record the release of case reports or information received from case reports, except as required pursuant to City and Department policy on release of records and information under the California Public Records Act, Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT. Any case report which is released to any person not a member of the San Jose Police Department will have, on its face, a statement noting the name of the person to whom the document was released, and the name or identification number of the person releasing the information.

C 2008.1 RECORDING RELEASE OF SENSITIVE CONTROLLED INFORMATION (SCI):

Added 10-22-15

When releasing Sensitive Controlled Information (SCI), Department members authorized to supply the information will adhere to the following procedures:

- Record the badge number of the person making the request and the case number associated with the request in the appropriate field on the electronic or written SCI request.

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- Any report, image, or copy which is released to any person or agency will have stamped on its face a statement reading "CONFIDENTIAL - For Official Use Only Do Not Duplicate" together with the name of the recipient, date of release and the name or identification number of the person releasing the information. If a copy of a record is disclosed to a member of the public under the California Public Records Act, the copy is not required to have the above warning statement stamped on the face of the copy.

Department members assigned to OSSD, BOI, Research and Development, Media Relations Unit, Court Liaison Unit (CLU), and Department members involved in criminal investigations (both BOI and Communications members) may release SCI to persons or agencies authorized to receive such information when the information is needed in the course and scope of their official duties. Department members releasing SCI to authorized recipients are not required to record the release of the SCI.

C 2009 CURRENT PRINTOUTS:

Revised 12-17-08

Whenever it is necessary to release a printout of CORI, a new printout is generated. Prior printouts or copies of printouts are not released to ensure the most current and accurate record is supplied.

C 2010 CORI AUDITS:

Revised 12-17-08

Department of Justice CLETS and CJIC policies and procedures require that CORI obtained from any terminal in the Department be tracked via an automatically generated audit record. The transaction will include:

- The date and time the information was released.
- The name and identification number of the person releasing the information.
- The name, identification number and agency of the recipient of the information.
- The nature of the information released.

In addition to the CORI transactions, CJIC has the ability to audit the use of all information retrieved from its database.

The Operations Support Services Division is assigned the responsibility of conducting records audits in conjunction with the Department of Justice (DOJ), the National Crime Information and Identification Center (NCIC), and CJIC.

The Operations Support Services Division Manager is responsible for coordinating requests for audits for investigations of suspected misuse of CLETS and CJIC data systems by Department members.

The Operations Support Services Division Manager is also required by Department of Justice CLETS and County CJIC policies to report investigations of suspected misuse and to advise the Department of Justice or County CJIC of the results of the investigation.

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C 2011 PENALTIES FOR MISUSE:*Revised 10-22-15*

Misuse of CORI - Department members who knowingly furnish CORI records or information derived from such records to unauthorized persons (persons who do not have a need to know and right to know) are in violation of this Policy and the California Penal Code and may be subject to criminal prosecution and/or departmental discipline. It is the responsibility of each member of this Department who has access to, the use of, or receives criminal history information to exercise due care and caution in safeguarding that information so that it does not come into the possession of unauthorized individuals and it is not used for unauthorized purposes. The following is a non-exhaustive list of some of the criminal statutes related to unauthorized possession, furnishing and use of CORI.

State CORI - The criminal statutes defining the misdemeanor crime of unlawful furnishing of state CORI are set out in Penal Code Sections 11140 - 11144:

- It is a misdemeanor for a Department employee who is authorized by law to receive a record or information obtained from a record to knowingly furnish the record or information to a person who is not authorized by law to receive the record or information (PC 11142).
- It is a misdemeanor for any person, except those specifically referred to in Evidence Code Section 11143, who, knowing he is not authorized by law to receive a record or information obtained from a record, to knowingly buy, receive or possess the record or information (PC 11143).

It is not a violation of the above Penal Code sections to:

- Disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed (PC 11144(a)).
- Disseminate information obtained from a record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime (PC 11144(b)).
- Include information obtained from a record in (1) a transcript of a record of a judicial or administrative proceeding, or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute or decisional law.

Local CORI - The criminal statutes defining the misdemeanor crime of unlawful furnishing of local CORI are set out in Penal Code Sections 13301 – 13305:

- It is a misdemeanor for an employee of a local criminal justice agency who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information (PC 13302).
- It is a misdemeanor for any person authorized by law to receive a record or information obtained from a record to knowingly furnish the record or information to a person who is not authorized by law to receive the record or information (PC 13303).
- It is unlawful for any person, except those specifically referred to in Evidence Code Section 11143, who, knowing he is not authorized by law to receive a record or information obtained from a record, to knowingly buy, receive or possess the record

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or information (PC 11143).

- The exclusions from criminal liability in Penal Code Section 13305 are identical to the exclusions set out in Penal Code Section 11144, above.

Misuse of Sensitive Controlled Information (SCI):

Department members who knowingly access, receive or disseminate information from any criminal justice file, or Department records system containing Sensitive Controlled Information in violation of the requirements of this chapter are subject to discipline for violation of this policy. The criminal justice files and Department records systems containing SCI include the following:

- Crime/Incident Reports, San Jose Police Records Management System (RMS).
- Automated Field Reporting (AFR).
- Department of Motor Vehicles (DMV).
- Automated Information System (AIS), Computer Aided Dispatch. (CAD/CADMINE).
- COPLINK (A secure web-based data sharing platform for law enforcement).
- Automated License Plate Reader (ALPR).
- TLOxp (Proprietary data fusion subscription service).
- CALGANG (Department of Justice gang member database).
- WSIN (U.S. DOJ regional information sharing system).
- NCRIC (Northern California regional intelligence center database).
- Any Police Department or City of San Jose managed records system, file, or database.
- Any other law enforcement related technology or manually stored database or record system.



C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS:

Revised 12-17-08

Juvenile records are confidential under state law, and access, use and disclosure of the records and information contained in them is strictly regulated by statute, the California Rules of Court and decisional law. Likewise, specified records of child abuse and neglect investigations and reporting party identification information that come under the requirements of the Child Abuse and Neglect Reporting Act are confidential and can be disclosed only in strict compliance with the requirements of the Act. The policy of this Chapter is to strictly limit access, use and disclosure of juvenile records and records and information made confidential by the Child Abuse and Neglect Reporting Act to the specific terms, conditions and procedures set out in this Chapter.

PROCEDURE

C 2101 JUVENILE RECORDS: STATUTORY DEFINITIONS AND CONFIDENTIALITY REQUIREMENTS:

Revised 12-17-08

Juvenile records are confidential under W&I 827 and 828 and can only be accessed, used or disclosed as authorized by W&I 827 (juvenile case files) and 828 (minor taken into custody), California Rules of Court, Rule 5.552 and applicable decisional law.

Juvenile records include juvenile court records (juvenile case files) and law enforcement records on any minor (a person younger than 18 years old) who is subject to the jurisdiction of juvenile court, whether as a dependent child (W&I 300) or as a ward (W&I 601 and 602). Law enforcement records on a minor include any record of a contact, detention, arrest or taking into custody of a minor who is subject to juvenile court jurisdiction.

A juvenile case file is defined in W&I 827(e) as a petition filed in any juvenile court proceeding, reports of the probation officer and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer and thereafter retained by the probation officer, judge, referee or other hearing officer in that proceeding. The case file includes:

- All documents filed in a juvenile court case;
- Reports to the court by probation officers, social workers of child welfare services programs and CASA volunteers;
- Documents made available to probation officers, social workers of child welfare services programs and CASA volunteers in preparation of reports to the court;
- Documents relating to a child concerning whom a petition has been filed in Juvenile Court that are maintained in the office files of probation officers, social workers of child welfare services programs and CASA volunteers;
- Transcripts, records, or reports relating to matters prepared or released by the court, probation department or child welfare services program; and

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- Documents, video or audio tapes, photographs and exhibits admitted into evidence at Juvenile Court hearings.

Please note that when a petition is filed or other proceeding is commenced in Juvenile Court, the Operation Support Services Division (OSSD) of the Bureau of Technical Services (BTS) will process the request for all Department records pertaining to the petition.

C 2102

RESTRICTIONS ON ACCESS, USE AND DISCLOSURE:

Revised 12-17-08

1. Disclosure of Juvenile Court Records:

Juvenile court records may not be obtained or inspected by civil or criminal subpoena. Only persons specified in W&I 827 and 828 may inspect, but may not copy, juvenile court records without authorization from the Juvenile Court, and such inspection must be done at Juvenile Court. Authorization for any other person to inspect, obtain or copy juvenile court records may be ordered only by the Juvenile Court Presiding Judge or a judicial officer of the Juvenile Court.

With the exception of those persons permitted to inspect juvenile court records without court authorization under W&I 827 and 828, every person or agency seeking to inspect or obtain juvenile court records must petition the Juvenile Court for authorization using *Petition for Disclosure of Juvenile Court Records* (Judicial Council of California Form JV-570). Generally, disclosure pursuant to such a petition is handled by Juvenile Court.

The Division Manager of the Operation Support Services Division (OSSD) of the Bureau of Technical Services (BTS) shall be responsible for ensuring that OSSD provides sufficient copies of police records required by the Santa Clara County Probation Department for any Juvenile Court proceeding. The County Probation Department is responsible for providing copies of the police records to all persons and agencies entitled to the records in the Juvenile Court proceeding.

Once a police record has become part of a juvenile case file, those records shall be treated as part of the juvenile case file. Any person or agency other than the County Probation Department that makes a request to the Police Department to inspect or copy such a record shall be referred to the Clerk of the Juvenile Court.

2. Disclosure of Police Records Relating to the Taking of a Minor into Custody:

W&I 828 and California Rules of Court, Rule 5.552, provides that information gathered and retained by a law enforcement agency regarding the taking of a minor into custody may be disclosed without court authorization to another law enforcement agency, including a school district police or security department, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case, unless the record sought has been sealed pursuant to W&I 389, 781 or Penal Code 1203.45. The persons and agencies to whom authorized officers or authorized Department members in OSSD *may* provide information relating to the taking of a minor into custody shall be limited to the following:

- Law enforcement agencies that require the record for criminal investigation or reporting purposes

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- The Santa Clara County Probation Department for criminal or Juvenile Court proceedings
- The Santa Clara County District Attorney's Office for Juvenile Court proceedings where the Office is authorized to prosecute criminal or juvenile cases under state law
- The Santa Clara County Department of Family and Children's Services for Juvenile Court proceedings it is authorized to participate in under state law
- Such other persons or agencies that the Division Manager of OSSD or commanding officer of the BOI unit assigned to a criminal case involving a minor may authorize after determining that the person or agency needs the information for purposes of official disposition of a case in criminal or juvenile proceedings involving a minor.

All other persons (including parents) or agencies seeking to inspect or obtain copies of such reports must petition the Juvenile Court for authorization, using *Petition to Obtain Report of Law Enforcement Agency* (Judicial Council of California Form JV-575).

3. Other Statutory Exceptions Allowing for Disclosure of Juvenile Records in Specified Circumstances:

- When the Police Department has been notified pursuant to W&I 1155 that a minor has escaped from a secure detention facility, the Department shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The Department may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm (W&I 828(b)).
- Minor Age 14 or Older Charged With Serious Felony (W&I 827.5): Notwithstanding any other provision of law except the sealing statutes, a law enforcement agency may disclose the name of a minor age 14 or older taken into custody for having committed a serious felony, as defined by P.C. 1192.7 and may also disclose the offense allegedly committed, on the request of interested persons, following the minor's arrest for that offense.
- Minor Age 14 or Older Charged With Violent Felony (W&I 827.6): A law enforcement agency may disclose the name, description, and alleged offense of a minor age 14 or older alleged to have committed a violent felony, as defined by P.C. 667.5(c), against whom an arrest warrant is outstanding, if doing so would assist in the minor's apprehension or the protection of the public.

Any request for disclosure or proposal to disclose pursuant to these exceptions shall be directed to and approved by the Office of the Chief of Police.

4. Restrictions on Access to and Use of Juvenile Records by Department members:

Access to and use of juvenile records maintained or held by the San Jose Police Department by Department members shall be strictly limited. The only Department members who shall have access to juvenile records are authorized OSSD staff assigned to perform record management functions regarding juvenile records and Officers assigned to the investigation, supervision and management of criminal cases where a minor is involved either under the

dependent child or ward jurisdiction of the Juvenile Court. OSSD staff assigned to perform record management functions regarding juvenile records shall only access and use such records in the performance of their official assigned duties. Officers assigned to the investigation, supervision and management of criminal cases where a minor is involved either under the dependent child or ward jurisdiction of the Juvenile Court shall only access or use juvenile records in the performance of their official assigned duties.

In addition, Department members assigned by the Office of the Chief of Police to respond to Public Records Act requests may access juvenile records held or maintained by the Department for the purpose of responding to Public Records Act requests.

Disclosure of juvenile records pursuant to court order by means of a Petition to Obtain Report of Law Enforcement Agency (Judicial Council of California Form JV-575) shall be approved by the OSSD Division Manager or their designee after consultation with the commanding officer of the Bureau of Investigations Unit assigned to the criminal case.

C 2103 THE CHILD ABUSE AND NEGLECT REPORTING ACT (PC 11164 - 11174.3):
Revised 12-17-08

1. Statutory Confidentiality – Restrictions on Disclosure:

Child abuse and neglect investigation reports that result in a summary report being filed with the California Department of Justice pursuant to subdivision (a) of PC 11167.5 are confidential and can be disclosed only as provided in subdivision (b) of PC 11167.5. The identity of a person reporting under the Child Abuse and Neglect Reporting Act is confidential and may only be disclosed as provided in subdivision (d) of PC 11167.

2. Restrictions on Access, Use and Disclosure:

Access to and use of child abuse and neglect investigative reports and records containing information regarding the identity of reporting parties that is maintained or held by the San Jose Police Department by Department members shall be strictly limited. The only Department members who shall have access to these records are authorized OSSD members assigned to perform record management functions regarding child abuse and neglect records and officers in BOI assigned to the investigation, supervision and management of criminal cases coming under the requirements of the Act. OSSD staff assigned to perform record management functions regarding these records shall only access and use such records in the performance of their official assigned duties. Officers assigned to the investigation, supervision and management of criminal cases of child abuse or neglect coming under the requirements of the Act shall only access or use these records in the performance of their official assigned duties.

Records and information covered under the confidentiality requirement of the Act may be disclosed only to persons or agencies specified in subdivision (b) of PC 11167.5.

Such records shall only be disclosed in strict compliance with PC 11167.5. Disclosure must be authorized only by the commanding officer of the investigative unit in BOI responsible for the investigation of criminal cases coming under the requirements of the Act or by the Division Manager of OSSD after consultation with the Deputy Chief of BOI.

C 2104 CIVIL AND CRIMINAL SUBPOENAS FOR JUVENILE RECORDS OR CHILD ABUSE AND RECORDS ACT RECORDS:

Added 12-17-08

Civil and criminal subpoenas for juvenile records and information and records and information coming under the confidentiality protections of the Child Abuse and Neglect Reporting Act shall be referred immediately to the Assistant City Attorney for the Litigation Department of the City Attorney's Office, so that the City Attorney will have an adequate opportunity to respond appropriately in court to protect the records and information from disclosure.

C 2105 COMPLIANCE WITH PUBLIC RECORDS ACT REQUESTS - JUVENILE COURT RECORDS AND CONFIDENTIAL CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS:

Added 12-17-08

The PRA Coordinator for the Department shall respond to Public Record Act requests for records and information for these records. The response shall be in accordance with the requirements of Duty Manual section C 2200 - RELEASE OF RECORDS AND INFORMATION. Information that would identify minors shall not be released as part of the response to a Public Records Act request.

C 2106 DISCLOSURE OF IDENTITY OF MINORS WHO ARE VICTIMS OF CRIMES:

Added 12-17-08

1. Victims of Crimes Who Are Minors AND Come Under the Jurisdiction of Juvenile Court. The names of these minors are confidential. See Duty Manual section C 2102 - RESTRICTIONS ON ACCESS, USE AND DISCLOSURE.
2. Crime/Incident Reports of Minors who are Victims of Crimes where the Investigation records are Confidential under the Child Abuse and Neglect Reporting Act (Penal Code Section 11167.5): The names of these minors are confidential, see Duty Manual section C 2103 - THE CHILD ABUSE AND NEGLECT REPORTING ACT (PC 11164 - 11174.3).
 - Minors Who Are Victims of Crimes or Incidents Where Release May Be Considered Under the Public Records Act: The identity of a minor may be released under the same rules that apply to adult victims of crimes and incidents under Duty Manual section C 2206 - RELEASE OF POLICE RECORDS TO CRIME VICTIMS of Duty Manual section C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT when the minor does not come under the jurisdiction of the Juvenile Court and the records are not confidential under the Child Abuse and Neglect Reporting Act
 - For example, if a child is hit by a vehicle while crossing the street, the name of the child may be disclosed; or if the child is shot and is not a ward or a dependent child and the report doesn't come under the Child Abuse and Neglect Reporting Act, then the name of the child may be disclosed.

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C 2200 - THE CALIFORNIA PUBLIC RECORDS ACT:

Revised 12-17-08

The public's right to access information concerning the conduct of the people's business is a fundamental and necessary right. A record shall not be withheld from disclosure unless it is exempt from disclosure under applicable laws.

PROCEDURE

C 2201 CITY POLICY AND RESOURCES FOR RESPONDING TO PUBLIC RECORD ACT REQUESTS:

Revised 12-17-08

All Department members are expected to know and understand the contents of the City's Public Records Act Policy and Protocol, Policy No. 0-33, approved by the City Council and effective 1/27/04. The City's Public Records Act Policy and Protocol can be found in Chapter 6.1.1 of the City Policy Manual. The City Policy Manual can be found on the City Personnel Manual Webpage, which is located on the internet at the City's public website for the City Manager's Office of Employee Relations, <https://www.sanjoseca.gov/residents/site-search?q=city%20policy%20manual>. On the City's intranet website, you will find a link to the site "Public Records and Records Retention," which provides City employees with information on responding to Public Records Act (PRA) requests, the retention of City records and the services available from the City's Public Records Manager. It also provides links to other sites with records management information. The purpose of this website is to provide the organization with information on how to respond appropriately and effectively to these types of requests.

C 2202 DESIGNATED DEPARTMENT PUBLIC RECORDS ACT COORDINATOR - ADVICE FROM CITY ATTORNEY:

Revised 12-17-08

The designated Public Records Act Coordinator for the Police Department is the Commander of the Research and Development Unit, Office of the Chief. The Coordinator shall be responsible for responding to requests for records, coordinating with the custodian of records for each Bureau, Division and Unit of the Department that has records responsive to a PRA request, and coordinating a response with other City Departments and the City Manager's Office, when appropriate. The custodian of records for each Bureau, Division and Unit of the Department shall be responsible for coordinating responses to PRA requests for records that originate in the custodian's Bureau, Division or Unit with the Coordinator for the Department.

If a question arises as to whether a record or portion of a record is exempt from disclosure, it is the responsibility of the Public Records Act Coordinator or other Department members responding to a PRA request to promptly seek the advice of the City Attorney's Office within the timeframe set out for responding to a request.

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C 2203**GOVERNING LAW:***Added 12-17-08*

Disclosure of Department records and information derived from those records is governed by The Public Records Act, California Government Code Sections ("GC") 6250 – 6276.48.

A. Records Available for Inspection and Copying

Records available for inspection and copying include any writing containing information relating to the conduct of the public's business that is prepared, owned, used or retained by the City, regardless of the physical form and characteristics. The records do not have to be written but may be in another format that contains information such as electronic media including, but not limited to, computer tape, CD, DVD or audio recording.

"Writing" includes any handwriting, typewriting, printing, Photostatting, photographing, and every other means of recording upon any form of communication or representation such as letters, words, pictures, sounds or symbols, as well as all papers, maps, magnetic or paper tapes, photographic films and prints and electronic mail.

Disclosable public records shall be available for review and inspection during regular Department business hours.

If a request for records seeks the production of records or documents that are not in existence at the time the request is made, the Department is not obligated to create a document in order to respond to the request.

B. Form of Requests for Records

There is no required form that must be used to request records, nor is there any language that must be used when making a request. Requests may be made orally or in writing; either in person, through the mail, via e-mail or over the telephone. Any request for information contained in any writing kept by the Department constitutes a request for a record for purposes of this policy. The request, however, should contain a reasonable description of the desired records in order to expedite processing of the records.

C. Purpose of Request for Records, Effect

Government Code Section 6257.5 does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

D. Form of Records Provided

Records shall be made available in their original form or by a true and correct copy. Audio, photographic and computer data, or any other such records, shall be exact replicas unless the Department determines it is impracticable to provide exact replicas. Any portion of a record that can be reasonably segregated shall be provided to the public after redaction of portions that are deemed exempt from disclosure.

E. Assistance to Members of Public Seeking Records

1. In order to assist the requester to make a focused and effective request that reasonably describes an identifiable record(s), Department members involved in

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accepting and responding to such requests shall do all of the following, to the extent reasonable under the circumstances:

- a. Assist the member of the public with identification of records and information that are responsive to the request or the purpose of the request, if known;
 - b. Describe the information technology and physical location in which the records exist; and
 - c. Provide suggestions for overcoming any practical basis for denying the request.
2. The above three requirements are in addition to any action the Department is required to make under Government Code Section 6253 as set out in Paragraph F below.
 3. Requirement E.1 a above shall be deemed to have been satisfied if the Department is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records containing the requested information.
 4. The requirement to provide assistance does not apply if any of the following circumstances apply:
 - a. The Department makes available the requested records pursuant to Paragraph F below.
 - b. The Department determines that the request should be denied and bases that determination solely on an exemption listed in Government Code Section 6254.
 - c. The Department makes available an index of its records.
 5. If the request seeks records that are exempt from disclosure under subdivision (f) of Government Code Section 6254, but the Department ascertains from the requester that they are satisfied with information that may be disclosed under paragraphs (1), (2) or (3) of subdivision (f) of Government Code Section 6254, the written determination required under Government Code Section 6253 (Paragraph F below) shall assert the exemption but also provide such information that may be disclosed as the requester seeks and is eligible to receive to under subdivision (f) of Government Code Section 6254.

F. Time for Response - Department Determination - Time Extension for Unusual Circumstances (Government Code Section 6253)

Upon receipt of an oral or written request for a copy of records that reasonably describe an identifiable record or records, the Department shall make the records promptly available to any person upon payment of fees set out in the City Council's current Resolution Establishing the Schedule of Fees and Charges, unless the requested records are exempt from disclosure under Government Code Section 6254 or other applicable express provision of law.

In the case of records that are exempt from disclosure, or records that are not readily accessible or identifiable, or where additional time is needed to determine whether the request, in whole or in part, seeks copies of records that may be disclosed, the Department has ten (10) calendar days from the date of receipt of the request to determine whether the request, in whole or in part, seeks copies of public records that may be disclosed in the Department's possession and shall promptly notify the person making the request of the determination and the reasons for such determination. The ten (10) day time period limitation shall also apply when the requester seeks information that the Department is required to disclose pursuant to paragraphs (1), (2) or (3) of subdivision (f) of Government Code Section 6254.

In unusual circumstances, the ten (10) day time limit on delivering a written determination to the requester may be extended for up to an additional fourteen (14) calendar days by written notice to the requester within the ten (10) day period. The written notice of the time extension must state the reasons for the extension and the date on which a written determination is expected to be delivered. When the Department delivers its written determination, and if the Department determines that the request seeks public records that may be disclosed, the Department shall state in the written determination notice the estimated date and time when the records will be made available.

"Unusual circumstances" permitting the fourteen (14) day extension are limited to the following:

1. The need to search for and collect the requested records from facilities separate from the office processing the request;
2. The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records that have been asked for in a single request;
3. The need for consultation with another department or another agency that has a substantial interest in the response to the request; and/or
4. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

If a written request is denied in whole or in part, the determination to deny shall be in writing and shall state the reasons for denial of access to the subject records as well as the names and titles or positions of each person responsible for the denial.

G. Fees and Electronic Records – Format for Production, Cost of Creating Electronic Records

Department information that constitutes an identifiable public record that is in an electronic format and is not exempt from disclosure under the Public Records Act shall be made available in an electronic format when requested by any person. The Department shall make the information available in any electronic format in which it holds the information. The Department shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the Department to create copies for its own use or for provision to other government agencies. Generally, the cost of duplication shall be limited to the direct cost of producing a copy of a record in an

electronic format. Please note that fees charged by the City for supplying information to the public are set out in the current annual Resolution of the City Council Establishing the Schedule of Fees and Charges, which can be viewed on the City Clerk's internet site.

With respect to the cost of producing a record in electronic format that previously did not exist, the Department shall charge a fee for computer services to pay for the cost of producing a copy of the record, including the cost to construct a record and the cost of programming and other computer services necessary to produce a copy of the record. The fee for computer services shall be the one set out in the current annual Resolution of the City Council Establishing the Schedule of Fees and Charges. The computer services fee shall apply in the following cases:

1. When the Department is requested to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction or programming to produce the record.

The Department is not required to reconstruct a record in an electronic format if the Department no longer has the record available in an electronic format.

If the request is for information in other than an electronic format, and the information also is in an electronic format, the Department may inform the requester that the information is available in electronic format. The Department is not required to release an electronic record in the electronic form in which it is held by the Department if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

C 2204 RESPONDING TO REQUESTS FOR RECORDS THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER GOVERNMENT CODE SECTION 6254:

Added 12-17-08

Refer to Chapter 6.6.1 of the City Policy Manual under the heading "Responding to Requests for Particular Documents" for the guidelines on responding to requests for disclosure of preliminary drafts, litigation materials, information relating to contracts, bids and proposals, budgetary information, e-mail. Other public records maintained by the Department that are generally not exempt from disclosure under Government Code Section 6254 include, but are not limited to, Department correspondence, manuals, memoranda and reports that are not part an investigation record or part of an investigative file, and statistical records.

C 2204.5 RECORDS REQUIRED TO BE DISCLOSED PURSUANT TO SUBDIVISION (F)(4) OF GOVERNMENT CODE SECTION 6254:

Added 07-01-19

- A. The following categories of records relating to critical incidents maintained by the City of San Jose shall not be confidential and shall be subject to public inspection and disclosure pursuant to the California Public Records Act:

1. An audio or video record depicting an incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
2. An audio or video file depicting an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

All pertinent requests shall be referred to the Research and Development Unit for review.

B. During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the Department knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as endangering the safety of a witness or a confidential source. If the Department delays disclosure, the Department shall provide in writing to the requester the specific basis for the Department's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

1. After 45 days from the date the Department knew or reasonably should have known about the incident, and up to one year from that date, the Department may continue to delay disclosure of a recording if the Department demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the Department knew or reasonably should have known about the incident, the Department may continue to delay disclosure of a recording only if the Department demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If the Department delays disclosure pursuant to this clause, the Department shall promptly provide in writing to the requester the specific basis for determining that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The Department shall reassess withholding and notify the requester every 30 days. A recording withheld by the Department shall be disclosed promptly when the specific basis for withholding is resolved.

C. If the Department demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the Department shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

1. If the Department demonstrates that the reasonable expectation of privacy of a subject 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:

- a. The subject of the recording whose privacy is to be protected, or their authorized representative.
 - b. If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.
 - c. If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.
2. If disclosure pursuant to paragraph (1) of subsection (C) would substantially interfere with an active criminal or administrative investigation, the Department shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in paragraph (1) of subsection (B).

C 2205 POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254:

Revised 01-20-21

Government Code Section 6254, subdivision (f), allows the Department to exempt from public disclosure police records of complaints to and investigations by the Department, criminal intelligence investigations and records of security procedures. However, as discussed below, the public is generally entitled to specific information about complaints to or request for assistance and the Department's response ("Police calls") and arrests made by San Jose Police Officers and calls for service to the Department.

In addition, since the exemptions under Government Code Section 6254 are discretionary, the Chief of Police may, on a case-by-case basis, make the determination to provide greater public disclosure of information or records that are otherwise exempt from disclosure due to the exemption under subdivision (f), unless disclosure is otherwise prohibited by law.

- A. Public Information that the Department is Required to Release on Arrests, Complaints, or Requests for Assistance and the Department's Response:

While police reports themselves are exempt from disclosure under GC 6254(f), except to the victim of a crime, the victim's authorized representative, a person suffering bodily injury or property damage or loss as a result of a criminal incident, or an insurance carrier against which a claim has been or might be made, the Public Records Act requires the Department to make available to the public the following to the extent it exists in San Jose Police Department records:

1. Arrest Information:
 - a. The full name and occupation of every individual arrested by the agency;
 - b. The individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest;
 - c. The time and date of booking;
 - d. The location of the arrest;
 - e. The substance and factual circumstances surrounding the arrest;

Substance to be included:

- a. The type of crime or activity involved
- b. The actions which constitute the elements of the crime.

Factual circumstances to be included:

- a. Whether the suspect was known or unknown to the victim;
 - b. Whether the crime was gang related, if the Department believes such disclosure is appropriate;
 - c. Was force used, and if so, the type of force used (e.g. physical force, baton, electronic control weapon, etc.) and the circumstances that lead to the force used (e.g. challenge to fight, resisting arrest, etc.);
 - d. Whether any specialized resources (e.g. Air Support, K-9, MERGE, Bomb, or BOI units, etc.) provided assistance; and
 - e. Disposition of the suspect (e.g. arrested, cited, released, or at large)
- f. The amount of bail set;
 - g. The time and manner of release or the location where the individual is currently being held; and
 - h. All charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.
- B. Police Calls (Complaints or Requests for Assistance and the Department's Response):
1. Subject to the disclosure restriction in Penal Code Section 841.5:
 - a. The time, substance and location of all complaints or requests for assistance received by the agency
 - b. The time and nature of the response thereto, including:
 - i. The time, date and location of occurrence;
 - ii. The time and date of the report;
 - iii. The name and age of the victim;
 - iv. The substance and factual circumstances (refer to descriptions noted within Arrest Information) surrounding the crime or incident; and
 - v. A general description of any injuries, property or weapons involved.
 - c. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9 or 647.6 of the Penal Code may be withheld at the request of the victim or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this paragraph may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any

crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

The name of a victim of the above specified crimes shall not be disclosed to any person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of county probation departments, or other persons or public agencies where authorized or required by law.

- d. The names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld from public disclosure at the victim's request until the investigation or any subsequent prosecution is complete.

Note: "Immediate family" means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

The name and images of a victim of human trafficking, as defined in Penal Code Section 236.1, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may only be disclosed to the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of county probation departments, or other persons or public agencies where authorized or required by law. See Subsection E. below for further restrictions on disclosure to parole officers, probation hearing officers, and parole officers.

C. Scholarly, journalistic, political, governmental, or private investigator requests

1. Subject to the disclosure restrictions under Penal Code Section 841.5, persons who execute a written declaration under penalty of perjury that the request is being made for scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator, and further declares that the information provided will not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals may obtain the following information:
 - a. The current address of every individual arrested by the agency; and
 - b. The current address of the victim of a crime.
2. The address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. The address of a victim of any of the above specified crimes may only be disclosed to the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law. See Subsection E

below for further restrictions on disclosure to parole officers, probation hearing officers, and parole officers.

D. Exceptions to the Requirement to Release Public Information

1. Prohibition on Disclosure of Victim or Witness Address or Telephone Number to Any Arrested Person or to a Criminal Defendant

- Under Penal Code Section 841.5, no law enforcement officer or employee of a law enforcement agency may disclose to any arrested person, or to any person who may be a defendant in a criminal action, the address or telephone number of any person who is a victim or witness in the alleged offense.

2. Withholding of Information that would Endanger the Safety of a Person Involved in an Investigation or endanger Successful Completion of an Investigation or a Related Investigation

- A particular item of information that the Department is required to release to the public concerning arrests, police calls, and requests for scholarly, journalistic, political or governmental purposes or from a licensed private investigator can be withheld if the Department determines that public disclosure of the particular item of information will endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation.

- The decision to withhold release of otherwise public information is based upon the reasonable belief of the investigating officer or the Public Records Act Coordinator or other designated officer or other Department employee responding to the request, based on specific facts regarding the circumstances of the particular case and the officer's professional judgment, that release of a particular item of information or record would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation.

E. Restriction on Disclosure of Exempt Crime Victim Information to Parole Officer, Parole Authority Hearing Officers, and County Probation Officers Per Penal Code Section 293(g)

Subdivision (g) of Penal Code Section 293 limits release of information pursuant to subdivisions (c), (d), and (e) of Penal Code Section 293 [Duty Manual sections C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254; subsections C. 2., B. 1. c., and B. 1. d.]. Parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, and probation officers of county probation departments shall be entitled to receive information pursuant to subdivisions (c), (d), and (e) of Penal Code section 293 only if the person to whom the information pertains alleges that they are a victim of an offense specified in Duty Manual sections C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254; subsection C.2. above, or is the victim of human trafficking, as defined in Penal Code section 236.1, the alleged perpetrator of which is a parolee who is alleged to have committed the offense while on parole, or in the case of a county probation officer, the person who is alleged to have

committed the offense is a probationer or is under investigation by a county probation department.

C 2205.1 PUBLIC RELEASE OF VIDEO FOOTAGE FOR POLICE INCIDENTS OF EXTRAORDINARY PUBLIC INTEREST:

Added 11-13-20

Video footage includes video that was created by the Police Department (e.g. Body Worn Camera, Helicopter, or Department owned security cameras) or that has come into the possession of the Department either as evidence or from the public domain.

Incidents of extraordinary public interest include, but are not necessarily limited to, those in which interactions between the police and the public result in significant and sustained public outcry for an understanding of the known facts and circumstances that led up to the incident and how it unfolded, such as in major protests or controversial uses of force.

At their discretion, the Chief of Police may elect to order the release of video footage for incidents of extraordinary public interest (e.g., conspicuously posting video footage on City and/or Department websites for viewing by the general public) that is not otherwise subject to release pursuant to the California Public Records Act and related statutes and as further set out under the Duty Manual provisions on public record disclosure and the City Policy Manual Public Records Policy and Protocol, or;

The Chief of Police shall order the release of video footage for incidents of extraordinary public interest (that could otherwise be withheld) (e.g., conspicuously posting video footage on City and/or Department websites for viewing by the general public) when directed to do so by the City Manager, or after a majority vote by the City Council directing the release of video footage the City Council has determined to be from an incident of extraordinary public interest. City Council Policy 5-7, approved on 11-10-20, establishes a procedure whereby the City Council may direct the release of such footage.

In either case, the Department shall produce a video including the period of time immediately preceding the incident of extraordinary public interest, as well as the incident, itself. The raw footage used for the video will also be released.

The video footage shall be released as follows:

- All video sources shall be provided, but where multiple such sources exist and production of all sources would unduly consume time and labor, the Department shall identify the three videos that most clearly and fully capture the event;
- At least ten minutes of footage prior to the actual interaction or event shall be provided in each case, to ensure the viewer has the benefit of the full context of the incident (if available); and
- Provision of the video(s) shall be limited only by the exceptions outlined in state law under AB 748 for responses to Public Records Act requests for video of “critical incidents,” mandating disclosure except where doing so would “substantially interfere” with an ongoing criminal or administrative investigation, such as

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“endangering a witness’ or confidential source’s safety,” as demonstrated by clear and convincing evidence, or where blurring is necessary to protect the safety of City employees.

When the video footage is already subject to release under existing Public Records Act Law:

- Timing of Public Release: The timing of the public release of the video may be accelerated to a time sooner than is required by the operative statute but may not be delayed beyond the provisions of the statute.
- Redactions: Redactions of the video footage shall comply with the applicable statute and may not be restricted or expanded upon.

When the video footage does not meet the threshold for release under existing Public Records Act Law:

- Timing of Public Release: The Chief of Police may set the timeline for the public release of the video footage in question.
- Notification: The Police Department will provide notification to any officer and the Union, when an officer’s photograph, identity or other private information is revealed in the footage, prior to releasing any footage or image. The notification will be reasonably calculated to provide the officer with an opportunity to request that the City withhold their photograph, identity or other private information, before any footage is released. Any request to withhold any portion of footage or an image must be made in writing by the officer to the Chief of Police by a deadline provided in the notification. A final determination as to whether an officer’s photograph, identity or other private information is revealed in the footage shall be made by the City
- Threat Assessment: The Police Department will conduct a threat assessment to determine if evidence exists of threat, harassment, intimidation, or harm to any officer. Officers notified of the City’s intent to release their photograph, identity or other private information will have a right to contact the San Jose Police Department to inquire as to whether it is aware of any threat against them. The Police Department shall respond to such inquiries prior to releasing any footage or image. Where evidence of threat, harassment, intimidation, or harm to an officer whose photograph, identity or other private information may be revealed in footage or an image exists, the San Jose Police Department will redact the footage pursuant to the following redaction guidelines.
- Redactions: Unless otherwise ordered by the Chief of Police, the standards for redaction shall come from the California Public Records Act or related laws, including Penal Code Sections 832.7 and 832.8, pertaining to release of such video. When the City determines that an officer’s photograph, identity or other private information shall be withheld, the San Jose Police Department will blur or otherwise redact all footage that depicts such images of the applicable officer prior to releasing the footage.

C 2205.5 RECORDS REQUIRED TO BE DISCLOSED PURSUANT TO SUBDIVISION (B) OF PENAL CODE SECTION 832.7:

Revised 07-01-19

- A. Records which shall not be confidential and subject to disclosure pursuant to subdivision (b) of Penal Code Section 832.7 include four categories. Requests falling under these categories shall be referred to the Research and Development Unit for review and release. The categories include:
1. Records related to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer.
 2. Records related to the report, investigation, or findings of an incident involving use of force by a peace officer against a person that resulted in death, or in great bodily injury.
 - “Great bodily injury” is equivalent to “serious bodily injury” as defined in PC 243(f)(4) as 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.
 3. Records related to an incident in which a peace officer engaged in sexual assault involving a member of the public and a sustained finding was made by the Department.
 - “Sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.
 - “Member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the Department.
 4. Records related to an incident in which a sustained finding was made by the Department for dishonesty by a peace officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

For purpose of categories 3 and 4, the term “sustained” means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal, that the actions of the peace officer or custodial officer were found to violate law or Department policy.

Records that shall be disclosed include:

- All investigative reports;
- Photographic, audio, and video evidence;
- Transcripts or recordings of interviews;

- Autopsy reports;
- All materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident;
- All materials compiled and presented for purposes of determining whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take;
- Documents setting forth findings or recommended findings; and
- 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.

B. A disclosed record shall be redacted for the following purposes:

1. To remove personal data or information, such as a home address, telephone number, or the identities of family members, other than the names and work-related information of peace officers.
2. To preserve the anonymity of complainants and witnesses.
3. To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers.
4. 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 peace officer, custodial officer, or another person.

In addition to the grounds for withholding set out in B.1 – 4 above, a disclosed record may be redacted, including personal identifying information, where, based on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

C. The Department may withhold a record of an incident involving the discharge of a firearm at a person by an officer or the use of force by an officer resulting in death or great bodily injury that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

Note: Notwithstanding the disclosure timelines and related requirements specified in this subsection C. of Duty Manual section C 2205.5 - RECORDS REQUIRED TO BE DISCLOSED PURSUANT TO SUBDIVISION (B) OF PENAL CODE SECTION 832.7 (based upon the timelines set out in subdivision (b) of Penal Code Section 832.7), disclosure of audio and video records depicting an incident involving the discharge of a firearm at a person by an officer or the use of force by an officer resulting in death or great bodily injury is governed by the timelines and related requirements specified in Duty Manual section C 2204.5 - RECORDS REQUIRED TO BE DISCLOSED PURSUANT TO SUBDIVISION (F)(4) OF GOVERNMENT CODE SECTION 6254.

1. During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If the Department delays disclosure pursuant to this clause, the Department shall provide, in writing, the specific basis for the Department's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.
2. After 60 days from the use of force, the Department may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If the Department delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the Department's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the Department shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.
3. After 60 days from the use of force, the Department may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If the Department delays disclosure under this clause, the Department shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the Department shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, 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 in prompt disclosure of records about use of serious force by peace officers. The Department shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.
4. In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, the City may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation. In the event that court proceedings are instituted by a party to compel disclosure pursuant to Government Code Section 6258, the Department should consult with the City Attorney's Office regarding whether or not to file an application to seal the basis for withholding.

- D. If criminal charges are filed related to the incident in which force was used, the Department may delay the disclosure of records or information 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 pursuant to Section 1018.
- E. During an administrative investigation into an incident involving the discharge of a firearm at a person by an officer or the use of force by an officer resulting in death or great bodily injury, the Department may delay the disclosure of records or information until the Department determines whether the use of force violated a law or Department policy, but no longer than 180 days after the date of the employing Department's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer's use of force, whichever is later.

C 2206

RELEASE OF POLICE RECORDS TO CRIME VICTIMS:

Added 12-17-08

- A. Subdivision (f) of Government Code Section 6254 requires the Department to disclose specified police records and information to the following persons:
 - 1. Victims of a crime;
 - 2. An authorized representative of the victim;
 - 3. An insurance carrier against which a claim has been or might be made; and
 - 4. Any person suffering bodily injury or property damage or loss as the result of a criminal incident.
- B. The following information and records that are required to be released to the above listed persons:
 - 1. The names and addresses of persons involved in, or witnesses other than confidential informants to, the criminal incident;
 - 2. The description of any property involved in the criminal incident;
 - 3. The date, time and location of the criminal incident;
 - 4. All diagrams;
 - 5. Statements of the parties involved in the criminal incident;
 - 6. Statements of all witnesses, other than confidential informants, to the criminal incident; and
 - 7. In addition, copies of photographs taken in the course of the criminal investigation should also be disclosed.
- C. If release of a record or item of information would endanger the safety of a witness or other person involved in the investigation, or if release would endanger the successful completion of the investigation or a related investigation, then that information or record(s) does not have to be disclosed to the victim or other persons listed above.
- D. As noted above, statements by confidential informants and identifying information on confidential informants will not be released to victims of crimes. If such information appears in records that are otherwise subject to disclosure, then the items of information concerning the Confidential Informant is redacted.

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C 2207 RELEASE OF RECORDS TO CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD:*Added 12-17-08*

Notwithstanding any restrictions placed on disclosure of records by any other provision of law including, but not limited, to W&I 827 (restrictions on disclosure of juvenile records), when the California Victim Compensation and Claims Board or victim centers under contract with the Board request records from the Department as part of its procedure for verifying an application for victim compensation, the Department is required to provide the Board with copies of investigation records the Department has in its possession that are responsive to the request (GC 13954). Verification information must be returned to the board within 10 business days after the Board has made a request for verification. Verification information shall be provided at no cost to the applicant, the board or victim centers. Any records provided pursuant to the request are received in confidence by the Board and cannot be further disseminated. The Department may withhold the names of witnesses or informants from the Board, if the release of those names would be detrimental to the parties or to an investigation in progress.

C 2208 INFORMATION AND RECORDS EXEMPTED OR PRIVILEGED FROM DISCLOSURE UNDER OTHER LAW:*Revised 01-04-19*

A. Other categorical exemptions under GC 6254 include, but are not limited to:

1. Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure (GC 6254(a)). Under City Policy, preliminary drafts that are retained by the Department in the ordinary course of business after the record is finalized are subject to disclosure.
2. Records pertaining to pending litigation to which the City is a party, or to claims made to the City, until the pending litigation or claim has been finally adjudicated or otherwise settled (GC 6254(b)).
3. Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (this provision applies to civilian city employees) (GC 6254(c)).
4. Statements of personal worth or personal financial data required for licenses or permits and filed by an applicant with the City to establish their personal qualification for the license, certificate of permit applied for (GC 6254(n)).
5. Information contained in applications for licenses to carry firearms issued pursuant to PC 12050 that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family (GC 6254(u)(1)).
6. The home address and telephone number of peace officers, judges, court commissioners and magistrates that are set forth in licenses and applications for licenses to carry firearms issued pursuant to PC 12050 (GC 6254(u)(2) and (3)).

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7. A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session (GC 6254(aa)).
8. Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Homeland Security for use by that Office, including the identity of the person who, or entity that, voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency (GC 6254(ab)).

Title 6 U.S.C. Section 131(3) defines critical infrastructure information as follows:

- a. The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems
 - i. actual, potential or threatened interference with, attack on, compromise of, or incapacitation of, critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of, or unauthorized access to, all types of communications and data transmission systems) that violates Federal, State or local law, harms interstate commerce of the United States or threatens public health or safety;
 - ii. the ability of any critical infrastructure or protected system to resist such interference, compromise or incapacitation, including any planned or past assessment, projection or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning or risk audit; or
 - iii. any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance or continuity, to the extent it is related to such interference, compromise or incapacitation.
- B. GC 6254(k) exempts from public disclosure specific items of information and records that are exempted or privileged under state or federal law including, but not limited to, provisions of the Evidence Code relating to privilege. Other records that fall under this exemption include, but are not limited to:
1. Officer records and records of complaints against peace officers (PC 832.5, 832.7, 832.8). However, as set forth in Duty Manual section 2205.5 - RECORDS REQUIRED TO BE DISCLOSED PURSUANT TO SUBDIVISION (B) OF PENAL CODE SECTION 832.7, the Department shall disclose any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that:
 - A peace officer or custodial officer engaged in sexual assault involving a member of the public.
 - Dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or

investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

2. Accident reports and supplemental reports are confidential and can be disclosed only to persons with a proper interest therein (Vehicle Code Sections 20012 and 20014), including the driver(s) involved, or driver's guardian or conservator, the parent of a minor driver, the authorized representative of a driver, or any named person injured therein, the owners of the vehicles or property damaged in the accident, persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that they represent any of the above persons.
3. State summary criminal history information ("rap sheet") (PC 11075, 11105, 11105.01 – 11105.75, 11140 – 11144). There are statutory exceptions allowing public disclosure of statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed. Information from a record can also be disseminated for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime. Information obtained from a record may also be included in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute or decisional law (GC 11144). For more detailed instructions on procedures to be followed for the handling and release of State Summary Criminal History Information, please refer to Duty Manual section C OBTAINING CRIMINAL RECORDS / INFORMATION.
4. Local criminal offender record information ("rap sheet") (PC 13102, 13200 – 13203, 13300-13305). There are statutory exceptions allowing public disclosure of statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed. Information from a record can also be disseminated for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime. Information obtained from a record may also be included in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute or decisional law (GC 13305). For more detailed instructions on procedures to be followed for the handling and release of Local Summary Criminal History Information, please refer to Duty Manual section C 2000 - OBTAINING CRIMINAL RECORDS / INFORMATION.
5. Juvenile records include juvenile court records (juvenile case files) and law enforcement records on any minor (a person younger than 18 years old) who is subject to the jurisdiction of Juvenile Court, whether as a dependent child (W&I 300) or as a ward (W&I 601 and 602). Law enforcement records on a minor include any record of a contact, detention, arrest or taking into custody of a minor who is subject to Juvenile Court jurisdiction. Juvenile records are confidential under W&I 827 and 828 and can only be disclosed as authorized by W&I 827 (juvenile case files) and 828 (minor taken into custody), California Rules of Court, Rule 5.552, and applicable decisional law. All other persons seeking to inspect or copy a law enforcement record held or maintained by the San Jose Police Department concerning a minor who is subject to Juvenile Court jurisdiction must petition the Juvenile Court for authorization, using Petition to Obtain Report of Law Enforcement Agency (Judicial Council of

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California Form JV-575). Please note the Department will make public disclosure as required under Duty Manual section C 2205 - POLICE RECORDS EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) OF GOVERNMENT CODE SECTION 6254 concerning arrests of minors and police calls without disclosing information that would disclose the identity of the minor subject to the confidentiality protections of the statutes.

For more detailed instructions on procedures to be followed for the handling and release of juvenile records and information from those records, please refer to Duty Manual section C 2100 - JUVENILE RECORDS AND CHILD ABUSE AND NEGLECT REPORTING ACT INVESTIGATION RECORDS.

6. Child abuse and neglect investigative reports that result in a summary report being filed with the California Department of Justice pursuant to subdivision (a) of PC 11167.5 are confidential and can be disclosed only as provided in subdivision (b) of PC 11167.5. The identify of person reporting under the Child Abuse and Neglect Reporting Act (PC 11164 – 11174.3) are confidential and may only be disclosed as provided in subdivision (d) of PC 11167.
7. Elder abuse reports made pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (W&I 15600 – 15675) are confidential and can only be disclosed as provided in subdivision (b) of W&I 15633. The identity of all persons who report pursuant to the Elder Abuse and Dependent Adult Civil Protection Act are confidential and may only be disclosed as provided in subdivision (b) of W&I 15633.5.
8. Records or parts of records that contain communications protected by the attorney/client privilege, i.e., communications between city employees or officials and the City Attorney's Office.
9. Critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to the U.S. Department of Homeland Security, or another covered Federal agency, for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by a written marking on the information or records submitted that is substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002." This information is considered to be confidential and is exempt from public disclosure under both FOIA and state and local record disclosure laws pursuant to Title 6 United States Code Section 133(a)(1)(A) and (E)(i) respectively. There is an exception to this exemption when the person or entity submitting the information gives its written consent to disclose the information. The information cannot be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act. Moreover, the information cannot, without the written consent of the person or entity submitting such information, be used directly by City, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith, 6 U.S.C. Section 133(a)(1)(C).

C 2209

PUBLIC POSTING OF CURRENT DEPARTMENTAL POLICIES, PROCEDURES, AND TRAINING MATERIALS:*Added 02-24-20*

California statute requires the Department to conspicuously post on its public website all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act. The following procedures are in place to ensure that the Department complies with this statute.

The Research & Development Unit is responsible for receiving current materials from their creators or custodians, coordinating redactions as permitted by statute, and then posting them on the Department's public website.

- Department Orders, Training Bulletins, and Protocols: The Research & Development Unit Commander is responsible for ensuring that redacted copies of the duty manual, training bulletins, orders issued by memorandum, and Departmental protocols are posted in the public library.
- Unit Guidelines and Operating Procedures: Unit Commanders or Divisional Managers shall provide copies of all revised or newly created unit guidelines or operating procedures to the Research & Development Unit. Personnel from the providing unit/division shall assist the Research & Development Unit as necessary with the redaction process. Unit Commanders or Divisional Managers shall notify the Research & Development Unit when a unit guideline or operating procedure has been discontinued and therefore should be removed from the public library.
- Training & Educational Materials: Course Coordinators shall provide copies of all revised or newly created lesson plans, presentations, and student handouts to the Research & Development Unit. Course Coordinators shall assist the Research & Development Unit as necessary with the redaction process. Course Coordinators shall notify the Research & Development Unit when a training course has been discontinued and its related materials should therefore be removed from the public library.

Questions related to implementation of the above listed procedures will be referred to the Research & Development Unit Commander who will make the final determination on how to proceed.



C 2300 - PERSONAL DATA:

All Department members' address, telephone numbers and personal information are considered strictly confidential and will not be released except to authorized recipients.

PROCEDURE

C 2301 PERSONAL DATA OF DEPARTMENT MEMBERS:

Department members will not divulge any information concerning a department member, unless directed to do so by a command officer, the Chief of Police, or the department member whose personal data is being requested.



C 2400 - ONLINE PRESENCE:

Added 03-05-21

The Department believes in the Internet's ability to establish, maintain, and strengthen relationships. By communicating and engaging with the public through an online presence, the Department is able to provide timely updates in critical events, recruit for employment positions within the Department, give the public a voice, and improve transparency. The purpose of this policy is to establish the Department's position on the use of the Internet. This policy is meant to address both current technologies, including social media, as well as continue to be applied as new technologies develop and emerge over time.

PROCEDURE

C 2401

DEFINITIONS:

Revised 11-01-22

Defamatory Material – For purposes of this policy, “defamatory material” includes the intentional posting of material containing statements of fact that are false and which have a tendency to injure or cause harm to a person's reputation. For example, false statements that accuse a person of criminal conduct are considered to be defamatory.

Derogatory or Offensive Material – For the purposes of this policy, “derogatory or offensive material” includes material disparaging to, detracting from, insulting to, or disrespectful of a class or group of people (e.g., a racial slur, ethnic slur, disparaging comment regarding a person's national origin, gender, sexual orientation or gender identity, disability, age, religious or political beliefs, or other types of disparaging comments or images regarding a group or class of people).

Online Presence – For the purposes of this policy, “online presence” includes all websites, social media, photos, video, audio, blogs, vlogs, wikis, listservs, images, or any presence on the dark web.

The Department's Online Presence are those authorized by the Chief of Police or their designee to represent the Department (e.g., the Department website or the Recruiting Unit Facebook page).

Personal Online Presence are those accounts created and/or maintained by individual Department members or groups of Department members that are personal in nature and not authorized by the Chief of Police or their designee.

Material – Any posted item including, but not limited to, written text, emoticons or emoji, photos, videos, audio, or images. Material includes items added to existing posts (e.g., a “like” or “boost” on another person's post).

Post – Material published, shared, or currently available to be viewed by any other person on a website, social media, blog, vlog, wiki, listserv, on the dark web, or photo or video sharing site.

Sensitive Information – Any material that may be potentially damaging to an ongoing investigation, compromising of officer safety, discloses future Department activities (e.g., a

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warrant service), or compromises the identity of Department members. This includes all records and information that is created, maintained, or retained by the Department where access, use, and dissemination of the records are regulated by the Department pursuant to the provisions of the Duty Manual and as authorized or required pursuant to State or Federal law. Sensitive information includes all records and information regulated pursuant to Duty Manual Chapters C 1900, C 2000, C 2100, and C 2200.

Sexually Explicit Material – For the purposes of this policy, “sexually explicit material” includes depictions or descriptions of sexual references, sexual acts, uncovered genitalia, or other nudity of a sexually explicit nature. Works of art or material of anthropological significance are not sexually explicit material.

C 2402 AUTHORIZED DEPARTMENT ONLINE PRESENCE

Added 03-05-21

All Department Online Presence shall be approved by the Chief of Police or their designee. All Department Online Presence shall be administered by the Media Relations Unit, or as otherwise directed by the Chief of Police. For example, an online presence may be established and maintained by the Recruiting Unit or the Department Captains for the purposes of effective, timely, and transparent communication with the community.

All Department Online Presence shall adhere to applicable laws, regulations, and policies, including City policies on information technology, records management, and retention schedules.

All Department members are authorized to re-share or re-post authorized Department material on their Personal Online Presence.

C 2403 PERSONAL ONLINE PRESENCE

Added 03-05-21

Department members are free to express themselves as private persons online but may not engage in speech that adversely reflects upon the Department, impairs the working relationships of the Department, or inhibits the Department’s ability to operate efficiently and effectively. Some examples of this may include material that would embarrass the Department, damage its reputation, strain community relations, inhibit recruiting, generate litigation, or interfere with successful prosecution.

Department members are reminded that in-person cues (e.g. body language, eye contact, or voice inflection) help to provide context for communication. When these cues are absent, it may be easy to misunderstand the intentions behind material.

Department members are reminded that almost any statement or conduct by a police officer that calls into question the officer’s credibility as a witness may be used at trial to either impeach that officer’s testimony or cause them to be excluded from testifying.

C 2404 PROHIBITIONS

Revised 11-01-22

Department members shall not post any information online that would adversely reflect upon the Department, impair the working relationships of the Department, or inhibit the Department’s ability to operate efficiently and effectively. This includes, but is not limited to:

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- Posting Sensitive Information
- Posting Sexually Explicit Material
- Posting Defamatory Material
- Posting Derogatory or Offensive Material

Prohibitions apply to the actions of Department members. They do not apply to the actions of a third party.

Example 1: A Department member posts defamatory material two years before the Online Presence policy was written. The defamatory material remains online and was not removed by the Department member. The Department member is in violation of this chapter.

Example 2: A Department member posts defamatory material two years before they were hired. The defamatory material remains online and was not removed by the Department member. The Department member is in violation of this chapter.

Example 3: A Department member posts defamatory material two years before the Online Presence policy was written. A third-party re-posts the defamatory material. The Department member removes the original post pursuant to the Online Presence policy. The re-posted defamatory material remains online but is no longer in the possession of the Department member. The Department member is not in violation of this chapter.

C 2405 MEDIA CAPTURED WHILE ON DUTY

Added 03-05-21

Department members are prohibited from sharing or posting any media (e.g. photos, audio, or video) captured on duty in their Personal Online Presence without authorization from the Media Relations Unit.

Department members are prohibited from capturing any enforcement-related or investigation-related media on their personal devices (e.g. personal cell phone).

Exception: In rare instances, Department members may capture media on their personal device when absolutely necessary, and a Department-issued device is unavailable or malfunctioning (e.g. while off-duty, using a personal cell phone to photograph a suspect during an in-progress event). In these rare cases, Department members shall notify their immediate supervisor as soon as practical that they captured media on their personal device. That media shall be uploaded to the Department's digital database pursuant to Duty Manual section L 4423 - DIGITAL EVIDENCE STORAGE. Upon upload, the media shall be deleted from the Department member's personal device and any secondary (cloud) storage or backup.

C 2406 USE OF DEPARTMENT SYMBOLS

Added 03-05-21

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Department members are prohibited from using Department symbols (e.g. badge, patch, "San Jose Police Department" labeling, or SJPD star) in their Personal Online Presence without authorization from the Media Relations Unit.

C 2407

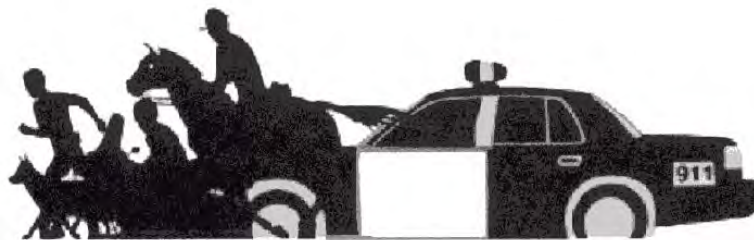
TIMELINESS

Added 03-05-21

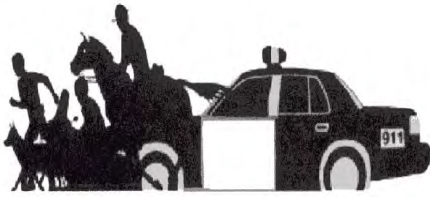
The Department recognizes trends change in the social and political climate over time. Signs, symbols, or phrases may be adopted by entities fundamentally changing their meaning. When violations of this policy are historical, the Department will examine these violations in the context of a reasonable person's standard at the times in which they were posted.

Employee/Management Interests

E 1100 – 1300



San Jose Police Department Duty Manual



E 1100 - RESPONSIBILITIES AND OBLIGATIONS:

Department members, supervisors and managers have a mutual responsibility to promote harmonious relations, cooperation and understanding between management and non-management Department members. In order to meet this responsibility, procedures are maintained which pertain to benefits, obligations and the resolution of differences and deficiencies. All Department members will remain familiar with these procedures and adhere to them when appropriate or required.

PROCEDURE

E 1101 GENERAL ELEMENTS - RESPONSIBILITIES:

Department members must maintain a mutual understanding of each other's responsibilities and privileges: management must be thoroughly familiar with employee privileges and benefits and must remain aware of a supervisor's responsibility to assist in the resolution of a subordinate's concerns, suggestions and grievances; line supervisors must remain aware of established employee privileges and benefits and, when called upon, will assist a subordinate so that such privileges and benefits are exercised in an authorized manner.

Supervisors also have a responsibility to inform subordinates of the limits of their privileges and benefits as established through an authorized management process. All Department members have a responsibility to use the chain of command and other authorized processes and/or procedures when exercising their privileges, benefits or obligations.

E 1102 DOCUMENTS GOVERNING EMPLOYEE/MANAGEMENT INTERESTS:

Numerous documents and manuals are maintained by City management in order to provide administrative and operational policies, procedures, rules and guidelines for use at all levels of the City organization. Documents and manuals which pertain to employee/management interests include, but are not limited to, the following:

E 1103 CITY CHARTER - APPLICABILITY:

The City Charter is the document which defines authority, form and composition of government; describes functions, responsibilities and authority of specific position; describes manner of elections or filling of vacancies; and assigns other authority to administer specific programs applicable to City government. All City employees are subject to the provisions of the City Charter.

TOPICS COVERED IN THE CITY CHARTER: The City of San Jose Charter covers policies pertaining to the following topics:

- Incorporation and powers
- Form of government and terms of office
- Authorized positions, boards and commissions
- Employee / Management Interests
- Establishment of Civil Service System
- Fiscal administration processes

- Retirement systems
- Election procedures

OBTAINING INFORMATION ON A SPECIFIC CITY CHARTER TOPIC: Department members may obtain information about the City Charter from the City Clerk's Office or from the Department's Research and Development Library.

E 1104 CIVIL SERVICE RULES - APPLICABILITY:

These rules are adopted pursuant to the provisions of Sections 1101 and 1103 of the Charter of the City of San Jose and are applicable to all offices, positions and employments which are deemed to be in the Classified Service. Department members, who are not in the Classified Service, are listed under Section 1101 of the City of San Jose Charter.

- TOPICS COVERED UNDER CIVIL SERVICE RULES: The City of San Jose Civil Service Rules relate to the following topics:
 - Creation of positions and classification
 - Applications for employment
 - Eligibility and qualification
 - Duration and certification of eligible lists
 - Transfers, resignations, layoffs and temporary reductions
 - Authorized benefits and privileges
 - Performance ratings
 - Grievance procedure
 - Separation from service
 - Education and training
 - Other topics deemed necessary by City Council
- OBTAINING INFORMATION ON A SPECIFIC CIVIL SERVICE RULE: Department members may obtain information pertaining to a specific Civil Service rule by examining Chapter 3.04 of the San Jose Municipal Code or by contacting the Office of the Secretary of the Civil Service Commission.

E 1105 CITY POLICY MANUAL/ADMINISTRATIVE MANUAL - APPLICABILITY:

The primary purpose of the City Policy Manual/Administrative Manual is to provide guidance to City employees in matters of Citywide policies, organization and coordination. This manual defines policies pertaining to general, financial, and personnel administration; it contains procedures to explain how policies are applied and implemented, and it classifies organization assignments and relationships affecting major organizational units in the City government.

All City employees are expected to comply with the policies and procedures contained in the City Policy Manual/Administrative Manual; however, the procedures contained in the City Policy Manual/Administrative Manual are guidelines, for it is impossible to foresee all situations and to prescribe in advance how best to resolve them. Accordingly, this manual only provides guidelines through general procedures that can be applied or adopted to meet

a specific situation. Specific procedures are contained in the Department Duty Manual and/or other written directives.

- TOPICS COVERED BY THE CITY POLICY MANUAL/ADMINISTRATIVE MANUAL: The City Policy Manual/Administrative Manual includes, but is not limited to, the following topics:
 - Legislative and legal processes pertaining to contracts, agreements and permits
 - A citizen's complaint procedure applicable to the Police Department
 - Transportation and travel procedures
 - Interdepartmental service procedures such as space allocation, issuance of keys and photographic services
 - City Hall parking permit procedures
 - Record retention and destruction procedures
 - Audit procedures
 - Financial administrative procedures such as collection of certain taxes, time sheets and payroll, and purchasing procedures
 - Property inventory procedures
 - Personnel procedures such as assignments, leaves, grievance procedures, safety and training, outside employment and employee performance appraisal
- OBTAINING INFORMATION COVERED BY THE CITY POLICY MANUAL/CITY ADMINISTRATIVE MANUAL: Department members may obtain a copy through the City's Office of Employee Relations, the City of San Jose Intranet, and/or the Department's Research and Development Library.

E 1106

DUTY MANUAL:

The Department's Duty Manual contains specific policies, procedures and rules pertaining to specific functions or tasks performed within the Department and associated responsibilities and authority. These policies, procedures or rules may reflect both City and Department management concerns pertaining to the operation and administration of assigned responsibilities and obligations. All Department members are responsible for remaining aware of the manual's content and will adhere to the directives contained within it.

- TOPICS COVERED BY THE DEPARTMENT'S DUTY MANUAL: The Department's Duty Manual includes, but is not limited to, the following topics:
 - Descriptions of position responsibilities and duties
 - Standards of conduct
 - Awards and commendations procedures
 - Personnel procedures
 - Discipline procedures
- OBTAINING INFORMATION COVERED BY THE DEPARTMENT'S DUTY MANUAL: All Department members have access to the Duty Manual via the intranet at <http://mysjpd/> and therefore have policies, procedures and other information readily available.

E 1107 TEMPORARY ORDERS:

Revised 12-10-21

See Duty Manual section A 2304 – TEMPORARY ORDERS for a description.

E 1108 BUREAU DIRECTIVES MANUAL:

Contains procedures, orders and rules which pertain to the functions of a specific bureau. Bureau directives are issued by the Deputy Chief commanding the bureau involved but may be proposed by any command officer within the affected bureau, consistent with Duty Manual section A 2100 - MAINTAINING ORGANIZATION and Duty Manual section A 2300 - WRITTEN DIRECTIVES.

- OBTAINING INFORMATION COVERED BY A BUREAU DIRECTIVES MANUAL:
Department members may review previously issued bureau directives by contacting, through their chain of command, the Office of the Deputy Chief in command of the bureau involved or Research and Development.

Proposed procedures which conflict with or modify any General Order contained in the Department's Duty Manual will not be included in this manual; instead, such procedures will be submitted to the Office of the Chief of Police, via the chain of command, for consideration.

E 1109 DIVISIONAL DIRECTIVES MANUAL:

This document contains procedures, processes and rules governing the operations and functions of a specific subdivision of a bureau. Division commanders will obtain approval from their Bureau Chief prior to including, modifying or deleting material from their respective Divisional Directives Manual consistent with the process contained Duty Manual section A 2100 - MAINTAINING ORGANIZATION and Duty Manual section A 2300 - WRITTEN DIRECTIVES.

- OBTAINING INFORMATION COVERED BY A DIVISIONAL DIRECTIVES MANUAL:
Department members may review their respective Divisional Directives Manual by requesting a copy through their immediate supervisor or Research and Development.

E 1110 UNIFORM & EQUIPMENT SPECIFICATIONS MANUAL:

The Department's Uniform and Equipment Specifications Manual dictates the specifications for all uniform items and all safety equipment required and authorized by the Department for regular patrol duty, and for specialized units within the Bureau of Field Operations. All Department members are responsible for becoming aware of the manual's contents and will adhere to the applicable specifications contained within when purchasing such items.

Research and Development is responsible for updating the manual and distributing updated material to the Department members.

- OBTAINING INFORMATION COVERED BY THE UNIFORM AND EQUIPMENT SPECIFICATIONS MANUAL: Department members may review a copy of the manual located on the intranet at <http://mysjpd/> under Documents/Publications/Policy and Procedures/Policy and Procedures Library.

E 1111

BENEFITS AND MEMORANDUMS OF UNDERSTANDING:

Department members may obtain information pertaining to the following topics by contacting the city agency or department indicated:

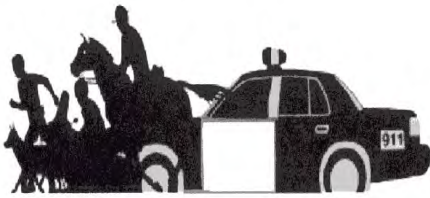
MEDICAL AND DENTAL BENEFITS: Department members may obtain information about what benefits are currently available and how to obtain them from the Human Resources Department.

INSURANCE PROGRAMS: Department members may obtain information pertaining to insurance programs from two sources:

- City Programs: Information may be obtained from the City's Human Resources Department.
- Employee Organization Programs: Information may be obtained through a Department member's respective employee organization (Peace Officer's Association, Union, etc.).

MEMORANDUM OF UNDERSTANDING: Department members may obtain information pertaining to wages, hours, and other terms and conditions of employment by contacting the Employee Relations or by obtaining a copy of the Memorandum of Understanding or Agreement from a representative of the bargaining unit to which the requesting Department member belongs.

RETIREMENT BENEFITS: Department members may obtain information about the City retirement programs by contacting the Personnel Unit or the Human Resources Department, Retirement Division.



E 1200 - SUGGESTIONS - GENERAL PROVISIONS:

The City of San Jose maintains a Suggestion Award System which provides financial compensation to employees offering suggestions that significantly improve City operations. The Police Department also maintains an in-house Suggestion Award System that provides for letters of commendation to members offering suggestions that significantly improve the operations within the Department and/or the ability of the Department to fulfill its mission. Members are encouraged to participate in both suggestions systems.

PROCEDURE

E 1201 SUGGESTIONS FOR IMPROVEMENT - GENERAL PROVISIONS:

All members, regardless of their immediate assignment, have an inherent responsibility to improve the Department's overall effectiveness and efficiency whenever possible and practical. Thus, the responsibility of analyzing Department operations is shared by all involved members. The Department encourages the submission of suggestions for improvement by its members. Such suggestions are to be submitted through appropriate channels in order to receive proper consideration.

E 1202 SUBMITTAL OF SUGGESTIONS:

When a Department member desires that a suggestion be officially reviewed and analyzed, the member submitting the suggestion will utilize one of the following established procedures.

E 1203 SUBMITTAL TO THE OFFICE OF THE CHIEF:

Revised 01-06-01

The member making the suggestion will prepare two written copies of the suggestion using a City memorandum form. The memorandum is written as specified in the "Reporting" section of the Department's Duty Manual.

The originating member will attach a "Transmittal Form" to one copy of the memorandum and forward it to the Office of the Chief via such member's chain of command.

The second copy of the suggestion will be forwarded directly to the Office of the Chief of Police, Research and Development, both in hard copy and electronic format. The electronic copy can be submitted to the Research and Development Unit Commander or their designee or, if known, directly to a Unit member. This change will facilitate processing, reproduction and archiving.

Upon receipt of both copies, Research and Development members will then coordinate the review and analysis process.

E 1204 SUBMITTAL VIA THE EMPLOYEE SUGGESTION AWARD SYSTEM:

The City maintains a Suggestion Awards System that recognizes employees who submit suggestions that improve City government and/or lower costs.

To be eligible for an award, the member making the suggestions must complete an "Employee Suggestion Form" (City Form 190-801). This form is typewritten to supply the

information requested; any additional pages, sketches, samples or other documentation may also be attached. The submitting member will then retain a copy of the form for future reference.

The "Employee Suggestion Form" will be sealed in the CONFIDENTIAL envelope and routed or mailed to the Suggestion Awards Commission.

- TIME ELEMENT: The Suggestion Awards Commission has adopted a 60-day verbal disclosure rule. When a member verbally discloses an idea to a superior, such member must submit the idea to the Suggestion Awards Commission within 60 days of the verbal disclosure in order to be considered for an award. Ideas and suggestions submitted after the 60-day period is returned to the originating member without action being taken.
- RECEIPT OF SIMILAR SUGGESTIONS: When two or more employees submit similar suggestions, only the first one officially received is considered for an award.
- ELIGIBLE IDEAS AND SUGGESTIONS: The following categories of ideas or suggestions are eligible for submittal and consideration for an award:
 - Improvement of operations and practices
 - Improvement in methods and/or procedures
 - Saving of time, labor, space, equipment or supplies
 - Improvement of safety or health conditions
 - Inventions or modifications
 - Elimination of unnecessary procedures
- INELIGIBLE IDEAS OR SUGGESTIONS: Ideas or suggestions which are not eligible for awards include, but are not limited to, the following categories:
 - Suggestions pertaining to personal grievances, position classifications or salary recommendations
 - Suggestions which would generate new revenue unless improvements in procedures or services are also suggested
 - A statement of a problem, but no solution presented
 - Routine maintenance or housekeeping suggestions unless they describe a better, more efficient method
 - Ideas pertaining to new facilities during the first six months of occupancy
 - Ideas which are in use or study by management prior to submission date of suggestion
 - Ideas predated by a suggestion which has already been submitted
 - Unsigned suggestion forms
 - Ideas submitted by a group (i.e., more than two employees are named as being the suggestor)
 - Ideas which are meet-and-confer matters or governed by state or federal safety regulations

Employee/Management Interests

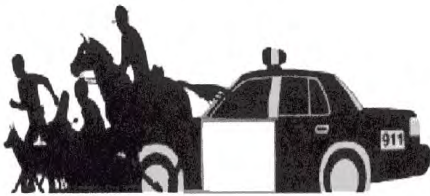
- Ideas which pertain to experimental installation, procedures or forms
 - Ideas pertaining to errors in drawings, specifications, or operating rules which would normally be corrected in any event
 - If a suggestor's job specifications include responsibility for generating or implementing the suggestion or idea, no award is given
- OBTAINING AWARD INFORMATION: Department members may obtain information pertaining to award values, method of payment, and how awards are processed from the City Suggestion Award Coordinator or the Department's Research and Development Unit.

E 1205

SUBMITTAL OF TRAINING BULLETIN INFORMATION:

Added 08-18-05

Department members who become aware of issues that they feel might require immediate notification to Department members, will contact a Department Training Unit supervisor or the Research and Development Unit. The information should be submitted as a memorandum which can be written in free form with no specific format. The memorandum should include any supporting articles or photographs, if available.



E 1300 - GRIEVANCE PROCEDURE:

Effective management and respect for an individual's concerns requires that employees have a process available to express their grievances. A Department employee having a complaint relating to any matter affecting his employment is ensured the right of review at succeeding levels of Department authority until the grievance is resolved. The opportunity for an employee to file a grievance and its administrative review promotes efficiency and results in improved

morale. Those positive benefits are defeated if employees are reluctant to file a grievance. Therefore, no action is taken by the Department against an employee, a witness or employee representative merely for having filed or assisted in filing a grievance or court action, nor is such filing to be treated with disfavor by any echelon within the Department.

PROCEDURE

E 1301 GRIEVANCE PROCEDURE - GENERAL PROVISIONS:

When an employee of the Department is dissatisfied with an employment situation, the expression of such dissatisfaction will occur within the framework of the following procedures:

- DEFINITION OF GRIEVANCE: A grievance is a Department member's expressed complaint or dissatisfaction with some aspect of employment outside of the member's control.
- APPLICABILITY: All Department members, full or part-time, may avail themselves of the means authorized for expressing a grievance. Every supervisor to whom a grievance is presented has the responsibility to respond to such grievance in the manner and within the time limits prescribed as defined in the grievance submittal procedure.
- SUBMITTAL TO OTHER THAN IMMEDIATE SUPERVISOR: When a Department member believes that to present a grievance to an immediate supervisor would create an awkward situation, the member may elect to submit the grievance in writing to the next higher level of supervision in the submitting member's chain of command.
- REPERCUSSIONS: No Department member will institute disciplinary proceedings or take any actions of reprisal against an employee, or the member's representative, for submitting a grievance or initiating any court action.

E 1302 GRIEVANCE SUBMITTAL PROCEDURE:

Department members shall submit grievances according to one of the following appropriate procedures:

- INFORMAL SUBMITTAL: When a Department member believes that the circumstance or condition causing the grievance can be resolved by discussing the issue with an immediate supervisor, such member may do so without submitting the grievance in writing. However, the immediate supervisor contacted may, after hearing the grievance, direct the submitting subordinate to document the grievance in writing. In any event, the supervisor receiving an informal grievance will render a decision on the matter within five (5) working days.
- FORMAL SUBMITTAL: When the Department member submitting the grievance believes that the grievance has or cannot be resolved informally, such member may submit the grievance in adherence to one of the following procedures:

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Employee/Management Interests

- City grievance procedures as contained in the City Policy Manual Chapter 2.1.2.
- Bargaining unit grievance procedure as contained in the applicable memorandum of Understanding (memorandum of Agreement).

Which formal grievance procedure to use is determined by whether or not the involved Department member is a member of a bargaining unit and whether or not the Memorandum of Understanding (M.O.U.) or other document defining the relationship between City management and the bargaining unit contains a grievance procedure. When the M.O.U. contains a grievance procedure applicable to the employee submitting a grievance, the submitting member will adhere to the procedure contained within such M.O.U.

When a grievance procedure is not addressed in an M.O.U., the submitting member will adhere to the procedure contained in the City Policy Manual.

Line Operations/Procedures

L 1100 – 1900



San Jose Police Department Duty Manual

(revised 05/10/13)



L 1100 – ALLOCATION OF RESOURCES - AVAILABILITY:

Due to the emergency nature of the police function, the Department has a responsibility to remain available and ready to perform assigned functions in a proper and effective manner. To accomplish assigned functions, the Department maintains procedures which enhance the availability of officers.

PROCEDURE

L 1101 GENERAL PROVISIONS:

To ensure that the Department remains available to perform assigned functions, the following procedures are established and will be adhered to by Department members.

L 1102 RECALL TO DUTY:

Department members are subject to recall to duty and will report for duty unless exempted by competent authority.

L 1103 TELEPHONE REQUIRED:

Revised 09-23-11

Department members will maintain a functioning telephone in order for the Department to be able to contact them. Residential or Cellular telephones will satisfy this requirement.

L 1104 CHANGE OF ADDRESS OR TELEPHONE NUMBER:

Revised 09-23-11

Department members will, via their Bureau Chief, keep the Office of the Chief of Police notified of their correct address of residence and telephone number and will report any change of the same within 24 hours after making such change. Forms for this purpose are available in each bureau office or from the Personnel Unit. Each bureau office is responsible for updating bureau rosters and will forward the form to the Personnel Unit which will then transmit the form to the City Human Resources Department.



L 1200 - DEPLOYMENT AND RESPONSE PRIORITIES:

Since it is not always possible for the Department to respond to every call, the Department will strive to provide the highest level of efficient service possible by effectively deploying available resources. Multiple calls for services handled simultaneously require established priorities. When the Department is involved in applying such priorities, it is on the basis of comparative threat to human life and property, probability of apprehension, the nature of the offense involved and the nature of service required.

PROCEDURE

L 1201 DEPLOYMENT - GENERAL PROVISIONS:

The Department's responsibility to provide the public with the highest attainable standard of law enforcement and the Department's mission will be the primary factors in the assignment and deployment of its members. The total resources of the Department must be deployed in accordance with the demonstrated need for patrol and specialized police services.

L 1202 DEPLOYMENT OF PERSONNEL:

The Department's services are varied in character and must be rendered at all hours in many locations. Therefore, members will be assigned to tours of duty for watches and at places where it is believed their law enforcement services will be of maximum benefit to the community.

L 1203 RESPONSE PRIORITIES:

The nature of many police tasks requires the Department to be prepared for any contingency. Officers will attempt an appropriate response with sufficient resources to establish control, regardless of the nature of any specific assignment.

L 1204 RECEIVER'S RESPONSIBILITY:

The responding units receiving the assignment have a responsibility to evaluate the assigned call and determine the appropriate response.

L 1205 SUPERVISOR'S RESPONSIBILITY:

Each supervisor has a responsibility to remain aware of assignments which affect subordinates. When such assignments originate through radio communications, supervisors will, when practical, monitor such assignments and determine if the subordinate receiving the communication is supplied with adequate information to determine the necessary response. In any event, supervisors may increase or decrease a subordinate's response as required.

L 1206 INTERVENING INCIDENTS:

Officers in the field may be required to decide whether to continue on an assigned call or handle a citizen's complaint or other observed event. Determination of which to handle is based upon the comparative urgency and the risk to life and property of the assigned call and the intervening incident.

When one or the other cannot be immediately handled, the involved officers should, if circumstances permit, give directions for obtaining such assistance or initiate the necessary notifications themselves.

L 1207 FILLING ON CALLS:

When an incident is assigned to a unit(s), other units should not fill unless the responding unit requests assistance or the need for assistance is obvious or known.

L 1208 COORDINATION OF RESPONSE:

In the interest of officer safety and effectiveness, an attempt should be made to formulate plans between units when two or more are responding to the same incident. As an example, responding members may choose the side of a house each will take or they may plan to use different streets to provide greater coverage. When such plans are made, members involved are obligated to advise each other of the plan, their arrival at the planned location, and any divergence from the agreed-upon plan when possible.

L 1209 RESPONSE AVAILABILITY:

When a unit can decrease response time to a call because it is nearer than a dispatched unit, the closer unit will notify Communications of its location and the dispatcher may then send the closer unit.

L 1210 RETURN TO SERVICE:

Officers have a responsibility to return to service as soon as possible after completion of an assignment. Completion of an assignment includes the disposition of an incident and respective reports unless directed by a supervisor to return to service or the volume and gravity of activity requires delay of completion to some other time during the shift. It is the duty of the on-scene supervisor to ensure that those members who are not required are immediately returned to their assigned beats.

L 1211 DETERMINING MANNER OF RESPONSE:

Only two types of response are allowed. To assist officers in determining the appropriate response, the following guidelines are provided:

- NORMAL RESPONSE - ANY CALL OR ASSIGNMENT WHICH IS NOT AN EMERGENCY. Officers will respond to the call immediately unless there is a need/reason to delay response. Communications will be advised of any delays. Department members will obey all traffic laws and consider road and traffic conditions when making a "normal response." Red lights and/or siren are not authorized.
- EMERGENCY RESPONSE - ANY CALL OR ASSIGNMENT WHICH IS AN EMERGENCY AND REQUIRES A FASTER POLICE RESPONSE THAN WOULD OCCUR IF TRAFFIC LAWS WERE STRICTLY OBEYED. Red lights and siren are used. An "emergency response" does not relieve the driver of a vehicle from the duty to drive with due regard for the safety of all persons using the highway nor protect the driver from the consequences of an arbitrary exercise of an "emergency response."

When making an "emergency response," emergency lights and siren are used to warn other users of the highway and to assist in gaining the right of way. Right of way and sufficient warning are not to be taken for granted when making an "emergency response." Defensive driving practices will be employed at all times.

That an "emergency response" is justified does not automatically authorize excessive speed. Many "emergency responses" call for normal driving speeds with red light and siren used to obtain the right of way and warn other drivers.

Officers may make a decision to utilize this response method when any of the circumstances listed below are reasonably believed to be present.

Examples of an "emergency response" are:

- A crime or hazard endangering life exists.
- The assignment involves a request for emergency assistance by another officer or other peace officer.
- The incident involves the immediate pursuit of a suspected violator.

Officers will make individual assessments and inquiries regarding assignments and observations and not make an "emergency response" unless dictated by their own assessment of information available or as directed by supervision.

It is mandatory that, when making an "emergency response," units notify Communications that such response is being initiated. Officers will indicate that they are responding "Code 3" and will obtain an acknowledgement prior to initiating an "emergency response" unless conditions or circumstances do not permit.

An officer's "emergency response" may be modified or cancelled at any time by any supervisor or command officer.

When making an "emergency response," units may discontinue the use of red lights and siren when close to arrival and respond the remainder of the distance in a "normal response" mode. The exact time to discontinue an "emergency response" is to be decided by each officer assigned to respond.

Factors to be considered in this decision include, but are not limited to:

- Use of the siren would endanger the lives of citizens or officers on the scene.
- Use of the siren would warn a suspect of the arrival of the police.



L 1300 - RESPONSE TO SPECIFIC EMERGENCIES

When notified that an emergency situation is occurring, the Department will respond immediately with sufficient available resources to control the incident. Such response is coordinated so that Department actions are effective and ensure that the problem is resolved and order restored.

PROCEDURE

L 1301 RESPONSE TO SPECIFIC EMERGENCIES - GENERAL RULE:

After considering the tactical situation, officers will initiate reasonable and necessary steps consistent with their assignment to protect life and property and enforce the law. In addition, officers will strive to make a rapid response with sufficient resources to establish effective control over emergency situations.

L 1302 AUTHORITY TO ACTIVATE SPECIALIZED UNITS:

The following officers have the authority to activate specialized units.

- The on-scene commanding officer.
- A Bureau of Field Operations command officer en route to assume command at the scene.
- Any chief officer notified of the situation.

When a specialized unit is authorized to respond, the member authorizing the response will ensure that all command officers in the emergency chain of command are notified.

L 1303 OFFICER ASSISTANCE CALLS:

When an officer needs emergency assistance, it is imperative that such officer receives help as promptly as possible. To avoid confusion and unlimited response to officer assistance calls, the following procedures are established to assist communications dispatchers, field supervisors and other units to coordinate an appropriate and orderly response.

L 1304 REQUESTING EMERGENCY ASSISTANCE:

The officer making the request will utilize the following procedures when possible:

- The requesting officer will clear the air by broadcasting "Code 3 Traffic."
- The officer will specify the location, the number of units needed and their response code.
- A brief statement of the situation will be given if time permits.
- Ensure the district supervisor is notified of the situation.

L 1305 INITIATING RESPONSE:

When an emergency assistance call is received, the following procedures will be adhered to.

L 1306**NUMBER OF UNITS TO RESPOND/BASIC RESPONSE TEAM:**

The officer initiating the call for assistance is usually the best judge of what resources are required to control the situation. Communications dispatchers will abide by the officer's request. When the officer does not specify the number of units needed, or there is insufficient information supplied or available, or a citizen initiates the call in place of an officer, a "Basic Response Team" is dispatched. A "Basic Response Team" consists of the following units:

- Two units responding to the scene using an "emergency response."
- Two units responding to the scene using a "normal response."
- One supervisor responding to the scene using a "normal response."

Other units will not move into the area unless assigned by communications dispatchers or field supervisors.

L 1307**INITIAL ACTION:**

The Communications dispatcher will broadcast a "Code 33" on all appropriate channels.

Officers not involved in the response will immediately discontinue use of their radios.

The responding units, as well as the appropriate response codes, are determined by the Communications dispatcher in accordance with the following:

- The dispatcher will determine the first two units to respond either by designating a specific unit or requesting the closest unit. In any event, the Communications dispatcher will have the authority to designate the first two units.
- The dispatcher will indicate the response code requested by the unit needing assistance. In the event no response code was indicated by the requesting unit, the first two units will respond "Code 3."
- The dispatcher will notify the supervisor in the district-of-occurrence of the call and supply a brief summary of the situation. When the district-of-occurrence supervisor is not available, the order of notification, until a supervisor is contacted, is as follows:
 - An adjoining district supervisor.
 - The closest supervisor from another district.
 - An area commander.
- The dispatcher will then continue responding the remaining units. The initial action taken is critical. Officers not dispatched will remain in service and available to respond but will maintain radio silence until the "Code 33" is lifted by on-scene officers.

L 1308**DUTIES OF FIRST ARRIVING UNIT:**

The first arriving unit will evaluate the situation to determine if adequate resources are at the scene or en route. When making this evaluation, the first arriving unit will confer with the person making the initial request, if possible. When the evaluation indicates that more units are needed or response increased, on-scene officers may make additional requests. In any event, the last arriving unit will relay an evaluation of the situation to Communications within two minutes of arrival.

L 1309 SUBSEQUENT RESPONSIBILITIES OF DISPATCHER:

The communications dispatcher has an obligation to dispatch all units requested by on-scene officers. If two minutes have passed since the arrival of the final member of a response team and no communications have been received, the dispatcher will dispatch an additional team to the scene.

L 1310 SUPERVISOR'S RESPONSIBILITIES AND AUTHORITY:

With the exception of the first unit to respond, the supervisor in charge of the situation may modify any aspect of the response when such modification is warranted. In any event, supervisors are responsible for ensuring that a proper response is conducted.

L 1311 RESPONSE TO IN-PROGRESS CRIMES:

When an in-progress crime involves a significant potential for violence, a multiple unit response is appropriate. Responding units will notify Communications of the following:

- Their arrival
- Their location at the scene
- Their intended actions, if possible
- The presence of elements which confirm or deny the validity of the call. Responding units will coordinate their actions so as to utilize available resources in an effective manner.

L 1312 DUTIES AFTER ARRIVAL:

Officers assigned to in-progress crimes have a responsibility to perform certain functions prior to gathering evidence or other investigative acts. The major functions are as follows:

- Obtain descriptions of perpetrators and vehicles and notify Communications.
- Secure the area and protect bystanders and evidence.
- Control the situation in a manner which reduces the threat to life.
- Request assistance as necessary for effective action such as additional police units, specialized police units, Fire Department units or ambulance.

The first arriving unit has the responsibility to assess the situation and notify Communications of the status of the incident as soon as possible.

L 1313 RESPONSE TO CIVIL DISPUTES:

(Revised 03-24-15)

Officers will avoid involvement in disputes of a civil nature in which they or the City are not a party and where there is no crime or potential for violence. A citizen may believe they have some obligation or is deprived of some right by virtue of the member's involvement. Likewise, officers should avoid rendering opinions concerning the rights of parties in civil disputes, except as may be necessary in the discharge of their duties. Officers may, however, explain their understanding of civil law either to obtain temporary resolution of a dispute or to avoid an arrest situation (i.e., landlord-tenant eviction disputes, etc.).

When officers are requested by a citizen to assist in recovering personal property, the officers should escort the citizen to the location and stand-by while the citizen makes their request. If the person in possession of the property refused to release it, officers should escort the citizen complainant away from the property and advise them that they may initiate further civil action on their own. If the person in possession of the property agrees to its release, the officers should stand-by for a reasonable time while a reasonable amount of property is removed. The officers must remain neutral in these situations and are not to actively participate in the recovery. Under no circumstances can property be removed without the presence and permission of the person having authority and control over the location where the property is being stored.

In the event a restrained party to a lawful restraining order requests removal of personal property, via a civil standby, the restrained party must first get a "Property Removal Order" signed by a Judge. [2013 Domestic Violence Protocol for Law Enforcement, Page #37] Officers may direct the restrained party to the Santa Clara County Superior Court for such order. (Form FM-1102 or CR-6072).

L 1314 RESPONSE TO LABOR DISPUTES:

Strikes and picketing are not violations of the law. It is the illegal acts that sometimes arise from such activities that concern 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. Officers will not normally be deployed to strike scenes; however, when deployment becomes necessary, the concerned commanding officer will assume the responsibility for taking the necessary action to deter crime and keep the peace.

L 1315 RESUSCITATION CALLS:

Usually no response is made by the Police Department to ambulance/resuscitator calls and fire alarms until a request for police presence is received from Fire or ambulance personnel at the scene. This does not preclude officers from initiating appropriate action in on-view situations when ambulance or Fire personnel are absent.

L 1316 REFUSAL OF MEDICAL TREATMENT

Revised 03-08-16

When any of the following persons have given an informed refusal of medical evaluation or care, no medical assistance will be provided by an officer:

- Competent adults.
- Any minor legally able to make medical decisions, i.e., a minor who is both competent and: (1) emancipated by a valid marriage (whether dissolved or not), or (2) on active military duty with the armed services of the United States, or (3) has received a court declaration of emancipation (with a valid copy of the declaration).
- Competent legal representative of a patient, including a qualified relative/care giver. At no time may a spouse or relative who is not the legal representative of the patient make a decision to refuse evaluation, treatment or transportation for the patient.

If at any time an officer feels that the nature of the person's medical condition and/or injury is so serious that the person should be provided a higher level of medical evaluation, then local EMS (the Fire Department or County Ambulance) is available to provide this service.

Officers will ensure that the person's refusal of medical assistance is documented as appropriate (i.e. add comments in the CAD event, GO, or a written report.)

Officers will seek to obtain a search warrant or other court order when medical intervention is needed in order to collect evidence of a crime and the person refuses medical treatment.



L 1400 - HOSTAGE SITUATIONS:

Criminals who use hostages to affect their escape are desperate individuals who, if allowed to escape, will pose a continuing threat to their hostage and to the public at large. The Department does not have the ability to protect the safety of a hostage who is allowed to be removed from the presence of officers. The safety of hostages can be best assured by keeping them in the presence of officers and by preventing their removal by the suspect. To assist officers in effectively responding to hostage situations, procedures for the initial response are maintained.

PROCEDURE

L 1401 RESPONSE TO HOSTAGE SITUATIONS:

The following procedures will be adhered to, when possible, by units initially responding to the scene:

- Secure the area so that the criminal cannot escape. This may involve requests for additional units. Such requests are made by the command officer at the scene.
- Clear the area of bystanders and evacuate adjoining buildings and apartments if necessary and possible.
- Advise Communications of the situation and request the presence of the district supervisor and area commander.
- Stand by for instructions from supervisory officers.

However, officers should realize that exceptional situations could arise where considered judgment might dictate allowing removal of a hostage, such as where there is imminent and probable danger to a large group of persons. In this event, initial units may make such a decision after a thorough consideration of the potential for injury or death to hostages and on-scene officers.

L 1402 DISTRICT SUPERVISOR'S RESPONSIBILITIES:

The district supervisor first notified of a hostage situation will respond to the scene immediately. While en route, the following procedures are adhered to:

- Notify Communications of the response and estimated time of arrival.
- Ensure that the area commander is notified and determine the availability of any on-duty Tactical Negotiators. It is important to understand that the call-back of Tactical Negotiators requires the call-back of MERGE, and because of this, it is imperative to first notify the MERGE Commander or a designee.

When at the scene, the following procedures are adhered to:

- Review actions taken and determine if additional officers or resources are needed.
- Establish a temporary command post and advise Communications of the location.
- Advise Communications of the current status of the incident.

- Inform the area commander of the details, actions taken and resources at the scene.
- Take actions indicated by the situation or at the direction of superiors.
- When specialized units report their arrival at the scene, advise such officers, when possible, of the details of the incident.

In any event, the district supervisor will determine that the area is secure and use every verbal and tactical tool to ensure the safety of the hostage and the arrest of the suspect.

L 1403

DEPARTMENT NEGOTIATOR'S RESPONSIBILITIES:

When notified, the officer designated as a "Tactical Negotiator" will adhere to the following procedures:

- Respond to the scene immediately.
- On arrival, report to the on-scene command officer.
- Remain under the functional supervision of the on-scene Commander regardless of the rank of either the negotiator or on-scene Commander until the arrival of the MERGE Commander.
- Obtain the details of the situation from the on-scene Commander as necessary to perform the negotiation function.

Department negotiators will remain available to perform the negotiation function until relieved by the on-scene Commander. Once authority is given to begin the negotiation function, the officer performing the negotiation process is in command of all negotiation officers. In addition, the negotiator will have the authority and responsibility to use any available resources to successfully accomplish the negotiations as long as the area remains secure, officers are not placed in danger and the safety of hostages is not compromised.

L 1404

AREA COMMANDER'S RESPONSIBILITIES:

When notified, the area commander will respond immediately to the scene. While en route, the following procedures are adhered to:

- Notify Communications of response and estimated arrival time.
- Determine if the district supervisor is responding. If the district supervisor is not responding, advise Communications to respond an adjoining district supervisor.
- Ensure that the MERGE Unit Commander, or a designee, is notified of the situation. The unit commander will initiate the call-back of the tactical negotiators and MERGE if it is deemed necessary.
- Have Communications notify the on-duty Bureau of Field Operations Captain.
- Perform any other duties or functions believed necessary.

Upon arrival, locate the on-scene commander and ascertain the following:

- The details of the situation.
- The actions taken and in progress.

- The resources available and deployment.

The area commander will then determine if it is appropriate to assume command. If command is assumed, all resources involved in the incident are functionally subordinate to the area commander, regardless of their rank or bureau assignment, until such time as command is assumed by higher authority. When command has been assumed, Communications is so advised.

If command is not assumed by the area commander or higher authority, the area commander or higher authority may monitor the situation, but will refrain from taking partial command.

L 1405

RESPONSIBILITIES - SPECIALIZED UNITS (MERGE, BOMB, CANINE)

When a specialized unit has been notified of a hostage situation, the highest ranking and available MERGE Supervisor or Team Leader will ensure that adequate Department members and equipment are assembled. A MERGE command post is designated and Communications notified of its location.

When committed to the situation by the on-scene Commander, the following procedures are adhered to:

- The ranking MERGE supervisor or team leader will report to the on-scene commander.
- The MERGE Unit will become a resource of, and subordinate to, the on-scene Commander.
- When authorized to perform a mission, all resources needed to carry out that mission are functionally subordinate to the MERGE Supervisor or Team Leader.
- When authorized to perform a mission, the design of the tactics used to accomplish the assignment are the sole responsibility of the ranking MERGE supervisor or team leader. The on-scene commander retains authority to cancel a mission, but not to dictate tactics.



L 1500 - BARRICADED SUSPECTS:

Barricaded suspects pose an extreme danger, not only to officers who seek to arrest them, but to other persons as well. Good judgment demands that a tactical plan be developed rather than immediately rushing a barricaded suspect. Nevertheless, certain preliminary procedures must be followed to ensure that the Department's response is effective. In this regard, the Department maintains guidelines to assist initial units responding to a barricaded suspect incident.

PROCEDURE

L 1501 RESPONSE TO BARRICADED SUSPECT INCIDENTS:

The following is adhered to, when possible, by the units initially responding to the scene:

- Officers will secure the area so that a barricaded suspect cannot escape. This may involve requests for additional units. Such requests are made by the on-scene command officer.
- Clear the area of bystanders and evacuate adjoining buildings or apartments if necessary and possible.
- Advise Communications of the situation and request the presence of the district supervisor and area commander.

Once a barricaded suspect is isolated, time is to the benefit of the Department. Officers initially responding should stand by until arrival of supervisory officer unless there is imminent danger to life.

L 1502 DISTRICT SUPERVISOR'S RESPONSIBILITIES:

The district supervisor first notified of a barricaded suspect situation will respond to the scene immediately. While en route, the following procedures are adhered to:

- Notify Communications of the response and estimated time of arrival.
- Ensure that the area commander is notified.

When at the scene, the following procedures are adhered to:

- Review actions taken and determine if additional officers or resources are needed.
- Establish a temporary command post and advise Communications of the location.
- If appropriate, have Communications notify the MERGE Unit and Tactical Negotiators to stand by.
- If possible, an effort should be made to contact the suspect and attempt to persuade the suspect to voluntarily surrender. This should be done before force is used, unless the lives of officers or citizens would be placed in jeopardy.

When reasonable efforts to persuade the suspect to surrender have failed, or the lives of officers or citizens are in jeopardy, the on-scene command officer may notify the MERGE Unit to respond.

L 1503 AREA COMMANDER'S RESPONSIBILITIES:

When notified, the area commander will respond immediately to the scene. While en route, the following procedures are adhered to:

- Notify Communications of response and estimated time of arrival.
- Determine if the district supervisor is responding. If the district supervisor is not responding, advise Communications to respond an adjoining district supervisor.
- Have Communications notify the on-duty Bureau of Field Operations Captain.
- Perform any other duties or functions believed necessary.

Upon arrival, locate the on-scene Commander and ascertain the following:

- The details of the situation.
- Actions taken or in progress.
- Resources available and deployment.

The area commander will then determine if it is appropriate to assume command. If command is assumed, all resources involved in the incident are functionally subordinate to the area commander, regardless of their rank or bureau assignment, until such time as command is assumed by higher authority. When command has been assumed, Communications is so advised. If command is not assumed by the area commander or higher authority, the area commander or higher authority may monitor the situation, but will refrain from taking partial command.

L 1504 RESPONSIBILITIES AND AUTHORITY OF MERGE COMMANDER:

When the MERGE Unit has been notified of a barricaded suspect situation, the highest ranking and available MERGE Supervisor or Team Leader will ensure that adequate officers and equipment are assembled. A MERGE command post is designated and Communications notified of its location.

When committed to the situation by the on-scene Commander, the following procedures are adhered to:

- The ranking MERGE supervisor or team leader will report to the on-scene commander.
- The MERGE Unit will become a resource of, and subordinate to, the on-scene Commander.
- When authorized to perform a mission, all resources needed to carry out that mission are functionally subordinate to the MERGE supervisor or team leader.
- When authorized to perform a mission, the design of the tactics used to accomplish the assignment are the sole responsibility of the ranking MERGE supervisor or team leader. The on-scene commander retains authority to cancel a mission, but not to

dictate tactics.

Upon arrival, report to the on-scene commander.

- Obtain the details of the situation, the location and number of officers at the scene and actions taken or in progress.

When authorized to perform the specialized function, the highest ranking MERGE Unit member at the scene will assume command of the unit's functions. Tactics employed are the responsibility of the MERGE Unit commander.



L 1600 - RESPONSE TO SECURITY ALARMS:

Revised 08-31-18

Although statistics indicate a majority of security alarms are false, they are a good preventative measure to indicate when a crime is occurring and cannot be treated as false on the front end. A coordinated response to security alarms is a means by which the Department addresses crime trends and instills community confidence when a potential crime is occurring.

PROCEDURE

L 1601 RESPONSE TO SECURITY ALARMS:

Revised 08-31-18

The Department's response to security alarms will be in accordance with the following procedures.

L 1602 RESPONSIBILITIES OF COMMUNICATIONS:

Revised 08-31-18

When Communications receives a call of a burglary or intrusion alarm, the call-taker will obtain as much information as possible from the alarm monitoring company or reporting party. A person verifying an alarm from the scene to the San Jose Police Department shall be instructed to remain in a safe location at or near the scene until officers have responded in order to aid in the investigation of the alarm. All alarm calls shall be entered into the CAD system by Communications members.

Communications personnel will prioritize the alarm call according to communications procedures and two (2) officers will be dispatched to respond.

L 1603 RESPONSIBILITIES OF RESPONDING OFFICERS:

Revised 08-31-18

This type of service is a multiple unit response due to the potential dangers involved. Alarms indicate an in-progress situation and will be responded to accordingly. The responding officers will determine if additional units are needed. If the alarm is valid and entry or other criminal activity has occurred, appropriate actions will be initiated as enumerated in Duty Manual section L 4300 – INITIAL ACTIONS.

Officers should pay particular attention the history of false alarms at the location, burglaries in the area and other information when responding to an alarm.

L 1604 ON-VIEW AUDIBLE ALARMS:

Revised 08-31-18

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If an officer on-views an audible alarm, the officer should attempt to locate an alarm company sticker or placard on the premises. If alarm company information is located, officers will provide the alarm location, alarm company name and phone number to Communications. Communications will notify that alarm company and attempt to locate a responsible party. However, Communications members will not contact the actual alarm location unless directed to do so by officers on the scene.

L 1605 NO ATTEMPTED ENTRY - FALSE ALARM:

Revised 08-31-18

Officers will check the premises of the alarm. If there is no evidence of entry or attempted entry, or if the alarm is otherwise determined to be false, the officer assigned the call will complete a "False Alarm Incident Report" card (Form 200-29). The officer will leave the duplicate of the report at the premises or with the responsible party, if present. The officer will turn in the original to a box provided in the report writing room prior to the end of shift. After completing the "False Alarm Incident Report" at the scene, the officers will return to "in-service" status. The officers will not wait for the alarm company or the responsible party to respond to the scene. However, if police assistance to enter and check the premises is requested by the responsible party, officers will respond and assist consistent with existing resources and demands for service.

L 1606 DISPOSITION CODE:

Revised 01-01-12

When returning to "in-service" status from an alarm response, officers will use one of the following codes:

- If the alarm is false, officers will use the disposition "U." Officers will complete a "False Alarm Incident Report."
- If the alarm was caused by a crime, or an actual or attempted entry, the officers will use the disposition "R" and will complete a General Offense Report.
- Officers will update the event with Communications to reflect the type of report taken (i.e. "update to 459, 1098 R").
- If an officer is assigned to an audible alarm but is unable to locate the source of the alarm, the officer will use the disposition "G."
- If an officer responds to a previously reported alarm, the officer will use the disposition "P."



L 1700 - PATROL PROCEDURES:

Law Enforcement operations consist of many diverse activities which are directed toward the attainment of Department objectives. Activities such as patrolling, conducting field interviews and issuing traffic citations are not objectives in themselves; rather they are methods of achieving the objectives of preventing and deterring crime and providing a safe community in which to live. To ensure that members strive toward an effective response while patrolling their assigned areas, the Department maintains guiding principles and rules pertaining to patrol procedures.

PROCEDURE

L 1701 GENERAL PROVISIONS:

The following material establishes principles which must be applied to particular situations by each officer.

L 1702 ACCOUNTABILITY:

Each police officer is the Department's representative within the area to which the officer is assigned. Each officer is accountable for crime and hazards that exist on the assigned beat and is responsible for preventing crime through effective police action.

L 1703 ROUTINE CALLS:

Officers must remain sensitive to community needs and remember that when a request for service is routine to an officer, it is unique and unusual to the community member involved. Therefore, each Department member should provide reasonable and necessary service in an effort to properly resolve and/or record each complaint received.

L 1704 PATROL ASSIGNMENT RECORD:

Department members record activity or actions taken whether self-initiated or assigned. Radio communication will be utilized for this purpose regardless of what other records are maintained. Each officer assigned to patrol or other uniformed field activity is responsible for notifying Communications of the following:

- Arrival on the scene.
- Completion of assignment.
- Disposition information.
- Location and nature of self-initiated activity.

Officers are expected to maintain and have available their own notes, not a part of official reports, that may give supplementary information for use in court to refresh their memory or to increase their performance.

L 1705

COURTESY SERVICES:

Often time's officers are called upon to supply services which are not enforcement oriented. When this occurs, officers are encouraged to provide those courtesy services which are consistent with this Manual, the City administration, or the law.

**L 1800 - SPECIFIC DUTIES:**

The duties and objectives of police patrol are many, but the basic duties are summed up in two words: protection and service. To ensure that the Department provides protection and service in an effective and efficient manner, procedures are maintained which inform members of the specific duties they are expected to perform.

PROCEDURE**L 1801 SPECIFIC DUTIES:**

The patrol function fluctuates from situation to situation; therefore, guidelines are maintained which assist members in performing their patrol duties. Officers will remain familiar with these guidelines and perform their tasks in a manner that is efficient, effective and in keeping with professional law enforcement standards.

L 1802 PREPARATION FOR PATROL:

Officers 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:

- 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.
- Descriptions of wanted or missing persons.
- Descriptions of stolen property.

L 1803 BASIC FUNCTIONS:

Officers assigned to patrol a beat will become acquainted with the beat boundaries, crime-prone areas, businesses, possible targets for criminal activity and any other condition which is detrimental to life or property. Officers will also continuously seek to prevent, detect or anticipate criminal activity. To accomplish these functions, the following tasks will be performed as often as possible.

- Inspect premises for doors ajar, broken windows or other conditions conducive to crime or indicative of criminal activity.
- Carefully observe and take notes of the actions of persons who might be involved in crime and take appropriate action.

When suspicion of a person's wrongdoing has become definite, stop and question them. Refer to the guidelines to be followed in this sensitive area of police work (Duty Manual section L 2800 - DETENTION AND ARREST).

- Obtain information on criminal activity through frequent contacts with residents,

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workers, merchants and passers-by on the officer's assigned beat.

- Inform the residents, workers and merchants on the beat of actions they can take to protect their person or property from crime.
- Frequently patrol areas or places where criminal activity most often occurs.
- Carefully observe all premises that may be used to fence stolen goods. Take note of the identity of suspicious persons transacting business there and keep alert for property that has been reported stolen.
- Observe all places of business and note the location of safes, cash registers, night lights, alarm systems, habits of the staff, time of opening and closing, nature of business, number and location of exits and means of securing (such as locking doors, windows, gratings and skylights or other barriers).
- Enforce licensing laws and regulations and report to an immediate supervisor all cases where violations exist.
- When traffic becomes congested and assistance is needed, take measures to direct the flow of traffic to ease the congestion. If more than a temporary absence from regular duties is required, notify the district supervisor and proceed as directed.

Officers will vary the sequence and schedule of their patrol so potential criminals cannot anticipate the officer being in a given place at a given time.

L 1804 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.

L 1805 DISTRICT SUPERVISOR'S RESPONSIBILITIES:

District supervisor's responsibilities encompass and reinforce the subordinates' duties with additional supervision, direction and control and other tasks specified elsewhere in the Manual or assigned by competent authority. District supervisors will meet with beat officers as often as necessary and practical to ensure that police services are properly and efficiently performed. At shift's end, each supervisor will ensure that all reports, evidence, property and equipment are appropriately processed by those members assigned.

L 1806 INABILITY TO LOCATE BEAT OFFICERS:

When a supervisor is personally unable to locate a beat officer, such supervisor will initiate a thorough search using other beat officers assigned to the supervisor's district. If the missing officer cannot be located within a reasonable time, the supervisor will ensure that the beat is properly covered. The district supervisor will then notify the area commander. Once the missing officer is located, the district supervisor will inquire as to the reason the officer was not available, and report the findings either orally or in writing to the area commander. The area commander may take immediate action that is appropriate and authorized or forward the report to the Division Commander if the incident requires such action.

L 1807 LEAVING THE BEAT:

Officers may leave an assigned beat whenever any of the following conditions are met:

- When assigned or authorized by competent authority
- To aid and assist
- When performing a follow-up process or pursuing a suspect
- When ending a tour of duty

When changing radio channels, the officer will advise Communications upon leaving one channel and will advise upon entering the other channel.

L 1808

DUTIES AT COMPLETION OF SHIFT:

Officers assigned to a patrol function, will adhere to the following procedures when a tour of duty nears completion:

- At an appropriate time, notify Communications of the intent to respond to the police facility for the purpose of going off duty.
- 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.
- Upon arrival at the police facility, complete and submit all reports and process all evidence or other property prior to leaving the police facility to attend to non-police business.
- 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.
- Inspect individual message folder before and after shift.



L 1900 - GENERAL OPERATION OF VEHICLES:

Under normal conditions, Department members will obey provisions of the law relating to the operation of vehicles in the same manner required of any other person using the roadway. Members are responsible for ensuring that their assigned vehicles are in a safe and operational condition. The use of City vehicles is limited to those operations that support the Department's mission.

PROCEDURE

L 1901 GENERAL OPERATION OF VEHICLES:

Officers will adhere to the following procedures whenever their duties require the use of a Department or City vehicle.

L 1902 INSPECTION OF VEHICLES:

At the beginning of each tour of duty, when having an assignment which involves the use of a department vehicle, make a thorough inspection of the vehicle and its equipment. Items that are inspected or checked include the following:

- Fuel, oil and water levels.
- Condition of tires and wheels.
- Emergency equipment.
- Locking mechanisms.
- Condition of other equipment (brakes, lights, radios, P.A. system, seatbelts, locking devices, upholstery).

Members will ensure that the vehicle to be used is in a condition which allows completion of the tour of duty without having to return to the police facility for service unless otherwise scheduled.

L 1903 VEHICLE ASSIGNMENT:

Members will only use a vehicle which has been assigned to them. If the assigned vehicle is not available, the garage staff or unit commander is notified and an interim replacement vehicle will be assigned.

L 1904 DAMAGED VEHICLE OR INOPERATIVE EQUIPMENT:

When the inspection of a vehicle uncovers damage or inoperative equipment, members will log the fact of the damage or inoperative equipment in the appropriate log maintained at the garage. When the damage or inoperative equipment is such that the vehicle should not be used, the member assigned the vehicle may obtain another vehicle after logging the defect.

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L 1905 TESTING OF SIREN OR HORN:

Department members will not use sirens or horns inside the Police Garage. Sirens may be tested on the apron in front of the garage.

L 1906 SERVICE IN THE FIELD:

In the event a Department or City vehicle needs service as a result of a flat tire, mechanical failure or accident, the vehicle operator will notify Communications who will call for service needed. The vehicle operator will not request any specific garage.

L 1907 DRIVING:

Vehicles will be driven at speeds that allow action to be taken whenever a situation is observed that requires a police response. Vehicles should be driven in a manner that does not hinder the flow of traffic or jeopardize the safety of the public. Officers using a City vehicle in the performance of their duties will consider the conditions present and use reasonable judgment when operating the vehicle.

L 1908 PUSHING OTHER VEHICLES:

Police vehicles are frequently called upon to push other vehicles. Push bars make this a safe and simple maneuver. Pushing a vehicle is to be done for the purpose of moving stalled or disabled vehicles from a hazardous location to a place of safety. Vehicles should be pushed the shortest possible distance. If the vehicle can be started with a short push, it is permissible to do so provided it has a stick shift. Pushing another vehicle is not to be done if the police vehicle is not equipped with a push bar. In such cases, a police vehicle that is equipped with a push bar should be called to the scene if available.

L 1909 REMOVAL OF KEYS:

With the exception of the City Garage, ignition keys will be removed from all City or Department vehicles when members leave the immediate vicinity of the vehicle. This not only safeguards the vehicle but also the equipment carried.

L 1910 WEARING OF SEATBELTS:

All Department members will wear seatbelts while driving or riding in any City vehicle, unless the City vehicle is not equipped with seatbelts; a doctor-certified medical condition exists that would prevent the member from wearing a seatbelt; or the Department member is on a special assignment or activity where the wearing of a seatbelt is not advisable.

Department members will ensure that passengers and prisoners wear seatbelts in City vehicles, unless they are violent, combatant or one of the above conditions exists.

L 1911 SETTING OF PARKING BRAKE:

When an officer leaves their vehicle with the engine running, the officer will place the vehicle gear shift in the "PARK" position and set the emergency parking brake.

L 1912 TRANSPORTING UNSCHEDULED NON-DEPARTMENTAL PERSONS:

When transporting unscheduled non-departmental persons, the following procedures will be followed:

- Notify Communications of the intent to transport, the purpose and the destination.

- Notify Communications of the departure and arrival. When transporting females or juveniles, officers will notify Communications of their beginning and ending mileage.

When transporting, members will utilize the most direct route unless traffic congestion or other circumstances indicate that the delay is excessive. Members will use their own judgment in determining the most efficient and direct route.

Unscheduled, non-departmental persons are those individuals who have not obtained prior official approval to be transported in City vehicles.

L 1913 TRANSPORTING CITIZENS:

Citizens will be transported in City vehicles only when necessary to accomplish a police purpose. When an exception to this rule is believed necessary, officers will obtain approval to transport for non-police purposes from their immediate supervisor prior to performing the transportation service.

L 1914 TRANSPORTING INJURED PERSONS:

City vehicles should not be used to transport injured persons from the scene of an injury to a hospital. Exceptions may be made to this rule whenever an officer at the scene believes it necessary due to unusual or demanding circumstances. When possible, an ambulance should be utilized for medical emergencies.

L 1915 PERSONAL USE FORBIDDEN:

Department members will not use a City vehicle for purely personal purposes or without the approval of a supervisor. A member will not use a City vehicle except upon assignment by the Police Garage Supervisor. When members have been granted the privilege of taking City vehicles home, they will report in-service before leaving their residence and out-of-service after arriving at their residence. This procedure protects the member and must be followed without exception.

L 1916 INTERIOR CLEANLINESS:

Each member will remove any trash or debris that has accumulated in the vehicle and ensure that the vehicle is in a clean condition for the next assigned user.

Line Operations/Procedures

L 2000 – L 2900



San Jose Police Department



L 2000 - EMERGENCY OPERATION OF VEHICLES:

The California Vehicle Code exempts emergency vehicles from the "Rules of the Road" when in response to an emergency call, involvement in a rescue operation or in the pursuit of a suspected violator of the law. However, due regard for the safety of all persons using the roadway will be exercised and emergency lights and siren used during the emergency response.

PROCEDURE

L 2001 EMERGENCY OPERATION OF VEHICLES - AUTHORIZATION:

When the circumstances or information available justify operating a City vehicle in an emergency manner, authorization may be made by the driver of the vehicle, a field supervisor or Communications dispatchers. However, the officer is responsible for determining that the provisions of Vehicle Code Sections 21055 and 21056, and the provisions of Duty Manual section L 1211 - DETERMINING MANNER OF RESPONSE are present. The following additional procedures are adhered to when operating a vehicle in an emergency manner.

L 2002 NOTIFYING COMMUNICATIONS OF EMERGENCY OPERATION:

An officer initiating the use of emergency lights and siren will notify Communications via radio that the vehicle is being operated as an "emergency vehicle". The driver of such a vehicle will obtain an acknowledgement and supply Communications with a brief description of the seriousness of the violation and direction of travel, unless conditions or circumstances do not permit.

EXCEPTION: Temporary use of emergency lights and siren for the purpose of stopping a motorist in a non-pursuit situation requires no notification.

L 2003 NOTIFYING FIELD SUPERVISORS:

Upon being notified of the emergency operation of a City vehicle, Communications dispatchers will ensure that the district supervisor or area commander is informed of the activity and circumstances.

L 2004 USE OF EMERGENCY LIGHTS AND SIREN:

Revised 10-14-22

When a vehicle is being operated in an emergency manner, the Department member driving will continuously use the emergency lights and siren. Neither the siren nor the emergency lights alone are sufficient; both must be used for the response to be considered an emergency.

L 2005 USE OF EMERGENCY EQUIPMENT DURING ROUTINE MATTERS:

Emergency equipment may be used whenever the circumstances of an incident indicate that such use is appropriate to protect the public.

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L 2006 "CODE 3" ESCORTS:

Vehicle Code Section 21057 prohibits officers from escorting under "Code 3" conditions except when performing the following:

- Escorting for the purpose of preserving life.
- Expediting the movement of supplies or Department members during a national, state or local emergency.

When escorting for the purpose of preserving life, officers will consider the nature of the emergency, the dangers and hazards involved and the emotional condition of the person to be escorted before deciding to escort "Code 3."

L 2007 SUMMARY OF EMERGENCY OPERATION PROCEDURES:

- Get there as quickly as possible with safety.
- The speed is kept to a level that will allow the driver to avoid hazards that are reasonably anticipated.
- When exercising the privileges of the emergency vehicle, be sure that the emergency lights are on and that the siren is being used.
- Remain alert and exercise due care for the safety of the public.

L 2008 DISCONTINUANCE OF "EMERGENCY RESPONSE:

Officers should not feel compelled to continue a "Code 3" response when conditions escalate to a degree which places the safety of the members or others in extreme jeopardy. Conditions that must be evaluated continuously are:

- Capabilities of the member to control the situation.
- Speed in relation to road conditions.
- Degree of emergency, urgency or threat to others.

Officers will evaluate the conditions and circumstances faced in order to arrive at a proper decision.



L 2100 - VEHICLE PURSUITS:

Revised 06-01-07

The primary purpose of this policy is to protect the public by assisting officers in making reasonable pursuit-related decisions that emphasize the importance of protecting the public. This requires balancing the known or reasonably suspected offenses and the apparent need for immediate capture against the risks to peace officers, innocent motorists and others.

This policy also meets or exceeds the requirements of Section 17004.7 of the California Vehicle Code, effective July 1, 2007, including the reporting and post-pursuit analysis required by Section 14602.1 of the California Vehicle Code, as well as the requirements for "regular and periodic training" required by subdivisions (c) and (d), thereby meeting or exceeding the requirements provided by Section 13519.8 of the California Penal Code.

PROCEDURE

L 2101 VEHICLE PURSUITS:

Revised 06-01-07

VEHICLE PURSUIT - DEFINED: A pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspected or actual violator of the law in a motor vehicle while the driver is using evasive tactics, such as high-speed driving, driving off a highway, turning suddenly or driving in a legal manner but failing to yield to the officer's signal to stop.

L 2102 INITIATING VEHICLE PURSUITS:

Revised 08-04-22

Development and Pursuit Recognition (Pre-Pursuit Phase)

When an officer attempts to stop a vehicle and the violator fails to yield immediately, there may be a brief interval where the officer follows the violator with lights and siren activated in an effort to stop them lawfully.

The decision whether or not to pursue should be made when the officer perceives:

- The violator is attempting to flee from or evade the officer, and/or;
- The violator knows or reasonably should know that the officer is signaling them to yield.

The time period between the officer's decision to stop a vehicle and deciding whether or not to pursue is the "pre-pursuit phase." During this time, officers should gather as much identifying information as practical about the vehicle and occupant(s), the nature of suspected offenses and the surrounding environment.

If at this point the officer decides not to pursue the violator, it will be deemed that a pursuit has not been initiated (i.e., a "non-pursuit" for reporting purposes under Section L 2120 "Reporting and Post-Pursuit Analysis").

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When the violator does not stop, or attempts to avoid capture, a pursuit may be initiated in accordance with this policy.

Proximity to Vehicle

Officers intending to stop a vehicle shall be within close proximity to the violator's vehicle before activating emergency equipment. Depending upon the circumstances, officers shall evaluate if the distance between the pursuing and fleeing vehicles is so great that initiating or continuing a pursuit would be impractical.

Example: An officer observes a driver commit a traffic violation and intends to conduct a traffic stop. Prior to the activating the emergency lights and siren, the vehicle flees at a high rate of speed to a distant location where the stop becomes impractical or out of the officer's view to an unknown location. Due to the impractical nature or unknown location, the officer should not activate the emergency lights and siren with the intent to initiate a pursuit.

L 2103

WHEN TO INITIATE A PURSUIT:

Revised 10-21-13

Sworn Personnel may engage in vehicular pursuits only when the initiating member can articulate the following factors are present:

- When the violator does not stop, and the driving behavior is reasonably perceived as being non-hazardous, (i.e., the violator is mindful of other persons' safety, the vehicle code, and is traveling at reasonable speeds for the conditions of the traffic and roadway), unless the circumstances change that would make it unsafe to continue and/or the violator begins driving without due care for the safety of others, or
- When the violator is believed to be a violent felon who poses a significant, ongoing threat to public safety. Personnel may continue the pursuit unless the specific facts and circumstances change to the point that the danger or serious injury posed by the vehicle pursuit to other motorists and pedestrians outweighs the need to apprehend the violator.

The seriousness of the offense and the threat posed by the fleeing suspect(s) must justify the vehicle pursuit. When initiating or continuing a vehicle pursuit, officers should continually weigh the seriousness of the offense(s) against the potential dangers to themselves and members of the community.

L 2104

FACTORS TO BE CONSIDERED:

Revised 08-04-22

In balancing the seriousness of the violator's offense(s) against the potential dangers that might accompany a pursuit, Department members should consider all relevant factors, including but not limited to the following:

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1. Public Safety, Nature of Offense, and Apparent Circumstances: Refer to Duty Manual section L 2103 – INITIATING VEHICLE PURSUITS
2. Officer Safety: Officers should consider their own safety in deciding whether or not to initiate, continue, or terminate a pursuit.
3. Vehicle Code Requirements: Members should only engage in vehicular pursuits if their vehicles are equipped with emergency lights and a siren, and they are used. Refer to Duty Manual section L 2000 – EMERGENCY OPERATION OF VEHICLES.
4. Passengers in the Officer's Vehicle: The decision whether or not to initiate a pursuit may be affected by the presence of professional staff in the police vehicle. A Department member may initiate or continue a pursuit as described above if the passenger is an adult participant in an authorized ride along program but always consider the immediate circumstances as to whether or not to continue or terminate the pursuit. Members should not engage in high-speed pursuits if they have one or more prisoners in the car, a juvenile in the car, or a witness or other persons to whom they are providing courtesy transportation.
5. Speeds Involved, Pedestrian and Vehicular Traffic: Department members should consider whether the speeds of the vehicles involved in the pursuit substantially exceed speeds safe for the conditions, which create a hazard that outweighs the need for apprehension. The safety and volume of pedestrian and other vehicle traffic should also be strongly considered.
6. Other Persons in or on Pursued Vehicle: Department members should take into consideration the known or suspected presence of passengers in or on the pursued vehicle, and whether or not they are willing participants in the crimes involved and/or evasion. The suspected or known presence of hostages or other abducted persons should also be considered in light of the threat the pursuit poses to them and the public in general, balanced against the interest of preventing the suspect(s) from being allowed to escape with the hostage or abductee.
7. Officer's/Supervisor's Familiarity with the Area and the Location of the Pursuit: Department members should consider their knowledge of the area in which the pursuit takes place, as well as the particular characteristics of the area (such as schools, parks, playgrounds, residential, downtown, and other business areas).
8. Time of Day, Road Conditions, Weather, and Visibility: When evaluating risks, adverse weather, time of day, traffic congestion, presence of pedestrians, and overall visibility should be considered.
9. Ability to Identify the Suspect(s) and Likelihood of Subsequent Apprehension: When pursuing known suspects, Department members should consider the option of delaying immediate apprehension. A pursuit may not be necessary if a known suspect can be apprehended later and there is no compelling public safety need for an immediate arrest. Primary and follow-up investigative procedures should be considered. Refer to L4200-4205 "Investigations." Also, a pursuit may not be necessary if there is an aircraft available to observe the fleeing vehicle, or if the location of the pursued vehicle is no longer known.
10. Capabilities of Police Vehicle(s) and Quality of Radio Communications: Officers should consider the capabilities of the police vehicles involved and the quality of

radio communications between the pursuing unit(s), the dispatcher, and the field supervisor.

11. Abilities of the Involved Officers: The experience, training and demeanor of involved officers should be considered in determining whether or not a pursuit should be initiated and/or continued.
12. Availability of Additional Resources: Department members should consider whether or not they have sufficient backup should they find themselves alone with the fleeing suspect(s) at the termination of a pursuit and what additional resources are available (e.g., air support, off-road capabilities, and the California Highway Patrol).
13. Supervisory Approval: Supervisory approval is not a requirement for Department members to initiate pursuits. However, involved members must provide accurate and timely information upon which supervisors may base their decisions of whether or not to allow the initiation or continuation of the pursuit or to terminate the pursuit.

L 2105 NUMBER OF INVOLVED UNITS PERMITTED:

Revised 06-01-07

The units involved in a pursuit should ordinarily be limited to a primary and secondary unit. A supervisor may also be involved in a pursuit with the two pursuing units, as per Duty Manual section L 2114 - SUPERVISORY RESPONSIBILITIES.

Officers in the primary unit, secondary unit or a supervisor may request additional units to be involved in a pursuit if it appears the officers in the vehicles involved would not be sufficient to affect the ultimate arrest of the suspect(s) safely. Variables of each pursuit, such as the nature of the suspected crime(s), number of suspects, need for canines, tactical officers or other units confined to limited roles, the number of officers per unit, the characteristics of the area (e.g., urban or rural), the availability of air support and other agencies, traffic conditions and other clearly articulated facts will dictate the number of units involved.

Officers who are not directly involved in the pursuit should operate in "normal response" (i.e., without lights and siren) and not attempt to "trail" or "parallel" the pursuit, unless otherwise directed by a supervisor. They should, however, remain alert to the pursuit's progress and be ready to respond to the termination point or provide traffic breaks at intersections.

L 2106 RESPONSIBILITIES OF THE PRIMARY AND SECONDARY UNITS:

Revised 10-21-13

Pursuits are rapidly changing events and the responsibility of each authorized unit engaged in a pursuit may change depending upon the circumstances. The roles may change due to the capabilities of particular police vehicles and/or the abilities of particular officers.

The primary pursuing unit is the vehicle closest to the suspect vehicle, and shall be responsible for the conduct of the pursuit. The secondary pursuing unit is to serve as a backup in case the primary unit is unable to continue with the pursuit and to assist in the apprehension at the termination of the pursuit. The secondary unit should perform the communications with other officers, supervisors and dispatchers when requested to do so by the primary unit.

L 2107 PURSUITS BY MOTORCYCLE, UNMARKED AND FOUR-WHEEL DRIVE UTILITY VEHICLES:

Revised 06-01-07

In the event a pursuit is initiated by a motorcycle unit, an unmarked unit or a four-wheel-drive utility vehicle, that unit should abandon the pursuit when a marked four-wheel patrol unit joins the pursuit. The first marked four-wheel patrol unit then becomes the primary pursuing unit.

L 2108 DRIVING TACTICS:

Revised 06-01-07

While Section 21055 of the Vehicle Code exempts an officer engaged in a pursuit of a violator from the rules of the road if the police vehicle displays a red light visible from the front and sounds a siren as reasonably necessary, Section 21056 does not relieve the officer from the duty to drive with due regard for the safety of all persons using the highway, nor protect the officer from the consequences of an arbitrary exercise of the privileges granted.

Section 21806 requires other motorists and pedestrians to yield to emergency vehicles, but Section 21807 also states that this does not relieve emergency vehicle operators from the duty to drive with due caution for the safety of all persons and property.

Keeping this in mind, a unit involved in a pursuit will activate and continuously use the police vehicle's red lights and siren. Officers should allow adequate spacing between each other and fleeing suspects, as being too close may result in unintended collisions. Furthermore, following suspects too closely has been shown to contribute to the dangerousness of fleeing suspects' driving.

Although fleeing suspects may cross intersections against signals without stopping or slowing, units should drive "tactically," i.e., be sure it is safe to cross intersections and pass other hazards before doing so. Also, keep tactical driving in mind in assessing whether or not there is a need to pass other units involved in the pursuit. If units decide to pass other units, they should attempt to communicate this and coordinate with the other affected unit(s).

L 2109 HELICOPTER ASSISTANCE:

Revised 05-24-24

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. This information, together with the helicopter crew's ability to provide constant visual surveillance, can assist in the safe and successful apprehension of pursuit suspects.

A police helicopter is not an emergency vehicle. The POST California Vehicle Pursuit Guidelines states, "an aircraft is not defined as an authorized emergency vehicle in the California Vehicle Code and should not be described as a pursuit vehicle."

When a pursuit is initiated, as per Duty Manual section L 2101 - VEHICLE PURSUITS, the pursuing officer should determine the status of the Department helicopter and, if available, request its immediate response via Communications.

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Dispatchers handling a pursuit will determine the helicopter's location and advise the operators of the pursuit location.

Department helicopter operators should respond immediately to the pursuit scene. Once the helicopter has arrived on the scene and the Tactical Flight Officer has established visual contact with the pursued vehicle, the helicopter crew should advise the pursuing units via Communications that they will track the vehicle. If the pursuit is outside of the Department's pursuit policy, the pursuing units should then terminate the pursuit and allow the helicopter crew to observe the actions of the vehicle and suspect(s) in question. Ground units will continue to track the suspect vehicle by reducing their response to Normal Response and, if practical, follow the suspect vehicle at a normal, safe speed at a distance that will make it unlikely the suspect can see the police vehicles. Ground units will continue to follow the helicopter crew's directions to the termination point in order to take the suspect(s) into custody. The event will remain on the originating district channel for the entirety of the tracking event. The initial field supervisor will maintain supervision of the event.

Tactical Flight Officers may use the helicopter's spotlight to maintain observation of the fleeing vehicle and gain suspect description(s) and other important information. The helicopter's spotlight may also be used to alert other motorists to the fleeing suspect's position in an attempt to increase the safety of uninvolved motorists and pedestrians.

If, in the judgment of the ground field supervisor, the gravity of the offense, extenuating circumstances or the surrounding terrain dictates that the primary and/or other units remain in close proximity, the primary unit and/or other units may continue the pursuit. If the ground field supervisor elects to maintain the pursuit, Communications is advised, and the helicopter should continue as an observation unit. The notified ground field supervisor will have final authority to modify or terminate a pursuit at any time.

If the helicopter locates a suspect vehicle, either through observation or with assistance of ALPR, ground units will respond and attempt to make an enforcement stop on the suspect vehicle. If the vehicle flees the enforcement stop and the want for the vehicle is not within the Department's pursuit policy, ground units will track the vehicle with the assistance of the helicopter. The helicopter and ground units will continue to track the suspect vehicle to the termination point, where ground units will take the involved suspects into custody. The event will remain on the primary radio channel where the vehicle was initially located and the ground supervisor responsible for the initiating units will maintain supervision of the event. If the suspect vehicle leaves the city limits, ground units involved in tracking will remain attached to the event but will not leave the city, unless approved to do so by a supervisor. If allied agencies are requested to assist in the apprehension of the tracked vehicle by the ground supervisor, the initiating unit will respond to the termination point at the conclusion of the event to take custody of the suspect(s) and/or evidence and complete the investigation.

L 2110

DEPARTMENT HELICOPTER UNAVAILABILITY:

Revised 10-21-13

If the Department's helicopter is unavailable for response and helicopter services are needed, a request for the closest Bay Area agency helicopter may be made via Communications.

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L 2111

COMMUNICATIONS:*Revised 06-01-07*Initiating Unit

The unit initiating a pursuit should notify Communications of the following information:

- Unit identification
- That they are involved in a pursuit
- The location and direction of travel
- Speed
- The vehicle description and license number if available
- The initial reason(s) for the pursuit
- The number of occupants
- Any other relevant information, such as weather and traffic conditions.

Officers involved in the pursuit should continue to provide updates to Communications as appropriate, to the extent practical, without compromising their driving abilities. The updates should include additional crimes, as well as changing locations, directions and conditions.

Communications

Communications will notify the District Sergeant for the assigned district in which the pursuit is initiated. If that sergeant is not available, Communications will notify a sergeant from the closest district. That sergeant becomes responsible for the supervision of the pursuit and will advise Communications that they are assuming responsibility on the radio channel handling the pursuit.

The communications dispatcher will attempt to keep the entire pursuit on the original channel, even if it travels into other districts or jurisdictions. If deemed appropriate, however, the dispatcher, supervisor or supervising sergeant may direct that all involved units switch to a channel which may offer better radio communications. In the event of a multi-agency or inter-jurisdictional pursuit, Communications should broadcast sufficient information to allow the supervising sergeant to decide the roles officers will have in the pursuit.

Each subsequent police vehicle joining the pursuit will also advise Communications. Those units not taking part in the pursuit should stay clear of the pursuit's path unless assigned a specific task related to the pursuit.

L 2112

CAPTURE OF SUSPECTS:*Revised 06-01-07*

Officers must strive to maintain tactical discipline at the conclusion of all pursuits in order to promote the safety of officers, citizens and suspects. Officers can best control the scene by following common "high-risk" car stop procedures consistent with fundamental tactical principles. Such principles include making use of available cover and concealment, attempting to control any escape routes the suspect(s) may use and attempting to order

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suspects to leave their positions of cover and concealment while officers maintain a position of advantage and safety.

L 2113 CONTINUATION OR TERMINATION OF PURSUIT:

Revised 06-01-07

All of the circumstances under which pursuits may be initiated, and all of the factors to be considered listed above in Duty Manual sections L 2103 - WHEN TO INITIATE A PURSUIT and Duty Manual section L 2104 - FACTORS TO BE CONSIDERED are continuously evaluated by involved units and supervisors, balancing whether the need to apprehend the suspect immediately via pursuit outweighs the danger the pursuit poses to the public or officers.

If either the primary pursuing officer or the supervisor responsible for supervision of the pursuit (See Duty Manual section L 2114 - SUPERVISORY RESPONSIBILITIES) concludes after considering the criteria set forth in Duty Manual section L 2103 - WHEN TO INITIATE A PURSUIT and Duty Manual section L 2104 - FACTORS TO BE CONSIDERED, that the need to apprehend a violator immediately is outweighed by the danger the pursuit poses to the public or officers, that officer or supervisor shall immediately terminate the pursuit.

L 2114 SUPERVISORY RESPONSIBILITIES:

Revised 06-01-07

Once a supervisor becomes aware of a pursuit in his assigned area, that sergeant becomes responsible for the supervision of the pursuit and will advise Communications that they are assuming active management and control of the pursuit. In the event the initiating unit is not part of a BFO patrol team, a supervisor from the pursuing members' unit or bureau may maintain control of the pursuit, if immediately available. The supervisor is responsible for monitoring the pursuit for compliance with all other sections of this policy.

A supervisor's responsibility may also include participating in the pursuit or being the primary pursuit vehicle. In the event a supervisor is the primary or second pursuing unit, the supervisor shall relinquish their position to the next arriving officer who joins the pursuit in a four-wheel patrol unit so that the supervisor can best accomplish their supervisory function.

The supervisor must respond to the location of termination of the pursuit to facilitate the stabilization of the incident and the capture of the suspect(s). The supervisor will also ensure that the procedures listed under Duty Manual section L 2120 - REPORTING AND POST-PURSUIT ANALYSIS are completed.

L 2115 PURSUIT INTERVENTION:

Revised 12-13-19

General Considerations

Pursuit intervention in order to effect a seizure of the violator is a use of force for Fourth Amendment purposes, and therefore should be undertaken in accordance with Duty Manual section L 2601 - General Provisions, Duty Manual section L 2602 - OBJECTIVELY REASONABLE FORCE (DEFINITION), and Duty Manual section L 2603 - FORCE OPTIONS POLICY. In considering whether such action is objectively reasonable to apprehend a violator

in order to protect the public, the primary pursuing officer or the supervisor responsible for supervision of the pursuit should also consider the criteria set forth in Duty Manual section L 2103 - WHEN TO INITIATE A PURSUIT and Duty Manual section L 2104 - FACTORS TO BE CONSIDERED (See Duty Manual section L 2114 - SUPERVISORY RESPONSIBILITIES, above).

1. Roadblocks:

The practice of establishing roadblocks is extremely hazardous and should be undertaken only as a last resort. Only in cases where the violator constitutes an immediate and continuing threat to the safety of others, and other efforts have failed, should the road be blocked.

2. Roadblocks on Freeways:

On freeways, roadblocks should be avoided except as a last resort, and only if specifically requested by the units conducting the pursuit. Only in cases where the violator constitutes an immediate and continuing threat to the safety of others, and other efforts have failed, should the freeway be blocked.

3. Blocking Freeway Exits and Access Ramps:

The blocking of exit or access ramps to freeways is acceptable to prevent citizens from inadvertently driving into the path of a vehicle pursuit or to keep the pursued vehicle from returning to congested surface streets.

4. Use of Force through Vehicle Contact:

In deciding when to use methods that involve intentionally contacting violator vehicles, officers should consider whether or not the type of contact constitutes "Ramming" and / or requires specialized training (i.e., PIT). Consideration should also be given to the types of vehicles involved, (e.g., using a police car to collide with a large commercial truck or a motorcycle). Officers should have additional officers present on the scene so they may provide immediate aid and protection.

5. Pursuit Immobilization Technique (PIT):

The PIT is a form of force that involves direct contact between two vehicles. Only officers who have successfully completed Department approved training in the PIT should utilize this form of force. PIT should not normally be used on:

- Motorcycles, mopeds or similar types of vehicles
- Vehicles with a high center of gravity such as raised pickup trucks
- Any vehicle known or suspected to be transporting a hazardous material as defined in Vehicle Code Section 2402.7
- Trucks or similar types of vehicles when people occupy an open bed area
- A passenger bus transporting passengers.

6. Tactical Parking:

Tactical parking to block the path of, or box in, a parked vehicle is allowed even if the maneuvers result in a collision. An example of such a maneuver may involve the use of three or four vehicles to block a parked vehicle before the suspect has a

chance to react and flee. This technique is reserved for parked vehicles and will not be used to block vehicles which are being driven, even if that vehicle is briefly stopped (e.g. at a stoplight or in congested traffic). Department members are expected to differentiate between high speed maneuvers that would constitute the use of deadly force by a high speed intentional collision, and tactical parking maneuvers used to gain a tactical advantage. When attempting tactical parking maneuvers, officer safety should not be compromised.

7. Vehicle Containment Technique (VCT):

The Vehicle Containment Technique shall only be utilized by specifically trained personnel who are currently assigned to the MERGE unit or CRU.

8. Tire Deflation Tactics (TDS):

In selective, controlled situations, Department-approved tire deflation systems (TDS) may be used. TDS are used to facilitate quick and safe deflation of a tire or tires when the pursued vehicle drives over a deflation device. Situations in which these methods may be used are limited and should only be used by Department members trained in the techniques and use of Department-approved devices.

When using TDS, officer safety should not be compromised. TDS should not normally be used to stop:

- Motorcycles, mopeds, or similar types of vehicles
- Any vehicle transporting a hazardous material as defined in Vehicle Code Section 2402.7
- Trucks or similar types of vehicles when people occupy an open bed area.

L 2116

INTERJURISDICTIONAL CONSIDERATIONS - PURSUITS INITIATED BY OTHER JURISDICTIONS:

Revised 06-01-07

Officers will not join in pursuits which have been originated by other agencies unless specifically requested by the agency whose officers are in pursuit and/or directly ordered by a supervisor. This does not preclude officers from being assigned to a point of advantage or to the scene of the termination of the pursuit.

EXCEPTIONS: When a single unit of the initiating agency requires assistance for officer safety, officers in a marked vehicle may join the pursuit with approval of the unit's supervisor. If the initiating unit is a motorcycle unit, the first four-wheel marked vehicle available may take over the pursuit regardless of the jurisdiction involved, if requested by the initiating agency and with the approval of the officer's supervisor.

On-duty officers who become aware of an outside agency conducting a pursuit within the City of San Jose should attempt to immediately notify San Jose Police Communications so that contact can be made with that agency.

Upon being notified of an outside agency pursuit taking place within the City of San Jose, Communications will ensure that a supervisor and an area commander are notified.

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L 2117 SUPERVISORY CONTROL DURING MULTI-JURISDICTIONAL PURSUITS:

Revised 06-01-07

These procedures apply to vehicle pursuits initiated by this agency which go into other jurisdictions, and vehicle pursuits initiated by other jurisdictions which enter into the City of San Jose or by other agencies working within the City.

A supervisor from the initiating agency should be in command of a pursuit situation, and units involved in the pursuit should abide by that supervisor's orders. However, when the supervisor from the initiating agency is unavailable, or requests assistance, a supervisor from the jurisdiction in which the pursuit is occurring may assume supervision of the pursuit. In all cases, San Jose Police supervisors will monitor the situation and be prepared to assume command when appropriate.

Involvement with outside-agency pursuits should be determined by, but not limited to, the following factors: Whether the criteria for initiating the pursuit were consistent with the San Jose Police Department's policy; whether there is a specific request for assistance and the interest in protecting the public at large.

The number of agencies and units already involved in a pursuit that enters the City of San Jose should be considered by supervisors in deciding to become involved in outside agency pursuits.

Pursuits involving officers may be relinquished to other agencies due to a loss of radio communications, unfamiliarity with the area or special capabilities by the other jurisdiction.

L 2118 COORDINATION WITH OTHER JURISDICTIONS AT THE TERMINATION OF PURSUITS:

Revised 06-01-07

The senior or supervising officer from the jurisdiction which initiated the pursuit should take charge of the police action at the scene where the pursuit terminates. If a senior or supervising officer from the initiating jurisdiction is not at the scene, a senior or supervising officer from the jurisdiction where the pursuit terminated should take charge until an officer from the initiating jurisdiction arrives at the scene. In all cases, San Jose Police supervisors will respond and be prepared to assume command when appropriate.

The initiating agency should have the primary responsibility for handling any arrests made when the offender(s) is/are captured. However, officers from other agencies may assist if needed.

L 2119 ACCIDENTS DURING PURSUITS:

Revised 06-01-07

Accidents occurring during pursuits should be investigated by the law enforcement agency having jurisdiction of the location at which the accident occurred. Officers involved in accidents during pursuits will adhere to procedures contained in this manual.

L 2120 REPORTING AND POST-PURSUIT ANALYSIS:*Revised 04-16-14*

It is the responsibility of the pursuit supervisor to ensure completion of all the appropriate Department reports required to document the pursuit. That documentation must include, but is not limited to:

- Primary documentation (General Offense Report (Form 200-2-AFR), Narrative/Supplemental Report (Form 200-3A-AFR), Form CHP 555-MRE, or Juvenile Contact Reports)
- All booking forms, citations and Felony Affidavits

The pursuit supervisor shall also complete a "Pursuit Memorandum." The supervisor shall also obtain copies of all relevant reports and submit them and the Pursuit Memorandum via the Chain of Command to the Chief of Police or their designee. Each command officer within that chain shall review the memorandum and related documents to determine whether departmental procedures and policies were adhered to. The pursuit supervisor will also obtain a copy of all related recordings of 9-1-1 calls and/or radio traffic from Communications. Additional copies of such recordings may be obtained and booked directly into evidence. At least one copy is obtained and submitted along with the Pursuit Memorandum.

The pursuit supervisor will also complete and submit Form CHP 187A in compliance with California Vehicle Code Section 14602.1.

In all cases where an officer attempts to stop a violator and the violator flees or fails to yield and the officer makes no attempt to keep up with or pursue the violator, a "Non-Pursuit Incident" form is completed and submitted to the BFO Administrative Unit. This is to assist the Department in keeping records of those instances where violators flee but are not pursued out of concern for public safety as described in Section L 2102. A Form CHP 187A is not required under these circumstances.

It is the responsibility of the BFO Administrative Unit to review all Form CHP 187A and direct required correspondence to the appropriate CHP office. If a supervisor from a bureau other than BFO is involved in reviewing the reports of a vehicle pursuit, they will forward the original Form CHP 187A to the BFO Administrative Unit.

L 2121 SUPERVISORS' RESPONSIBILITY FOR SUBSEQUENT APPREHENSION EFFORTS:*Revised 06-01-07*

Whenever violators initially escape due to officers' choices not to pursue, or if pursuits are terminated, the supervisor in charge of the involved officer(s) shall make every effort to facilitate follow-up investigation so that the violator(s) may be identified and apprehended at a later time. It shall also be the responsibility of Bureau of Investigations officers to assist.

L 2122 CERTIFICATION:*Revised 10-21-13*

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It shall be the responsibility of each supervisor and command officer to ensure that each sworn member in their chain of command has signed a certification that they have received and read this policy, and that they understood it, as required by Section 17004.7(b)(2) of the Vehicle Code. This certification will be forwarded to the Bureau of Administration – Training Division, and will be placed into each member’s training file. Supervisors will review this policy with all officers assigned under their command within two weeks of such assignment.

L 2123

TRAINING:

Revised 06-01-07

It shall be the responsibility of the Bureau of Administration - Training Division Commander to ensure that all officers have received annual training regarding this policy and other pursuit-related issues deemed pertinent by the Chief of Police. The training shall be provided to all officers within the first 12-month period after July 1, 2007 and be provided annually thereafter.

**L 2200 – ENFORCEMENT:**

The primary purpose of enforcing the law is to enable citizens to be free from criminal attack - to enjoy freedom of movement and conduct within the framework of existing laws. Law enforcement necessarily restricts the liberty and freedom of movement of those persons who, by engaging in criminal activity, interfere with the rights of others. To arrest such a person is not a denial of the criminal's civil rights, for no one has the right to violate the law.

PROCEDURE**L 2201 ENFORCEMENT OF CRIMINAL LAWS:**

Officers assigned to an enforcement function will invoke the criminal justice process when no other satisfactory alternative exists to alleviate the problem.

L 2202 DISCRETIONARY ENFORCEMENT:

The Department must necessarily exercise discretion in the enforcement of laws for the following reasons: the Department has limited resources available, and there are often a number of acceptable and more effective ways of accomplishing the purpose of the law. Officers will take enforcement action whenever the criminal act is or has the potential to endanger the lives, safety, property and well-being of the public. However, non-uniformed officers should consider using other appropriate Department resources such as uniformed officers whenever possible. Revealing the identification of Department undercover officers and unmarked vehicles is a risk that should be considered before taking immediate enforcement action.

L 2203 SELECTIVE ENFORCEMENT:

Enforcement must be selective to be most effective in decreasing the number of crimes. It must be selective as to time and place; it must be directed at locations of greatest frequency during the hours of the day, day of the week and season of the year of greatest frequency. It must also be selective as to the relative importance of crimes.

Officers will direct enforcement at those categories of crimes that are most susceptible to prevention by patrol, such as crimes committed on the public ways or by trespass from public ways onto private property as well as narcotics and liquor law violations that may foster aggressive assaults and other crimes of violence.

L 2204 OFF-DUTY ENFORCEMENT:

Revised 10-21-21

Prior to taking enforcement action, off-duty officers will first determine the appropriate action to take based upon the activity which is occurring. Off-duty officers will consider the need to take immediate action or defer enforcement action to the on-duty personnel from the law enforcement agency in which the activity is occurring.

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The Department recognizes that off-duty officers cannot rely on the immediate assistance or application of police resources in the same capacity as while on duty and, does not expect officers to jeopardize themselves or others by taking police action while off duty. However, when action is considered necessary, consistent with the tactical situation, offense involved, or other factors as articulated by the involved off-duty officer, any police action taken shall be governed by the same policies, procedures, rules, and regulations that apply to on-duty Department members in a similar situation.

The off-duty officer initiating the enforcement action shall assist on-duty personnel from the jurisdictional agency by providing the information necessary to conduct a preliminary investigation.

L 2205 RISKS DURING ENFORCEMENT ACTION:

The purpose of assigning officers to the scene of a crime is to arrest the perpetrator of the attempted or completed crime; however, since that goal is second to the protection of life, officers should not subject themselves or other innocent persons to unreasonable risks.

L 2206 ON-DUTY, NON-UNIFORMED ENFORCEMENT:

In the interest of officer safety, non-uniformed officers should use uniformed officers for backup during probable cause car stops whenever possible. This will eliminate unnecessary escalation of the enforcement action due to the non-uniformed, undercover officer's identity being challenged or ignored. Random enforcement actions by undercover officers require more frequent reassignment of undercover officers as a result of their ability to remain undercover being reduced.

L 2207 EMERGENCY RESPONSES BY NON-UNIFORMED OFFICERS:

Non-uniformed officers will not respond to in-progress crimes unless one of the following circumstances exists:

- The emergency is life threatening and uniformed officers are not available or have an estimated time of arrival that is extended.
- A non-uniformed officer's assistance is requested.
- Non-uniformed officers are working in an assignment which makes their response necessary or required or their response is clearly in the best interests of the Department or the public.

L 2208 PROCEDURES FOR NON-UNIFORMED OFFICERS AT IN-PROGRESS CRIMES:

If it is necessary for non-uniformed officers to respond to an in-progress emergency, the following procedures will be used:

- Advise Communications of their response and arrival at the scene.
- Briefly describe their clothing and the method of identification they are using.
- Ensure that their identification is clearly visible (yellow raid jacket, badge being carried or worn in a clearly visible manner).

If uniformed officers are already on the scene, non-uniformed officers who respond will observe the above procedures in addition to the following:

- Advise the ranking uniformed officer at the scene of their presence and availability as a resource.
- Act as backup to the uniformed officer and stay on the perimeter, unless deployed on an intelligence or surveillance assignment by the uniformed officer in charge.
- Take no independent action without approval of the uniformed officer in charge, except to protect an officer or other person from imminent threat to life or from great bodily harm.

L 2209 ENFORCEMENT OF NARCOTICS LAWS:

Department members will enforce all local, state and federal statutes which prohibit the possession, use or traffic in narcotics, dangerous drugs and other restricted or prohibited substances. Through a combination of aggressive enforcement and public education, the Department seeks to prevent and deter the use, possession of, and traffic in, all such substances within the City.

L 2210 ENFORCEMENT OF VICE LAWS:

The Department is charged with the enforcement of all criminal statutes including those defining vice offenses. Department members will take enforcement action against all commercialized vice activities, against those vice activities which have been complained about, and against conspicuous vice conditions which appear on the streets and in the public places of the City.

L 2211 LAWS PERTAINING TO SCHOOL FACILITIES:

Revised 01-08-18

When assigned to perform an enforcement function, officers will become familiar with the Penal Code and Education Code sections which deal with violations of the law on or about school facilities and grounds.

A San Jose police officer shall be responsible for carrying out all duties and responsibilities of an officer, as prescribed by state law, and shall always remain subject to the San Jose Police Department and the City of San Jose.

The enforcement of the code of student conduct is the responsibility of teachers, school staff, and school administrators. San Jose police officers shall refrain from being involved in the enforcement of disciplinary rules that do not constitute a violation of criminal law, or are not criminal violations eligible for diversion.

When receiving an assignment concerning a person loitering on or about school grounds, or other disturbances, officers will contact the school principal or other authorized school official and determine the details of the situation and what action is desired. When observing the violation firsthand, an arrest may be made. If the offense did not occur in the presence of the officer, an appropriate citizen's arrest may be made or a complaint sought.

Officers should cooperate with school officials whenever enforcement action is anticipated on the school grounds.

Department members shall adhere to the Campus Police Officer Training Manual and current school district Memorandum of Understanding (MOU).

L 2212 HATE CRIMES:
Added 06-01-01

The investigation of hate crimes and hate-motivated incidents is a Department priority. It is the policy of the San Jose Police Department to ensure that every person in the City of San Jose enjoys the right to be free of any crime committed for the purpose of intimidating or interfering with the free exercise or enjoyment of any right secured to them by the Constitution or laws of the state or the Constitution or laws of the United States and because of the person's race, color, religion, ancestry, national origin, disability, gender or sexual orientation.

When receiving a report of a hate crime or hate incident, officers will follow the procedures set forth in the San Jose Police Department Hate Crime Investigations Policy. Current copies of these procedures are maintained by all officers and are also available in each Unit within the Police Department as well as the Department's R&D Library and Virtual Library.

L 2212.5 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO VICTIMS OF HATE CRIMES:
Added 05-29-17

The victim of a hate crime (422.6, 422.7, and 422.75 PC), or the victim's parent or guardian if the victim is a minor, may request their name not be disclosed under the California Public Records Act. Notification of the right to confidentiality, pursuant to Government Code Section 6254 and Penal Code Section 293, shall be verbally provided to the victim or the victim's parent/guardian if the victim is a minor. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

L 2213 ENFORCEMENT OF FIREARM RELATED OFFENSES:
Added 11-14-17

Department members shall book into Juvenile Hall or the Santa Clara County Jail all persons charged with a firearm related offense, whether misdemeanor or felony, or who have an outstanding firearm related arrest warrant, regardless of the bail amount.

L 2214 PROCEDURE TO BE FOLLOWED WHEN A SURVIVOR, WHO IS A MINOR, DISCLOSES ENGAGING IN UNLAWFUL SEXUAL INTERCOURSE (PENAL CODE 261.5) DURING THE INVESTIGATION OF ANOTHER CRIME:
Revised 10-22-21

When a survivor, who is a minor, discloses to the investigating officer that they have engaged in an act or acts of unlawful sexual intercourse (subdivision (b) of PC 261.5), the investigating officer shall document the details of the unlawful sexual intercourse in a separate General Offense report and should not cite the victim for the violation of PC 261.5(b).



L 2300 – FIRST AMENDMENT ACTIVITIES AND CIVIL DISTURBANCES:

Revised 12-31-21

It is neither the intention nor the desire of the Department to suppress or restrain lawful activity. The Department will expend whatever resources are necessary to protect the rights of any person or group to conduct a peaceful and lawful First Amendment activity at any legal location within the City. However, unlawful civil disturbances require prompt and effective action by the Department. The Department will take appropriate legal steps to discourage unlawful conduct whenever it occurs. First Amendment activity includes speech, assembly, and petition activity that is protected by the First Amendment of the United States Constitution and Article I of the California Constitution.

PROCEDURE

L 2300.5 FIRST AMENDMENT ACTIVITY (EXAMPLES OF):

Added 12-31-21

The First Amendment of the U.S. Constitution protects freedom of religion, speech and the press and protects the rights of the people to peaceful assembly and to petition the government for redress of grievances. Article I of the California Constitution has similar protections. Activity protected by the U.S. and California Constitutions includes, but is not limited to protests, demonstrations, rallies, assemblies, and marches on City streets, sidewalks, plazas, parks and other similar areas open to the general public that are owned and/or controlled by the City.

L 2300.6 COMMAND POST BORDERS AT A FIRST AMENDMENT ACTIVITY, ROLLING CLOSURE, OR POLICE LINE:

Added 12-31-21

Any emergency field command post or any other command post established to manage a First Amendment activity, police line, or rolling closure shall set (1) an inner border surrounding the entire command post and (2) an outer border. Refer to Duty Manual section L 2306.6 – ACCESS AT FIRST AMENDMENT ACTIVITIES for further information.

Inner Border

The inner border shall fully surround the command post. Anything inside the inner border of the command post will be considered an element of the command post. Elements of the command post may include but are not limited to: Department members, first responders, other personnel, equipment, command vehicles, and other vehicles. The inner border shall be, at minimum, situated so as to prevent non police personnel from overhearing planning and deployment information, but not any larger than is reasonably necessary for duly authorized representatives of the media to gather, receive, or process information for communication to the public.

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Outer Border

The outer barrier shall be closed to the public. Only sworn Department members, other first responders and personnel assigned to and assisting with the event, and persons approved by the Incident Commander on a case-by-case basis are authorized to enter and/or remain. Any unauthorized person entering the outer border may be subject to arrest for violation of 148(a)(1) PC.

L 2300.7 BRIEFING PRIOR TO DEPLOYMENT AT A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE:

Added 08-16-22

If time and circumstances permit, all Department members or employees of another law enforcement agency providing mutual aid shall be briefed prior to deployment at a First Amendment activity or civil disturbance. In the event the activity or disturbance lasts more than one day, the briefings should be held, at minimum, each day. Elements of briefings should include but are not limited to the following:

- Background
- Objectives
- Use of force procedures and documentation (Duty Manual section L 2317 - USE OF FORCE AT A CIVIL DISTURBANCE)
- Arrest procedures and documentation (Duty Manual section L 2305.4 - ARRESTS AT A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE)
- Relevant policies and procedures
- Assignments
- Chain of command
- Safety plans
- Interactions with the media (Duty Manual section L 2306 - TREATMENT OF DULY AUTHORIZED REPRESENTATIVE OF THE MEDIA through Duty Manual section L 2306.9 - REMOVAL OF DULY AUTHORIZED REPRESENTATIVES OF THE MEDIA)
- Expectations on participation (Duty Manual section L 2302.1 - PARTICIPATION IN A FIRST AMENDMENT ACTIVITY), demeanor (Duty Manual section L 2302.2 - Demeanor at First Amendment Activities), and equality of treatment (Duty Manual section L 2303 - EQUALITY OF TREATMENT)

L 2301 MINIMIZE THE POTENTIAL FOR VIOLENCE AT A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE:

Revised 08-16-22

Tactics employed by dissidents engaged in disruptive activities frequently include 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. It is therefore incumbent upon officers

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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.

L 2302 DEPARTMENT RESPONSE TO DEMONSTRATIONS:

Revised 08-16-22

Demonstrations are often highly emotional incidents. The demonstrators and others in the area are committed to their various causes and their rights, which may be in conflict. In such situations, officers will strive to remain objective in order to maintain effectiveness. Once an officer's objectivity is lost or even appears to be lost, the officer's mere presence at a demonstration may increase tensions and make the police task even more difficult.

L 2302.1 PARTICIPATION IN A FIRST AMENDMENT ACTIVITY:

Added 08-16-22

On duty Department members at a First Amendment activity including but not limited to protests, demonstrations, rallies, assemblies, or marches should not participate in the event in a manner that would advocate for or against the cause or reason for the event without prior approval from the Chief of Police or their designee.

L 2302.2 DEMEANOR AT FIRST AMENDMENT ACTIVITIES:

Added 08-16-22

On duty Department members at a First Amendment activity including but not limited to protests, demonstrations, rallies, assemblies, or marches should maintain a professional demeanor at all times. Refer to Duty Manual section C 1308 – COURTESY for further information.

L 2303 EQUALITY OF TREATMENT:

Revised 08-16-22

Officers will treat all persons at a First Amendment activity, including demonstrators, onlookers, or counter demonstrators, with equal treatment. Additionally, when enforcing the law at a First Amendment activity, equal service to all persons is essential. Refer to Duty Manual section C 1305 – EQUALITY OF ENFORCEMENT for further information.

L 2304 RESPONSE TO VIOLENT CONDUCT:

Where a demonstrator uses physical violence upon another person or property, officers should promptly make an arrest, 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 officers to perform their duties most effectively.

L 2305 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 the streets or of a building entrance. In such situations the officer in command at the scene will decide if such arrests are to be made. Moreover, before any such arrest is made, demonstrators are warned that they must move or risk arrest.

L 2305.1 AUTHORIZATION FOR USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES:

Added 12-31-21

Chemical agents and projectile impact weapons shall not be used to disperse any First Amendment activity or unlawful civil disturbance prior to authorization from any on-scene commanding officer or higher.

Chemical agents and projectile impact weapons shall only be deployed by a peace officer who has received training on their proper use by the Commission on Peace Officer Standards and 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 any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and then only in compliance with the requirements set out in the following section L 2305.2 - USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES..

L 2305.2 USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES:

Added 12-31-21

Chemical agents and projectile impact weapons shall not be used to disperse any First Amendment activity except under the following circumstances:

- De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed; and
- Repeated audible announcements have been made announcing the intent to use chemical agents and/or projectile impact weapons and the type to be used, when objectively reasonable to do so. Announcements shall be made from various locations, if necessary, in order for the announcement to be heard by all of the intended audience, and delivered in multiple languages as appropriate; and
- Persons are given an objectively reasonable opportunity to disperse and leave the scene; and
- An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and the chemical agents and projectile impact weapons are targeted at those persons engaged in violent acts; and
- Projectiles shall not be aimed indiscriminately into a crowd or group of persons; and
- Chemical agents and projectile impact weapons are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable; and
- Department members shall minimize the possible incidental impact of their use of chemical agents or projectile impact weapons on bystanders, medical personnel, journalists, or other unintended targets; and

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- An objectively reasonable effort has been made to extract individuals in distress; and
- Medical assistance is promptly provided for injured persons, if properly trained personnel are present, or procured, when it is reasonable and safe to do so; and
- Projectile impact weapons shall not be aimed at the head, neck, or any other vital organs; and
- The chemical agents and projectile impact weapons shall not be used solely due to any of the following:
 - A violation of an imposed curfew,
 - A verbal threat, or
 - Noncompliance with a law enforcement directive.

L 2305.3 CHEMICAL AGENT AND PROJECTILE IMPACT WEAPON REPORTING AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES :

Added 12-31-21

Within thirty (30) days of each First Amendment activity during which a chemical agent or projectile impact weapon was used by any Department member, the on-duty watch commander responsible for the incident shall complete a memorandum to be submitted through the chain of command detailing the incident and the use of the chemical agent or projectile impact weapon. The memorandum shall include, at minimum, the requirements set forth in Penal Code section 13652.1(b).

Within sixty (60) days of each First Amendment activity during which a chemical agent or projectile impact weapon was used by any Department member, a memorandum describing the incident and the use of the chemical agent or projectile impact weapon shall be posted to the Department's website by the Media Relations Unit.

L 2305.4 ARRESTS AT A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE:

Added 08-16-22

When an arrest is made at a First Amendment activity, the following procedures shall be followed:

- A new event number will be created and cross-referenced to the event number for the First Amendment activity. The new event number should be titled according to the reason for the arrest (e.g., vandalism, battery, failure to disperse, etc.)
- The individual being booked will be booked under the new event number.

The Department recognizes the need to keep personnel in service and available during a civil disturbance. As a result, the Department may use processing procedures where arrestees are not arrested, processed, transported, or booked by the same person. When this happens, Department members will adhere to the following procedures:

- The arresting officer is responsible for providing to the processing, transporting, and/or booking officer(s) their name and badge number, the arrestee's full name and

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date of birth, the location and time of the arrest, and the probable cause for the arrest.

- The arresting officer is responsible for notifying the processing, transporting, and/or booking officer(s) of any use of force that may have caused an injury or complaint of pain to the arrestee.
- The arresting officer is responsible for documenting the arrest on a General Offense report. To do so, the arresting officer must obtain the information necessary to complete the documentation. This includes the identity of the processing, transporting, and/or booking officer(s). A supplemental report may be completed by the processing, transporting, and/or booking officer(s) to assist in the documentation.

L 2306 TREATMENT OF DULY AUTHORIZED REPRESENTATIVE OF THE MEDIA:

Revised 12-31-21

Officers assigned to the scene of a First Amendment activity will cooperate with duly authorized representatives of the media. Duly authorized representatives of the media have a constitutional right to cover First Amendment activities; however, they must not violate the law.

L 2306.1 DULY AUTHORIZED REPRESENTATIVE OF THE MEDIA (DEFINITION):

Added 12-31-21

A person in possession of current, valid credentials issued by the Department or other law enforcement agency, or other identification (e.g., business card, pay stub, identification card, professional recording equipment, etc.) establishing duly authorized representation of news media affiliation or employment, whether print, television, or Internet media.

L 2306.2 DULY AUTHORIZED REPRESENTATIVE OF THE MEDIA (CREDENTIALS):

Added 12-31-21

The Department issues Press Passes and Media Vehicle Identifications as a convenient means for officers to identify duly authorized representatives of the media and their vehicles. These identifications also serve as a way for the media to identify themselves to officers at the scene of disasters, First Amendment activities, and crime scenes. Media credentials issued by other police agencies or by the media representative's employer should be considered valid. However, a Press Pass or Media Vehicle Identification is not a requirement of being identified as a duly authorized representative of the media.

Note: "Freelance" media personnel, including reporters, photographers, videographers, bloggers, or vloggers without valid media credentials, but possessing other identification establishing affiliation and employment with a third-party news service, should be considered duly authorized representatives of the media. A personal blogger with no credentials and no supporting third-party news service identification does not meet the criteria of duly authorized.

Officers shall use reasonableness and sound decision-making when considering a person a duly authorized representative of the media. In the event of uncertainty, officers should contact a supervisor for direction.

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L 2306.3 AUTHORITY TO CLOSE AREAS AT DISASTER SCENES:

Added 12-31-21

Officers are authorized to close any area whenever a menace to the public health or safety is created by a calamity, including flood, storm, fire, earthquake, explosion, accident, or other disaster. Officers may also close any area surrounding any command post activated for the purpose of abating any disaster.

L 2306.4 ACCESS TO DISASTER SCENES:

Added 12-31-21

This section does not apply to areas which are determined to be part of a crime scene, which shall remain closed to all members of the public and media. See Duty Manual section L 4308 – PROTECT THE CRIME SCENE for additional information.

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Officers may prevent all members of the public, except duly authorized representatives of the media, to enter or remain within the closed area.

Duly Authorized Representatives of the Media

Duly authorized representatives of the media may enter areas closed due to a disaster per Penal Code section 409.5(d).

L 2306.5 AUTHORITY TO CLOSE AREAS AT FIRST AMENDMENT ACTIVITIES:

Added 12-31-21

Officers may 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 persons are engaged in protected First Amendment activity.

L 2306.6 ACCESS AT FIRST AMENDMENT ACTIVITIES:

Added 12-31-21

In the event of closing the immediate area surrounding any command post, establishing a police line, or rolling closure at a demonstration, march, protest or rally where persons are engaged in protected First Amendment activity, officers shall set the inner and outer borders of the command post and the area outside the border of the command post that is closed to the general public. The area outside the inner border surrounding the entire command post shall be closed to the general public and is accessible to duly authorized representatives of the media only. The command post will contain the area in which incident command conducts event planning and deployment of personnel and will not be accessible to the media. Refer to Duty Manual section 2300.6 - COMMAND POST BORDERS AT A FIRST AMENDMENT ACTIVITY, ROLLING CLOSURE, OR POLICE LINE for further information. Duly authorized representatives of the media shall not have access to personnel briefings unless invited by the Incident Commander or their designee and escorted to and from the scene of the briefing.

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Officers may prevent all members of the public, except duly authorized representatives of the media, from entering or remaining in the closed area immediately surrounding the command post.

Duly Authorized Representatives of the Media

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 First Amendment activity, the following requirements shall apply:

- A duly authorized representative of the media may enter and remain in the closed area up to the command post border.
- Officers shall not intentionally assault, interfere with, or obstruct the duly authorized representative of the media who is gathering, receiving, or processing information for communication to the public
 - Note: The Department may restrict access to a command post (i.e., the area where incident-specific information is being shared by public safety personnel, strategic decisions are being made, or deliberations are ongoing)
- A duly authorized representative of the media who is within the closed area but outside the command post border shall not be cited for failure to disperse, a violation of a curfew, or other violation of 148(a)(1) PC, for gathering, receiving, or processing information for communication to the public.
- If a duly authorized representative of the media is detained, that representative of the media shall be permitted to contact a Department supervisor immediately to challenge the detention, unless circumstances make it impossible to do so.
 - Note: Nothing precludes officers from enforcing other applicable laws if the duly authorized representative is engaged in activity that is unlawful. In order to detain, remove, or arrest a duly authorized representative of the media, who is in the closed area outside the border of the command post, an officer would have to determine the representative is in violation beyond being in the closed area to observe, gather, receive, and process information to communicate to the public news items concerning the First Amendment activities and the observable activities of the police.

This section does not apply to areas which are determined to be part of a crime scene, which shall remain closed to all members of the public and media for the purpose of conducting a criminal investigation and protecting and collecting evidence. See Duty Manual section L 4308 – PROTECT THE CRIME SCENE for additional information.

L 2306.7 COMMUNICATION WITH MEDIA DURING FIRST AMENDMENT ACTIVITIES:

Added 12-31-21

During First Amendment activities, officers should expect to encounter duly authorized representatives of the media in the immediate area surrounding any emergency field command post or any other command post, or a police line, or rolling closure. Officers shall be reminded of SJPD policies and procedures permitting the release of information to the

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media. Refer to Duty Manual chapter C 1900 – SUPPLYING INFORMATION DEPARTMENT OPERATIONS for further information.

L 2306.8 AUTHORITY TO CLOSE AREAS AT AN UNLAWFUL CIVIL DISTURBANCE:
Added 12-31-21

It is the intention of the Department to create an environment in which all First Amendment activities remain peaceful, safe, and lawful. In the event a First Amendment activity evolves into an unlawful civil disturbance, such as a riot, rout, or looting, the mission of the Department may transition to the planning and tactical deployment of resources for safety and enforcement. However, duly authorized representatives of the media may still have access to the immediate area surrounding any emergency field command post or any other command post, police line, or rolling closure.

L 2306.9 REMOVAL OF DULY AUTHORIZED REPRESENTATIVES OF THE MEDIA:
Added 12-31-21

In the event a duly authorized representative of the media interferes with any police operation by delaying or obstructing officers from performing their duties or creates an environment where any person other than themselves is placed at risk of injury or death, beyond the immunity granted by the law, that media representative may be warned about their possible removal from the immediate area surrounding any emergency field command post or any other command post, police line, or rolling closure. The Incident Commander shall be advised when any removal warning is given.

If, after being warned of possible removal, the representative continues to interfere with any police operation by delaying or obstructing officers from performing their duties, or maintains an environment where any person other than themselves is placed at risk of injury or death, that representative may be removed from the immediate area surrounding any emergency field command post or any other command post, police line, or rolling closure for the remainder of the event, up to and including arresting the representative for violation of 148(a)(1) PC.

If any duly authorized representative of the media is removed from the immediate area surrounding any emergency field command post or any other command post, police line, or rolling closure, the Incident Commander shall be notified and all details regarding the removal shall be documented in a General Offense Report.

L 2307 COORDINATION OF DEPARTMENTAL ACTIONS:

Department members will strive to ensure that a disciplined and coordinated Department response is maintained at the scene of a demonstration. Department members will not act alone unless 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 continue to seek information concerning location and number of demonstrators, emotional condition of the crowd, and resources available to effectively maintain order.

L 2308 ONLOOKERS AT A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE :
Revised 08-16-22

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Onlookers shall be permitted to observe and overhear conversations in detention or arrest situations in public areas when it is reasonable to do so. Onlookers may remain in the vicinity as long as the presence of the onlookers do not interfere with the officers' duties or create a safety concern for the officer, person detained or onlooker.

Onlookers have the right to record the incident, and the recording device (camera, video camera, tape recorder, and any film or tape from a recording device) cannot be seized by an officer at the scene except under the authority of a search warrant. If the immediate circumstances lead the officer to believe that the recording contains crucial evidence, the officer may ask the citizen to voluntarily surrender the recording material.

If the citizen refuses to give consent for the seizing of the recording material and there is a possibility of criminal prosecution or civil liability for the City or its employees arising out of the incident, the officer should ask for the name, address and telephone number of the onlooker who records the incident. If the onlooker refuses to provide identification, the officer should obtain any available information at the time that will allow investigators to identify the onlooker and obtain a search warrant for the recording materials.

Occasionally, onlookers may record incidents involving juveniles or victims of a sexual assault. In these circumstances, officers are not obligated to advise the onlookers of the rights of privacy of these victims. A juvenile or victim of a sexual assault may take legal action against an onlooker who publishes or distributes recorded material that would not have otherwise been released by an agency of the criminal justice system.

Onlookers must maintain a reasonable distance when monitoring police activities depending on the circumstances. Onlookers are allowed to approach within hearing distance provided that the control of the situation can be maintained by the officer. Onlookers who are clearly at a reasonable distance will not be subject to a "move-on" order or threatened with arrest.

The sensitive nature of these situations requires that officers make every attempt to diplomatically resolve conflicts involving onlookers. Depending on the stability of the situation, officers will advise onlookers of their legal rights and limitations under this order. If an onlooker continues to create a disturbance, a supervisor is called to resolve the conflict. All highly sensitive incidents are reported immediately to a supervisor and recorded on a Crime Report to ensure documentation.

Nothing in this section is meant to restrict an officer from arresting any person who willfully resists, delays, or obstructs any peace officer in discharging his or her duties according to the provisions of Penal Code Section 148. Nor does this section restrict an officer from arresting any person who willfully commits a trespass as defined in Penal Code Section 602.

L 2309

DEPARTMENT RESPONSE TO CIVIL DISTURBANCE :

Revised 08-16-22

Due to the variety of situations existing during a civil disturbance, 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.

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L 2310 FIRST OFFICER 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 demands, such officer will notify the district supervisor.

L 2311 COORDINATION OF EFFORT:

Actions by officers are 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. One officer is assigned to guard the vehicles against damage. Individual officers should avoid driving their cars into the center of the crowd and operating individually.

L 2312 DISPERSAL ORDER:

Revised 08-16-22

A dispersal order must be given before a person can be guilty of remaining at a place of a riot, rout, or unlawful assembly. If the supervisor in charge at the disturbance scene decides to declare an unlawful assembly, there are two options for providing the dispersal order: via combination of audio recording and providing specific details or by reciting the entire dispersal order script. The audio recording will provide the dispersal order in English, Spanish, and Vietnamese. The preferred method of giving the dispersal order is via combination of audio recording and providing specific details. When the dispersal is given in this manner, the dispersal order will have the following form:

Recording:

“I am a peace officer for the San Jose Police Department. I hereby declare this to be an unlawful assembly and in the name of the People of the State of California, order all those assembled at this location to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested. You may also be subject to other police action including the use of an acoustic hailing device, projectile impact weapons, and chemical agents, which include foam baton rounds, beanbag rounds, tear gas, CN, CS, OC, or pepper spray. Use of these devices or other police action could result in serious injury. Penal Code section 409 prohibits remaining present at an unlawful assembly, which means that you must leave the area. If you remain in the area, you will be in violation of Penal Code section 409.”

Audible statement by personnel at the scene:

I am (rank and name), a peace officer for the San Jose Police Department. I hereby declare this to be an unlawful assembly and in the name of the People of the State of California, order all those assembled at (specify location) to immediately disperse. The following routes of safe dispersal are available (specify routes). It is now (specify time) and you have (specify a sufficient amount of time) to disperse.

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When the dispersal order is given by reciting the entire dispersal order script, it will have the following form:

Audible statement by personnel at the scene:

“I am (rank and name), a peace officer for the San Jose Police Department. I hereby declare this to be an unlawful assembly and in the name of the People of the State of California, order all those assembled at (specify location) to immediately disperse, which means to break up this assembly. If you do not do so, you may be arrested. You may also be subject to other police action including the use of an acoustic hailing device, projectile impact weapons, and chemical agents, which include foam baton rounds, beanbag rounds, tear gas, CN, CS, OC, or pepper spray. Use of these devices or other police action could result in serious injury. Penal Code section 409 prohibits remaining present at an unlawful assembly, which means that you must leave the area I just described. If you remain in the area I just described, you will be in violation of Penal Code section 409. The following routes of safe dispersal are available (specify routes). It is now (specify time) and you have (specify a sufficient amount of time) to disperse.”

The dispersal order may be made by loud speech or amplified sound. The dispersal order must be given in a manner reasonably believed to be heard and understood by the intended audience. Signage may be used to assist in the dispersal order or to provide additional information. Consideration should be given to providing the dispersal order and audible statements in multiple languages and from multiple locations. The dispersal order should be repeated periodically—not continuously—once the Department is prepared to take enforcement action to avoid prolonged repeated announcements which may have an unintended escalation affect or cause the crowd to become complacent.

Prior to orders for arrest, the highest-ranking Department member on scene or their designee should, if time and circumstances permit, make a reasonable attempt to contact the event organizer to obtain voluntary compliance with dispersal orders.

If the crowd moves a significant distance from the area specified in the dispersal order, and it remains an unlawful assembly at that location, the dispersal order must be given again. In this case, the new location, safe routes, time, and amount of time for compliance shall be provided to the crowd. For this purpose, a significant distance is one that would cause a reasonable person to question whether the dispersal order still applies to the crowd.

Reasonable time must be given for compliance with the dispersal order. The announcements should continue during that time. Once a reasonable amount of time has elapsed, orders for arrest may be given.

L 2312.5 PUBLICATION OF DISPERSAL ORDER:

Added 08-16-22

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When dispersal orders are given, the Media Relations Unit shall publish the dispersal order, including event-specific locations, egress routes, and sufficient time for compliance on the Department's social media platforms as soon as practicable.

L 2313 SUPPLEMENTARY INFORMATION:

Revised 08-16-22

Riot experience throughout the United States has shown in many cases minor incidents involving the police were responsible for initiating the trouble. With this in mind, the following procedures are observed unless specific orders to the contrary are issued by competent authority.

- Arrests must be thoroughly justified and only necessary force must be used in making them.
- Incidents must be handled as quickly as possible without creating a disturbance or attracting other persons.
- Areas of an incident or small riot should be closed off and ingress not allowed. Persons wishing to leave should be allowed and encouraged to do so.
- The Deputy Chief of the Bureau of Field Operations or their designated alternate is responsible for field operations involving civil disturbances. Reports from the field will go directly to the Deputy Chief or designee in overall command. The officer in overall command will have the responsibility for deciding whether or not to notify the Assistant Chief of Police.

L 2314 REQUESTS FOR ASSISTANCE:

Revised 08-16-22

While the control of riots is primarily the responsibility of the Police Department, officers can expect assistance from other agencies if the riot grows very large. In the event such assistance is necessary, the Chief of the Police or, if unavailable, one of their immediate subordinates will notify the highest-ranking officer available at the Santa Clara County Sheriff's Department who will in turn make appropriate requests. The Chief of Police or a designee is delegated the responsibility of notifying the City Manager that a request for assistance has been made.

L 2315 CONTACTING FIRST AMENDMENT ACTIVITY EVENT ORGANIZERS:

Added 08-16-22

When the Department becomes aware of a pending First Amendment activity, the Deputy Chief of the Bureau of Field Operations or their designee should make a reasonable attempt to contact the event organizer to establish a line of communication between the Department and the event. The information sought should include, but not be limited to, the following:

- A contact person on the day of the event and a phone number at which they may be reached
- Whether the event is permitted or not by the City (i.e., through the Office of Cultural

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Affairs)

- Number of participants who are expected to be present
- Location of the expected event and any movement they expect to undertake
- Security plans
- If they expect any unlawful activity or antagonistic groups attending the event

In addition, the Deputy Chief of the Bureau of Field Operations or their designee should provide information including, but not limited to, the following:

- An event liaison on the day of the event and a phone number at which they may be reached
- The parameters by which the event would shift to an unlawful assembly
- A brief overview of the procedures after an event is declared an unlawful assembly

L 2316 COORDINATION WITH THE CITY EMERGENCY OPERATIONS CENTER:

Added 08-16-22

In the event the City opens the Emergency Operations Center (EOC) in response to a First Amendment activity or civil disturbance, the on-duty Patrol Captain or their designee shall be identified as the Department liaison with the EOC. To supply and receive information, the on-duty Patrol Captain or their designee shall maintain contact with the EOC by either being on-site or through regular communication via phone or video conference.

L 2317 USE OF FORCE AT A CIVIL DISTURBANCE:

Added 08-16-22

In the event of a use of force at a civil disturbance, Department members shall, as time and circumstances permit, comport with the procedural requirements (i.e., providing first aid, notifications, investigation, documentation, and supervisor review) of Duty Manual chapter L 2600 - USE OF FORCE for all uses of force. If the procedural requirements of L 2600 are unable to be met contemporaneous with the use of force, they shall be completed as soon as practicable.

Note: This section does not change to the substantive rules in Duty Manual chapter L 2600 regulating all authorized uses of force.

L 2318 POST EVENT DOCUMENTATION:

Added 08-16-22

The Incident Commander of a First Amendment activity or civil disturbance shall designate a Department member to memorialize full documentation of the event. This report may be assigned to the beat officer where the incident originated or another officer of the Incident Commander's choosing. The report will include all relevant information including the following:

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- Overview of the event
- The relevant event timeline
- All incident logs
- All assignment logs
- All arrest logs
- All reports of injury to Department members or members of any Department providing mutual aid
- All reports of injury to suspects and members of the public not documented in cross referenced reports
- All reports of damage to City property or property of any Department providing mutual aid

L 2319 DEBRIEFINGS AFTER A FIRST AMENDMENT ACTIVITY OR CIVIL DISTURBANCE:

Added 08-16-22

The Incident Commander or their designee should conduct formal debriefings at the conclusion of every First Amendment activity or civil disturbance to enable rapid knowledge transfer. All Department members associated to the First Amendment activity or civil disturbance incidents should attend the debriefing. The debriefing may occur in the field, at the command post, or at a time and location determined by the Incident Commander or their designee.

**L 2400 - TRAFFIC LAW:**

The objective of the Department is to reduce traffic accidents and injuries and to facilitate the safe and expeditious flow of vehicular and pedestrian traffic through the public's voluntary compliance with traffic regulations. The Department seeks to achieve this objective through a combination of education, enforcement and cooperation with the City's traffic engineers.

PROCEDURE**L 2401 GENERAL PURPOSE:**

Reducing traffic accidents and providing for the safe and expeditious flow of vehicular and pedestrian movement is the primary purpose of traffic law enforcement. The Department strives towards this goal through a combination of education and enforcement. Traffic law enforcement must be continuous and consistent to be effective. New enforcement drives that are not sustained have limited value. Consistent and continuous traffic law enforcement is an effective means of improving public safety and officers shall strive for such effectiveness.

L 2402 ENFORCEMENT ACTION:

Revised 09-12-00

The Department will take enforcement action upon the detection of an illegal and potentially hazardous act without regard for such factors as attitude, intent or frivolous excuse. At no time will an officer take into consideration race, color, nationality, age, sexual orientation, gender, disability, or religion as the sole justification for enforcement action. Enforcement action may consist of a warning, citation, and application for complaint or physical arrest.

L 2405 VISIBLE PATROL:

Any tendency by motorists to knowingly violate traffic laws is deterred by open and visible patrol. Normal enforcement is conducted in such a manner.

L 2406 VEHICLE AND PEDESTRIAN STOPS:

Revised 03-15-24

Vehicle and pedestrian stops are among the many routine tasks performed by officers, but for the person who is stopped it frequently is an emotionally traumatic experience. In many cases this is the only contact that a person has with our Department. Officers should be aware of these conditions and should strive to make each contact educational and to leave the violator with the impression that the officer has performed a necessary task in a professional and friendly manner.

Officers shall, as soon as time and circumstances permit, identify themselves and provide the reason for the vehicle contact. In accordance with state law, officers making a traffic or pedestrian stop shall not engage the person being detained in questioning related to a criminal investigation or traffic violation until after they have informed the person of the reason

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for the stop unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat. The officer shall document the reason for the stop on any citation or police report resulting from the stop.

When an officer chooses to release a violator without a citation, the officer should consider providing the violator with a report receipt or a business card with their name and badge included. When identification is requested by the violator, officers will refer to Duty Manual section C 1409 - SUPPLYING IDENTIFICATION.

L 2407 TRAFFIC SAFETY PROGRAMS:

The Department seeks to educate the public regarding traffic safety through educational programs aimed at exposing specific problems. Traffic accident and injury statistics are published in an attempt to affect the public's understanding of traffic enforcement. Officers will familiarize themselves with the causes of accidents and congestion in order to better inform the public and direct their own efforts towards eliminating such cases.

L 2408 SELECTIVE ENFORCEMENT:

The Department conducts statistical and visual surveys to determine by location, time and day of the week which violations are causing accidents. Based upon the information thus obtained, the Department deploys its Department members to those specific areas to observe violations and take enforcement action. When the Department receives complaints of a specific problem, it specifically assigns Department members to investigate and take necessary enforcement action.

L 2410 WARNINGS:

It is each officer's responsibility to recognize a violation when it is committed and to take enforcement action; however, proper enforcement does not always involve a citation. In many instances the ends of justice and the object of enforcement are adequately served by a warning. This action should not be taken except in worthy cases determined by considering the circumstances of the violation. Deliberate violations of the traffic laws do not deserve lenience. Warnings are given in a courteous manner and tone of voice. When a warning is given, it is in a firm, efficient and courteous manner.

L 2411 TRAFFIC CONTROL DEVICES - ADJUSTMENT PERIOD:

When new signs or signals are installed, a driver adjustment period should be allowed and citation enforcement should be deferred. The length of the adjustment period is arbitrary and is determined by what is reasonable for the type of installation, the location and the volume of traffic. During the adjustment period, enforcement should be in the nature of assistance and orientation.

L 2412 NONRESIDENT VIOLATORS:

Since the Uniform Vehicle Code is being followed by a majority of states, including California, nonresidents are rarely subjected to unfamiliar traffic signs or inconsistent regulations. Therefore, unless the traffic regulation violated is one unique to the San Jose area, no immunity should be granted because the person is a nonresident.

L 2413 APPREHENSION OF SPEEDERS:

Excessive speed is a major cause of accidents. The speed vehicles are traveling at the time of impact is the principal factor that determines the severity of an accident. It follows that the

proper enforcement of the speed laws can make a major contribution to the reduction of the number and severity of accidents. Therefore, officers will strive to enforce vehicle speed laws as often as possible.

L 2414 DRIVER'S LICENSE VIOLATIONS:

When an officer determines that a motorist does not possess a valid driver's license, such motorist is cited for Section 12500 of the Vehicle Code, unless the motorist admits suspension or revocation. Records Unit members, upon receipt of the citation, will send teletypes to determine the actual driver's license status. Court Liaison/DUI members will then obtain an appropriate complaint.

L 2415 ENFORCEMENT OF PARKING REGULATIONS:

Street parking is restricted in various areas of the city to ensure fair access to parking and to expedite the flow of vehicular traffic. Parking regulations are enforced impartially throughout the City by any City employee having authority to enforce parking laws.

L 2416 PARKING IN DRIVEWAYS:

Vehicles parked in front of driveways are not cited or towed unless a complaint is filed by the property owner or property user.

L 2417 COMMERCIAL VEHICLE PARKING RESTRICTIONS:

Revised 07-13-18

Parking of certain commercial vehicles in residential areas is prohibited. Commercial vehicles prohibited are those that have a gross vehicle weight rating of 10,000 pounds or greater. (GVW rating: total weight carrying capability of a vehicle as recommended by the manufacturer.) For purposes of enforcement, a residential district is defined as an area containing only single family dwellings on both sides of the street. Officers will enforce commercial vehicle parking restrictions whenever a violation is observed.

L 2418 EXEMPT VEHICLES:

In addition to Department of Motor Vehicle issued placards, the following license plate alpha combinations are reserved for disabled persons or disabled veterans qualifying under the provisions of California Vehicle Code Sections 22511 and 22511.5:

- DP 00001 through DP 99999 (Person)
- DV 00001 through DV 99999 (Veteran)

Exempt vehicles bearing any of the above license plates, placards or decals from the parking time limit or from payment of parking meter fees in any place in which the public is allowed to park. The exemption does not apply to zones in which stopping, parking or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

L 2419 ENFORCEMENT ON FREEWAYS:

Normally, officers should not enforce traffic laws on freeways unless there is a hazardous driver who is endangering the safety and welfare of other motorists.

EXAMPLE: A drunk driver or other reckless driving

When enforcement action is taken, the officer will ensure that the vehicle stop is made in an area that is safely off the traveled portion of the freeway. Once the stop is completed, flashing warning lights and emergency red lights should be turned off unless conditions indicate that their use would enhance the safety of all persons involved.

L 2420 ENFORCEMENT OUTSIDE OF JURISDICTION:

Traffic enforcement should be limited to areas within the jurisdiction of the city. However, when an aggravated situation arises, the officer involved may detain the violator and then request that the agency having jurisdiction respond to the scene to take appropriate enforcement action.

L 2421 ASSISTANCE TO DISABLED MOTORISTS:

Officers who are driving marked police vehicles and observe a disabled motorist on a highway or freeway will stop and provide reasonable assistance unless one of the following conditions exists:

- The officer is involved in an assignment that could be jeopardized by stopping to render assistance.
- The safety of the officer or other motorists might be endangered by the maneuvering necessary to stop.

If an officer is unable to stop and assist a disabled motorist located Within San Jose's jurisdiction, the radio dispatcher is advised of the vehicle's location and direction of travel. The dispatcher will advise the appropriate agency of the disabled motorist in their jurisdiction.

If there is no doubt whether a motorist is disabled or needs assistance, the procedure for a disabled motorist is followed.

L 2422 IDENTIFICATION DURING A VEHICLE ENFORCEMENT STOP PURSUANT TO REASONABLE SUSPICION:

Added 09-25-21

During a vehicle enforcement stop based on reasonable suspicion, not probable cause of a law violation, the driver and any passengers are temporarily detained. Officers may ask for or request identification of any of the vehicle occupants. There is no legal requirement for a vehicle occupant to identify themselves unless probable cause of a legal violation is established. Therefore, refusal of the vehicle occupants to identify themselves, does not, on its own, establish probable cause to arrest, and does not constitute a violation of Penal Code section 148(a)(1).

If probable cause of a law violation is established on any of the vehicle occupants during a vehicle enforcement stop, refusal of identification by those persons to which the probable cause applies, shall be managed according to Duty Manual section L 2422.5 – IDENTIFICATION DURING A VEHICLE STOP PURSUANT TO PROBABLE CAUSE.

L 2422.5 IDENTIFICATION DURING A VEHICLE ENFORCEMENT STOP PURSUANT TO PROBABLE CAUSE:

Added 09-25-21

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During a vehicle enforcement stop based on probable cause of a law violation, both the driver and any passengers are temporarily detained. Officers may ask for or request identification of any of the vehicle occupants.

Any person to which probable cause of a law violation applies is required to identify themselves. In this case, officers may demand identification. Refusal of any person detained pursuant to probable cause during a vehicle enforcement stop may, under certain circumstances, constitute a violation of Penal Code section 148(a)(1).

Any person detained as a passenger in the vehicle, without probable cause, is not required to identify themselves. While the officer may ask for or request the identification, there is no legal requirement for a passenger to identify themselves unless probable cause of a legal violation is established. As a result, refusal of the vehicle passenger to identify themselves does not, on its own, establish probable cause to arrest, and does not constitute a violation of Penal Code section 148(a)(1).

If a passenger is detained with reasonable suspicion, they shall be managed according to Duty Manual section L 2422 — IDENTIFICATION DURING A VEHICLE ENFORCEMENT STOP PURSUANT TO REASONABLE SUSPICION.



L 2500 - TRAFFIC CITATIONS:

The purpose of enforcing traffic laws is to affect the violator in such a manner that the violation will not occur again and thereby produce a reduction in traffic accidents.

PROCEDURE

L 2501 TRAFFIC CITATIONS:

Officers assigned to an enforcement function will enforce vehicle laws in an impartial manner. Motorists will receive similar treatment regardless of where the violation occurs. Officers will adhere to the following procedures engaged in the enforcement of vehicle laws.

L 2502 COMPLETING AND ISSUING CITATIONS FOR MOVING VIOLATIONS:

Revised 07-01-22

Officers shall use an electronic citation (e-cite) system when issuing any citation unless any of the following exceptions are present:

- Technical issues related to the e-cite handheld device, associated printer, or designated e-cite server
- The issuing officer is a reserve officer

The information needed to complete a citation is generally obvious. However, the following needs to be emphasized to prevent being neglected:

- When issuing a paper citation to an adult or juvenile, the proper place for the court appearance must be noted by crossing out the place not applicable. For e-cites, under the "court" heading, select the appropriate court from the available options.
- Check "yes" or "no" in the boxes marked "Radar" and "Accident".
- When issuing a citation to a violator, the officer should explain the appearance requirements even though they are printed on the citation.
- If a citation is issued for a vehicle defect, the officer will explain to the violator the repairs or adjustments need to be corrected immediately, the repairs have to be verified by another officer within 10 days, and the court must be contacted within 15 days of the date of issuance to ascertain if a fine is associated with the violation.
- If a vehicle is unsafe or overloaded, the officer should cite the violator, and advise them to discontinue the use of the vehicle until the vehicle has been repaired or properly equipped.
- Do not tell the violator what the bail or fine is for any violation.

Note: Refer to Duty Manual section L 3104 – THUMBPRINT ON PAPER CITATION OR WITH AN ELECTRONIC CITATION and Duty Manual section L 3104.1 – PHOTOGRAPHING VIOLATORS AND ARRESTEES WITHOUT SATISFACTORY IDENTIFICATION for further information on completing and issuing citations.

L 2503 **NOTES ON CITATIONS:**

Revised 07-01-22

The officer issuing a paper citation may use the back of the pink copy for making notes about a violation. The pink copy remains in the Records Unit. A copy is made for the officer to use in court. Regarding electronic citations, the officer issuing the citation will utilize the “notes” feature in the e-cite software for making notes about a violation. The notes will upload with the e-cite and will not be forwarded to the court. Citing officers will have the ability to print a copy of their citations and associated notes and images to be used in court. These notes should include but are not limited to:

- ROAD CONDITIONS: Loose material, roadwork, width, surface conditions, etc.
- The number, sex, and position of passengers in the vehicle
- If radar, when the unit was last tested and found accurate and where the radar unit was located
- The address or location where the violator was stopped
- Details of the violation itself
- Relevant remarks of the driver
- Characteristics of the driver which may help you in identifying them in court
- Your own location when the violation was observed
- Directions of travel of the officer's vehicle

Officers will record the facts present which prompted the issuance of the citation and use such records if court appearance becomes necessary.

L 2504 **REFUSAL OF VIOLATOR TO SIGN CITATION:**

When a traffic violator refuses to sign a citation, the officer should make it clear as possible that in signing the driver is not admitting guilt but only promising to appear in court.

If the violator continues to refuse to sign the citation, the officer should call the district supervisor. The violator's refusal to sign the citation may be an emotional reaction or a personality clash with the officer, and a second officer can often restore calm and understanding to the situation and persuade the violator to sign the citation. If, after talking to the district supervisor, the violator still refuses to sign the citation, the violator should be booked and the arresting officer should follow the procedure outlined below.

- Prepare a "Crime Report" which will include the details of arrest and a description of the violation or violations committed by the defendant.
- Note in the report that the "Crime Report" copies of the unsigned citation are to be

forwarded to the Traffic Court Liaison Unit.

L 2505 TURNING IN CITATIONS:

Revised 07-01-22

Officers will upload and/or turn in citations prior to securing from the tour of duty during which the citation was issued.

L 2506 AMENDING CITATIONS:

Revised 03-30-19

Officers may amend a citation in accordance with the following procedure:

- Complete the Form TR-100 (including the "Defendant's Address" box) and attach the citation to be amended to the completed form.
- Use TR-100 forms with the yellow shaded box for traffic citation amendments.
- Use TR-100 forms with the pink shaded box for criminal citation amendments heard at the Hall of Justice.
- Use TR-100 forms with the green shaded box for criminal citation amendments heard at the Family Justice Center Drug Court.
- Use TR-100 forms with the blue shaded box for juvenile traffic citation amendments.
- Route the completed Form TR-100 and attached citation to the OSSD Warrants Unit.
- The OSSD Warrants Unit shall route the top (white) copy of the TR-100 form with the citation to the court and mail the bottom (yellow) copy to the recipient of the citation.

L 2507 DISMISSAL OR VOIDING OF CITATIONS:

Revised 07-18-08

Officers may request that citations be dismissed or voided whenever one or more of the following circumstances exist:

- It is later determined that the facts did not give rise to probable cause (example: The officer originally believed the posted speed was 30 m.p.h. and later learned it was 35 m.p.h.)
- The information that was provided to the officer is later found to be incorrect (example: It is later learned that the cited individual provided false ID)
- A clerical error was made at the scene and the citation was not used (example: After issuing the citation, while still at the scene, the officer discovers that the wrong section was used)
- Justice would be better served by dismissal or voiding (An appropriate explanation is required)

When dismissing or voiding a citation that has already been issued, or when receiving a court notice for a previously issued citation, the following procedure will be adhered to:

- Obtain and include the name, current address, D.O.B. and driver's license number on

the Form 200-15(b)

- Complete the Form 200-15(b) and attach the citation to be dismissed or voided to the form (this must include the approval of both the officer's immediate supervisor and a commanding officer)
- If a court notice has been received, complete the form with the information provided on the court notice
- The requesting officer shall provide a brief explanation as to why they are seeking a dismissal of the citation
- The requesting officer will then have an immediate supervisor review the facts of the request and receive either approval or disapproval of the dismissal or voiding.
- The supervisor reviewing the request will then ensure the signed dismissal form and, when appropriate, citations are forwarded to the Court Liaison Unit, Bureau of Investigations.

Officers will avoid advising motorists that citations will be dismissed or voided.

A statement to the effect that the courts will decide the issue is appropriate.

L 2508

CONCURRENT VIOLATIONS OF DIFFERENT CODES:

Citable violations from different statute codes are listed on the same citation form (C.V.C., P.C., Muni Code).



L 2600 - USE OF FORCE:

Revised 01-01-20

The San Jose Police Department recognizes and understands the complexity of those situations necessitating the use of force. Officers follow established authorizations to use force provided by state law (Penal Code Sections 835 and 835a). At times, officers are confronted with situations where control is required to affect arrests or protect the public safety. Attempts are made to achieve control through advice, warnings and persuasion. However, in situations where resistance, a threat to life or a threat of physical force against officers or others is encountered and verbal persuasion has not been effective, is not feasible or would appear to be ineffective, an officer may use objectively reasonable force. In the event deadly force is utilized, a thorough investigation is conducted. All use of force is appropriately investigated, documented and reviewed by supervisory/command staff.

Peace Officers' authority to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The Department finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law. The decision by an officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force.

PROCEDURE

L 2601 GENERAL PROVISIONS:

Revised 08-16-22

Officers may use force to affect a detention, arrest, prevent an escape or overcome resistance, in self-defense or defense of others. The type and degree of force used will be objectively reasonable and based upon the totality of the facts and circumstances known by the officer at the time. Each application of force must be justified and within policy independent of other force used. In any event, the following specific procedures will be adhered to.

L 2601.1 IDENTIFICATION AND VERBAL WARNING:

Added 08-16-22

When time and circumstances permit, prior to the use of any force, officers shall verbally identify themselves as a peace officer and verbally warn that force may be used, unless any of the following would apply:

- A warning that force may be used would create a clear and immediate danger to the officer, another officer, or to community members; or
- A warning that force may be used would significantly hinder the officer's ability to make an arrest; or

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- The officer has objectively reasonable grounds to believe the individual is aware of those facts.

L 2602 OBJECTIVELY REASONABLE FORCE (DEFINITION):

Revised 06-16-04

Objectively reasonable force is that level of force which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has actually used force. Objectively reasonable force is not judged with hindsight, and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain and rapidly evolving situations. Important factors to be considered when deciding how much force can be used to apprehend or subdue a subject include, but are not limited to, the severity of the crime at issue, whether the subject poses an immediate threat to the safety of the officers or others and whether the subject is actively resisting arrest or attempting to evade arrest by flight. This policy guideline applies to all uses of force, including deadly force.

L 2602.1 DEADLY FORCE:

Revised 08-16-22

NECESSITY: Officers will use deadly force only when necessary, in defense of human life. In determining whether deadly force is necessary, officers 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. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.

WHEN DEADLY FORCE IS JUSTIFIED: An officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
- 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.

DEFINITIONS: For purposes of this section, the following definitions shall apply:

- “Deadly force” means 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.
- A threat of death or serious bodily injury is “imminent” 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 peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter

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how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

- “Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.

L 2602.5 TACTICAL CONDUCT:

Revised 10-21-22

Department members are expected to use tactics that are consistent with San Jose Police Department and California P.O.S.T. Commission training standards. Based on the totality of the circumstances, and allowing for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation, Department members shall consider the following relevant tactical considerations in any situation where an officer reasonably believes that the use of physical force is or may become necessary:

- **CORE TRANSACTION:** A core transaction is defined as a lawful detention (justified by reasonable suspicion) or a lawful arrest (justified by reasonable cause). Except as specified in Duty Manual section L 2602.7 - PERSONS EXPERIENCING A MEDICAL EMERGENCY, if no core transaction exists, no force is reasonable. Department members shall consider whether the suspect is subject to detention or arrest prior to using physical force.
- **LEVEL OF URGENCY:** Department members shall consider whether the suspect presents an immediate and credible threat of physical harm to any person or if there is an immediate need to use physical force. If the circumstances permit, officers shall consider waiting for an additional officer(s) or a supervisor prior to contacting the suspect.
- **THREAT ASSESSMENT:** Department members shall consider using all reasonable methods to obtain relevant information regarding the parties associated to the call or contact in order to assess any threats and to select tactics and tools (i.e., less-than-lethal force options) appropriate to the threat. Relevant information may include any history of a subject’s propensity for violence or flight, frequency of police contact, a history of mental illness, known weapons, military training, known motivations or ideologies, or any use of intoxicants or medications. Relevant information may also include a known association to a particular identifiable residence or business. If time permits, Department members shall inquire directly with Communications while enroute if this information is neither obtained nor communicated during the dispatch of a call for service.
- **COVER, CONCEALMENT, DISTANCE, AND TIME:** Department members shall consider tactically advantageous objects and/or positions at their disposal prior to and during a force encounter. The proper use of cover, concealment, distance and the simple passage of time through negotiation and de-escalation are all tactics that may help a Department member avoid and/or minimize the use of physical force. Officers shall consider tactically repositioning themselves if doing so can be accomplished safely and may assist in de-escalating the situation.

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- **CRISIS INTERVENTION TEAM:** Department members shall request that a Crisis Intervention Team member respond to calls where there is information suggesting that the suspect is mentally ill.

L 2602.6 DE-ESCALATION

Added 08-16-22

De-escalation is the process of using strategies, methods, techniques, and tactics intended to decrease the intensity of the situation.

There is no all-inclusive list identifying all the strategies, methods, techniques, and tactics officers might employ to de-escalate an incident. Duty Manual section L 2602.5 - TACTICAL CONDUCT provides some options. In addition, the effectiveness of de-escalation strategies, methods, techniques, and tactics vary between officers, subjects, and situations. When time and circumstances permit, officers shall, prior to the use of any force, make reasonable efforts to de-escalate the situation.

The application of force is not, by definition, a failure to properly de-escalate a situation.

L 2602.7 PERSONS EXPERIENCING A MEDICAL EMERGENCY

Added 10-21-22

Department members may encounter persons who are combative due to a medical emergency. Similarly, Department members may be requested to assist Emergency Medical Services (EMS) personnel with combative patients. In these situations, Department members should recognize the person experiencing the medical emergency may not have committed a crime. Whenever practicable, officers should consider options other than force to render the situation safe, so EMS personnel are able to provide medical attention. In those situations where other options are not practical or there is an immediate need to intervene due to the seriousness of the emergency, officers shall only use force as follows:

- When the person is believed to be experiencing a medical emergency that has rendered them incapable of making a rational decision under circumstances that poses an immediate threat of serious harm to themselves or others,
- And some type of force is reasonably necessary to reduce the immediate threat,
- And the level of force used is reasonably necessary under the circumstances.

Any force used under this policy is reportable force as outlined in Duty Manual section L 2604 - GENERAL RESPONSIBILITIES WHEN FORCE IS USED. Department members shall document the specific articulable facts that led the officer to believe the subject was experiencing a medical emergency that posed an immediate threat to themselves or others, any steps the officer took to resolve the threat without using force, the necessity for the force, the level of resistance or combativeness, the level and amount of force used, injuries sustained, and the medical care provided.

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L 2603 FORCE OPTIONS POLICY:*Revised 08-16-22*

All officers have a number of force options available for use in those situations where force is reasonably necessary. Those situations can include but are not limited to:

- Subduing or arresting a physically threatening or assaultive person.
- Instances that threaten the safety of an officer or other person.
- Stopping a person who is attempting to flee or escape a lawful detention/arrest.
- When directing, controlling, or escorting resistive or physically uncooperative persons.

There is no requirement that the person actually has to strike or attempt to strike an officer to be considered physically threatening or assaultive, so long as an objectively reasonable officer has sufficient information (verbal threats, verbal defiance, physical stance, etc.) to believe that a person is physically threatening and has the present ability to harm the officer.

The degree of force used by an officer is directly related to the facts and circumstances encountered by that officer. Force options currently available to officers include, but are not limited to:

- Chemical Agents
- Deadly Force
- Electronic Control Weapons (ECWs)
- Impact Weapons
- Improvised Weapons (e.g. Flashlights, Radios, etc.)
- Physical Contact / Control Holds / Takedowns
- Police Service Dogs (Canines)
- Police Vehicles
- Projectile Impact Weapons
- Voice Commands

NOTE: The above list of force options is displayed in alphabetical order and not as a force continuum.

L 2604 GENERAL RESPONSIBILITY WHEN FORCE IS USED:*Revised 02-15-17*

Each situation involving the use of force is unique. The Department relies on the officer's judgment and discretion to employ an objectively reasonable level of force under each unique circumstance. Each incident in which force is used shall meet the conditions specified in this chapter.

Officers need not retreat or desist in the reasonable use of force. There is no requirement that officers use a lesser intrusive force option before progressing to a more intrusive one, as long as the force option used is objectively reasonable under the circumstances at that time. When confronted by force or resistance, an officer may use an objectively reasonable higher level of force to overcome that resistance.

Department members will notify the next rank above them in their chain of command without unnecessary delay, when reportable force is used. This includes instances where Department members take enforcement action while off-duty and a use of force occurs.

L 2605

SUPERVISOR & COMMAND OFFICER RESPONSIBILITY:

Revised 10-18-17

A supervisor assigned to the district of occurrence or who is assigned to the incident shall personally respond to the scene to evaluate and actively participate in the investigation of the factual circumstances surrounding a subordinate Department member's use of reportable force (For example, if an officer uses force, a sergeant shall respond. If a sergeant uses force, a lieutenant shall respond, etc.). This includes force that results in an injury, the appearance of an injury or a complaint of pain to a Department member or other person as a result of an enforcement action. The collection and preservation of relevant physical, documentary and testimonial evidence at the scene by available methods and technology, such as photography, video recordings, and the electronically recorded statements of witnesses, shall be the objective of the assigned supervisor who responds to the incident. A supervisor who was physically involved in the use of force incident (e.g. initiated the incident in which force was used, physically chased the suspect, used reportable force, used a non-reportable firm grip control, helped handcuff the suspect, etc.) or who directed force to be used shall not conduct the force investigation.

The responding supervisor shall approve the General Offense Report and confirm the appropriate automated use of force template has been completed by the involved Department member with the following two exceptions:

- If the incident occurs late into the shift and there will likely be an extended period of time until the required reports are completed, the supervisor assigned to the call shall obtain Watch Commander approval if they wish to pass the report review responsibility to a different supervisor at the end of their shift. In such cases, the supervisor assigned to the call will provide a briefing of the incident to the incoming supervisor prior to delegating the report review responsibility.
- The Homicide Unit completes the Force Response portion of the report as part of an Officer-Involved Incident investigation (see below).

In all cases, a supervisor shall approve the crime report (General Offense Report) and any Narrative/Supplemental Report (Form 200-3A-AFR) prepared by the officer(s) documenting the use of force.

The supervisor shall attempt to interview the suspect(s) during their use of force investigation. The supervisor shall advise the suspect(s) of their Miranda rights from the Department-issued card. Before an interview can be conducted, a waiver must be obtained from the suspect(s).

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The interview shall be recorded with the use of a Body Worn Camera and documented on a Narrative/Supplemental Report (Form 200-3A-AFR), then forwarded with the rest of the documentation to the Records Division. Additionally, the video file shall be uploaded to the Department server, consistent with established procedures. In the case of an officer-involved shooting or an Officer-Involved Incident, Homicide Unit members, rather than the supervisor, shall conduct all in-custody interviews.

The supervisor or command officer conducting the force review shall submit a Narrative/Supplemental Report (Form 200-3A-AFR) as well as the supervisors' automated use of force template documenting their supervisory actions. Consistent with SJPD Duty Manual section R 1801 - REPORT REVIEW – GENERAL RESPONSIBILITY and Duty Manual section R 1803 - BUREAU OF FIELD OPERATION'S DESIGNATED REPORT REVIEW PROCEDURES, Department members must have their Narrative/Supplemental Report (From 200-3A-AFR) reviewed and approved by the next rank above them in their chain of command prior to report submission.

In all cases of a reportable use of force, the supervisor shall ensure that the Department member(s) using force complete the automated use of force template for each suspect in every incident when reportable force is used. Sergeants or command officers must only complete one supervisor's automated use of force template per incident (e.g., if force is used on multiple suspects in a single incident, the sergeant or command officer shall only complete one supervisor's automated use of force template).

The supervisor/command officer shall read and review all reports associated with the incident for completeness as detailed in Duty Manual section R 1802 - AUTHORITY AND RESPONSIBILITY OF SUPERVISORS and Duty Manual section L 2643 - REPORTING USE OF FORCE. The supervisor/command officer shall then approve the reports only if they are properly completed. All forms and reports shall be completed and approved prior to the end of shift.

Exception: When an Officer-Involved Incident occurs, the investigation shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement as well as the automated use of force template shall be completed by the Homicide Detective who conducted the interview.

When required for the purpose of conducting a citizen complaint investigation, a Department Initiated Investigation, or an Officer-Involved Incident that is the subject of a review before the Officer-Involved Incident Training Review Panel, the entire investigation report packet shall be copied and forwarded to the Internal Affairs Unit.

L 2605.5 **COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE CATEGORY:**
Revised 01-24-22

In order to provide a standardized and comprehensive force review process, the Department has categorized its use of force. A Department member's use of force falls into one of four categories. Each category of force requires a different level of review based on the level of

force utilized or the seriousness of the injuries sustained as a result of the force. The process of Command Review may be utilized for Category (II) uses of force and shall be utilized for the Category (III) uses of force.

For the purposes of Command Review, the Department's Use of Force categorization is as follows:

CATEGORY (I) USE OF FORCE
1. Any use of force not listed in Categories II, III, or IV, that causes a minor injury or a complaint of pain
CATEGORY (II) USE OF FORCE
1. Electronic Control Weapons deployments (probe & drive stun)
2. Impact weapons (not to the head)
3. OC Spray
4. Projectile impact weapons (where up to 4 rounds strike the suspect)
CATEGORY (III) USE OF FORCE
1. Impact weapon or Projectile Impact Weapon strikes to the head (intentional and accidental)
2. Projectile impact weapon (where more than 4 rounds strike the suspect)
3. Kicks to the head
4. Two or more officers deploy less-than-lethal force (O.C., Projectile Impact Weapons, or Electronic Control Weapons) on one suspect
5. Four or more officers use reportable force on one suspect
6. Force resulting in bone fracture
7. Canine apprehension (dog bite)
8. Force resulting in suspect's loss of consciousness
9. Hospital admission as a direct result of the force.
CATEGORY (IV) USE OF FORCE
1. Deadly force – That force which the user knows would pose a substantial risk of death or serious bodily injury

Category (I) Use of Force

Supervisors shall investigate a Department member's Category (I) use of force in accordance with Duty Manual section L 2605 – SUPERVISOR'S RESPONSIBILITY. Command officers are not required to respond to Category (I) uses of force unless their response is required in accordance with Duty Manual section L 2605 – SUPERVISOR'S RESPONSIBILITY (e.g., a sergeant uses reportable force and the supervising command officer is required to conduct the force investigation).

Category (II) Use of Force

Upon being notified of a Category (II) use of force, the command officer shall respond to the scene and ensure the use of force investigation is handled in accordance with Duty Manual section L 2605 – SUPERVISOR'S RESPONSIBILITY. The command officer shall then document their observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer may direct the responding supervisor to submit documentation

of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), to the BFO Administrative Unit for review by the Executive Force Review Committee within 7 calendar days, or as otherwise directed by the Office of the Chief.

Category (III) Use of Force

Upon being notified of a Category (III) use of force, the command officer shall respond to the scene and ensure that the use of force is handled in accordance with Duty Manual section L 2605 – SUPERVISOR’S RESPONSIBILITY. The command officer shall document their observations and any actions taken in a supplemental report (Form 200-3A-AFR). The command officer shall direct the responding supervisor to submit documentation of the incident (to include the General Offense Report, the CAD printout, photos, and any other pertinent documentation), to the BFO Administrative Unit for review by the Executive Force Review Committee within 7 calendar days, or as otherwise directed by the Office of the Chief.

NOTE: Canine officers involved in a canine apprehension (dog bite) shall submit all materials and documentation for review to the Executive Force Review Committee.

Category (IV) Use of Force

Upon being notified of a Category (IV) use of force, the command officer shall ensure the incident is handled in accordance with the Santa Clara County Police Chiefs’ Association Officer-Involved Incident Guidelines. Command Review of Category (IV) uses of force shall be conducted in accordance with Duty Manual section L 2646 – POST INCIDENT REVIEW PROCEDURE FOR OFFICER-INVOLVED INCIDENTS.

Disposition of Command Review Documents

Once a command review has been completed, the memorandums and supporting documentation shall be routed to the Internal Affairs Unit for logging and retention. The documents shall be logged as official Department correspondence and shall not be placed into a Department member’s Internal Affairs file or Personnel file, absent a Department-Initiated Investigation or a formal citizen complaint.

L 2605.6 EXECUTIVE FORCE REVIEW COMMITTEE

Added 12-22-21

The Executive Force Review Committee (EFRC) is comprised of Department command officers at the rank of lieutenant, designated by the Office of the Chief, specially trained in force analysis and decision-making under stress, and responsible for evaluation of all use of force “Command Reviews” as outlined in Duty Manual section L 2605.5 – COMMAND OFFICER’S RESPONSIBILITY BY USE OF FORCE CATEGORY.

The EFRC convenes to review use of force and provide analysis as outlined below.

Responsibilities:

The EFRC will have the following responsibilities:

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- Analyze and evaluate the force applied during the event.
- Identify any observed misconduct.
- Identify any training opportunities for the personnel involved.
- Document the analysis for review by the Chain of Command.

All Command Reviews, whether from a Category-II or a Category-III use of force, will be referred to the EFRC. The Office of the Chief may also refer any use of force case to the EFRC (during any phase of the investigation), including cases that are initiated by Internal Affairs.

Staffing:

The EFRC shall maintain a minimum of twelve (12) force experts, as identified by the Office of the Chief.

Management:

The EFRC will be collaterally managed by a Division Captain in the Bureau of Field Operations, designated by the Office of the Chief, who will act as the Program Manager (PM). The PM will work directly with the BFO Administrative Unit Lieutenant, who will be tasked with maintaining a record of all applicable Category-II and Category-III use of force incidents, organizing case referrals to the EFRC (including all documentation), and ensuring the EFRC completes its analysis within 45 days of the date of the EFRC review.

The EFRC will meet, at minimum, monthly. Each meeting will be comprised of three (3) command officers. The BFO Administrative Unit Lieutenant will be responsible for scheduling the monthly meetings. Seven (7) days prior to the meeting, each convening member of the EFRC will receive the entire Command Review packet from the BFO Administrative Unit. The packets will contain all material outlined in Duty Manual section L 2605.5 – COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE CATEGORY, as well as any additional material requested by the EFRC. Officers will not be asked to appear or be interviewed as part of the EFRC process.

For each meeting, the PM will identify one (1) of the three (3) EFRC members to act as the Chairperson, to lead the EFRC meeting. The Chairperson will be responsible for completing the EFRC Analysis Memorandum or directing its completion by one of the convened committee members. The Analysis Memorandum must be completed, reviewed by the committee members, and submitted to the PM within 45 days from the date of review. The PM will then review and submit the memorandum to the BFO Administrative Unit lieutenant, who will record its receipt and route it through the appropriate officer's chain of command.

Notification:

Any commander requesting a Command Review by the EFRC shall complete a Use of Force Command Review entry in the Watch Commander's Log System before going off duty. The commander of the BFO Administrative Unit is responsible for tracking these entries.

Documentation:

The findings of the EFRC will be documented on the EFRC Analysis Memorandum (template available from the BFO Administrative Unit). Documentation from the EFRC shall be forwarded, through the Chain of Command, to the Internal Affairs Unit where it will be maintained consistent with Category-III Use of Force Reports.

Findings:

In each of the following categories, the EFRC may determine the category to be “within policy.”

INVESTIGATION: In any event the EFRC may request additional information or materials be provided to better analyze and evaluate the incident. For any incidents in which the EFRC determines the investigation is insufficient, the EFRC shall recommend the case be returned to the involved officer’s chain of command for additional information and material.

FORCE: The EFRC shall analyze and evaluate each incident and determine if the force used during the incident was objectively reasonable. For any incident in which the force was deemed to not be objectively reasonable, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation. In addition, in the event the EFRC is unable to make a determination of the reasonableness of the force due to a lack of available information, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation.

OTHER MISCONDUCT: The EFRC shall identify and report any observed misconduct. For any incidents in which misconduct is noted, the EFRC shall recommend the case be forwarded to the Office of the Chief, requesting a Department-Initiated Investigation. The EFRC will not conduct independent investigations into potential policy violations not involving the use of force, but will report the matter to the Office of the Chief with a request for a Department-Initiated Investigation.

TRAINING: The EFRC shall identify any training opportunities based on the involved officer’s actions, behaviors, or decisions. For any incidents in which individual training opportunities would benefit the officer and the Department, the EFRC shall recommend a review by the involved officer’s Chain of Command.

For any incident in which the EFRC fails to reach a unanimous decision among the convened command officers, the PM will review the case. The PM will be responsible for making the final decision and completing the EFRC Analysis Memorandum. The memorandum shall also note the dissenting opinions of the EFRC.

Training:

The PM and members of the EFRC shall attend advanced training identified by the PM, in consultation with the Commander of the Training Unit. Training shall be consistent with best practices in force analysis, defensive tactics, legal updates, and decision-making under stress.

The PM is responsible for ensuring on-going best practices training is completed. Training certificates shall be forwarded and maintained at the Training Unit in the commanders' respective training files.

L 2606 RESPONSIBILITY OF INVESTIGATORS:

When the use of force requires that a detective from the Bureau of Investigations respond to the scene, such detective will assume command of the investigation, consistent with investigative procedures and laws.

L 2607 RESPONSIBILITY OF INTERNAL AFFAIRS UNIT:

Revised 02-20-09

As needed in order to fulfill Department or Internal Affairs Unit policy and procedure, IA Unit members will respond to the scene to observe the investigation, determine policy adherence and report observations to the Chief of Police. The IA Unit shall conduct an investigation when: (1) injury or death occurs from police use of deadly force, (2) an in-custody death occurs, (3) a citizen complaint is filed, or (4) a Department Initiated Investigation is begun.

L 2608 GENERAL USE OF WEAPONS:

Officers, when in the performance of their duties and reasonably necessary, may use weapons in conformance with the following procedures.

L 2608.5 PHYSICAL CONTACT AND BODY WEAPONS:

Added 09-27-17

Officers may use physical contact with a suspect in order to affect an arrest, prevent an escape, or overcome resistance. Physical contact may include a firm grip, a Department-approved pain-compliance control hold, a takedown, and the utilization of physical force or body weight to restrain a combative suspect.

Officers may also utilize strikes including open and closed fist strikes, elbows, knees, or kicks when the suspect presents a credible physical threat to the officer or another person and it is objectively reasonable to do so based on the totality of the circumstances.

L 2608.6 PROVIDING FIRST AID:

Revised 01-24-22

When the use of hands or another body weapon causes injury which would reasonably require medical attention, the officer using force shall ensure the injured individual receives proper medical attention as soon as practicable.

Officers shall obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been struck in the head with an elbow, a knee, or a kick. Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

In situations where a person is experiencing any of the following as a result of the use of hands, body weapons, or any other weapon that constrains a person's neck, back, or torso in a way that causes any of the following, officers shall immediately summon medical attention and seek medical clearance from Valley Medical Center (VMC):

- Restricted breathing
- Restricted blood flow through the neck
- Difficulty breathing or respiratory distress
- Symptoms of a heart attack or cardiac arrest
- Asthma attack
- Loss of consciousness
- Other medical emergency involving breathing or blood flow through the neck

Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

L 2609

USE OF CHEMICAL AGENTS:

Revised 12-31-21

Chemical agents are substances designed to irritate the eyes and mucous membranes. Chemical agents are classified as a Category II use of force for the purpose of assessment under Duty Manual section L 2605.5 – COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE CATEGORY. When properly used, chemical agents are a valuable de-escalation tool. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance.

The use of chemical agents must be justified by a suspect's active resistance and/or a credible threat of physical harm—not aimed indiscriminately into a crowd or group of persons. Chemical agents can be used by officers in self-defense, on suspects resisting a lawful detention or arrest, or to encourage a suspect to exit an enclosed structure, vehicle, or open space. Refer to Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES for times in which chemical agents may be used at First Amendment activities or unlawful civil disturbances.

Only Chemical Agents authorized by the Chief of Police will be used. Department personnel shall not use chemical agents (including delivery munitions or devices) without first receiving training from a Department approved Chemical Agents Instructor and/or Less Lethal Impact Munitions instructor.

Currently Authorized Chemical Agents include but are not limited to Oleoresin Capsicum (OC) spray, OC powder, Chlorobenzylidene Malononitrile (CS) gas, CS powder and CS liquid.

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OC Spray Cannisters: All sworn Officers and Community Service Officers are authorized to use Department issued OC spray canisters containing up to 1.33% Capsaicinoid.

The following chemical agent devices may only be deployed by specialized personnel and units that have been authorized to do so by their respective Bureau Chiefs:

Aerosolized Chemical Agent Dispersal Device: Aerosolized dispersal devices containing OC, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander.

Less Lethal Impact Munitions (LLIM): LLIMs containing OC Powder, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander. When an LLIM is directed at an individual such use shall also comply with Duty Manual section DM L 2629 – USE OF PROJECTILE IMPACT WEAPONS.

NOTE ON CROWD CONTROL:

When the criteria outlined in Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES has been met, LLIMs may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.

The following chemical agents and chemical agent devices may only be deployed by members of the MERGE Unit.

Kinetic Energy Impact Munitions (KEIM): KEIMs (e.g., ferret rounds) containing OC Powder, similar “pepper” irritants, CS powder, CS liquid or malodorants may be used with approval from a MERGE supervisor or an incident commander. The high kinetic energy of KEIMs makes them inappropriate to direct at individual persons except in deadly force encounters (as defined in Duty Manual section L 2602.1 – DEADLY FORCE).

NOTE ON CROWD CONTROL:

When the criteria outlined in Duty Manual section L 2305.2 – USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES has been met, KEIMS may be used against inanimate objects (e.g., a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or

to prevent individuals from gathering in a specific area. KEIMs will not be directed at specific persons for crowd control purposes.

CS Gas: The deployment of CS gas and delivery devices must be in compliance with the following:

- Absent exigent circumstances (e.g., officer or citizen rescue) CS munitions will not be used without prior approval from the MERGE commander or their designee.
- The pre-planned deployment of CS gas on a barricaded subject(s) utilizing multiple delivery methods shall be documented as a single use of force.
- Absent exigent circumstances, emergency medical personnel will be staged on-scene prior to the deployment of CS gas.
- The use of CS gas for crowd control purposes shall be approved by the Chief of Police, the Assistant Chief of Police, or their designee.

L 2610 PROVIDING FIRST AID:

Revised 10-30-20

Since chemical agents are irritating to the eyes, nose and skin, officers using a chemical agent will ensure that persons exposed to such agents receive first aid treatment at the scene as soon as practical. Officers shall administer first aid by:

- Seating the subject or other person(s) exposed to chemical agent in an upright position (or other appropriate position dependent on circumstances).
- Flushing the affected person's eyes with clean water and ventilating with fresh air.
- Requesting on-scene medical assessment by emergency medical personnel as soon as practical, prior to any transportation.
- Maintaining direct visual observation of any exposed person(s) until they have been medically assessed at the scene.
- When booking subjects exposed to chemical agents, jail personnel will be advised of this fact to prevent contamination of other jail occupants or custodial personnel.

L 2611 USE OF THE WRAP RESTRAINT DEVICE:

Revised 08-03-07- moved to Duty Manual section L 2903 - USE OF THE WRAP RESTRAINT DEVICE

L 2612 PROHIBITED USES:

Revised 08-03-07 – moved to Duty Manual section L 2904 - PROHIBITED USES

L 2613 USE OF THE VIOLENT PATIENT TRANSPORT:

Revised 08-03-07 – moved to Duty Manual section L 2905 - USE OF THE VIOLENT PATIENT TRANSPORT

L 2614

USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS:*Revised 08-16-22*

Electronic Control Weapons (ECW) have an important role in effective law enforcement as a de-escalation tool that can defuse dangerous situations from a distance, prevent the need for a higher level of force, and help protect officers, suspects, and bystanders.

Officers may use ECW in the following circumstances:

- When the subject presents an immediate threat of harm to the officer, or any other person and the threat presented by the subject outweighs the pain and risks associated with the use of the ECW.

or

- When necessary to take a subject into custody and the level of resistance presented by the subject is:
 - Likely to cause injury to the officer or subject; and
 - Hands-on control tactics or other force options would likely cause greater injury to the subject than the use of the ECW.

1. Policies and procedures for ECW deployments:

- In addition to the identification and verbal warning requirements of Duty Manual section L 2601.1 - IDENTIFICATION AND VERBAL WARNING, an officer shall wait a reasonable period of time after each application of the ECW to discern if compliance has been gained.
- The ECW is to be used for the shortest period reasonably necessary to take a subject safely into custody, generally a 5 second cycle.
- Officers should attempt to secure the subject as soon as practical while affected by ECW power or immediately thereafter.
- Officers shall refrain from using the ECW for more than a total of three (3) five-second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted.
- As with the initial discharge, each subsequent ECW activation must be individually justified based on the specific articulable facts reasonably known to the officer at the time. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.
- If the subject does not respond to the ECW deployment in the anticipated manner, officers should, based upon training and experience, consider transitioning to alternative force options.
- If circumstances permit, officers should avoid aiming the ECW at a subject's head, neck, genitalia, or chest.
- The ECW may be used against animals if the animal poses a threat to officers, other persons, or other animals

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- ECW and holsters authorized for use by the Chief of Police are listed in Duty Manual section S 1147 - ELECTRONIC CONTROL WEAPONS.
2. The ECW shall not be used under the following circumstances:
- On subjects exhibiting only passive non-compliance absent any other specific articulable threat that would outweigh the subject's passive resistance.
 - Against a handcuffed or secured person, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be controlled by other readily available means.
 - In circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
 - In circumstances where a suspect is located in close proximity to a body of water, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
 - Where an officer reasonably believes that a flammable, volatile, or explosive material is on the subject or may be affected by the use of the device.
 - On highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. There are times, however, when despite such risks, a person's actions make it necessary to take the individual into custody. Use of the ECW may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion that may increase the risk of injury or death.
 - Against a subject operating or riding any mode of transportation (e.g., vehicle, bus, bicycle, motorcycle, etc.), conveyance (e.g., escalator, skateboard, scooter, rollerblades, etc.), or machinery capable of causing injury unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the mode of transportation, conveyance, or machinery is outweighed by the need to capture the subject.
 - Against women who are known to be pregnant, very old or very young persons, physically frail persons, and persons with known heart conditions unless reasonable based on the threat the subject possesses to themselves or others. An example of a circumstance in which it would be reasonable to use the ECW would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an ECW.
3. Discharge reporting requirements:
- A discharge of an ECW occurs when probes are deployed at a subject or used in a drive stun manner. If the probes or drive stun do not contact a subject the usage still requires reporting.
 - All ECW usage will be reported to the officer's immediate supervisor or next higher rank in the chain of command as soon as safe and reasonable. If the officer's immediate supervisor is unavailable, the officer will report the usage to any other

available supervisor or next higher rank in the chain of command.

- The supervisor of an officer who has deployed an ECW will personally respond to evaluate and actively participate in the investigation of the ECW discharge.
- The supervisor will review the ECW download information.
- The discharge of an ECW will require documentation in a General Offense Report (Form 200-2-AFR) and/or on a Narrative/Supplemental Report (Form 200-3A-AFR) and an Automated Use of Force Template.
- Officers will obtain and submit a copy of the ECW download information for the event with a Case Number noted in the upper right-hand corner.
- An officer who only displays a de-escalation warning arc is not required to notify his/her supervisor or complete an Automated Use of Force Template. An arc display should be documented in a General Offense Report or Supplemental. If a General Offense report is not required, the officer will note the display in the CAD event.
- Any accidental discharge, not at a subject, shall be reported to the officer's immediate supervisor. See Duty Manual section L2617 - ACCIDENTAL DISCHARGE OF AN ELECTRONIC CONTROL WEAPON

4. Medical Care

- Whenever a person has been subjected to an ECW discharge, an official hospital clearance is obtained prior to the suspect's booking.
- Once a subject is under control, officers will place the subject in an appropriate recovery position.
- Officers shall monitor subjects who have sustained an ECW application while they are in custody.
- If the suspect exhibits the need for medical attention at the scene of the arrest, the officer shall summon emergency medical assistance immediately. See Duty Manual section L 2616 - PROVIDING FIRST AID.

L 2615 **PROHIBITED USES:**
Deleted 10-28-09

L 2616 **PROVIDING FIRST AID:**
Revised 01-20-21

Officers will obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been subjected to the discharge of an Electronic Control Weapon. Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

In cases where another hospital emergency room is used or if the suspect is already at another hospital facility with an emergency room, the officer will obtain the necessary medical

clearance paperwork for booking from that hospital. There is no need to transport the suspect to VMC in this case. The prisoner will only be transferred to VMC upon approval of medical personnel at both facilities.

Taser probes, if lodged in the body, are removed by EMS or hospital staff.

L 2617 ACCIDENTAL DISCHARGE OF AN ELECTRONIC CONTROL WEAPON:

Revised 01-20-21

Any accidental discharge of an Electronic Control Weapon air cartridge is investigated by the next level in the chain of command. The incident is documented in a Department memorandum and addressed to the Chief of Police. The memorandum report shall contain the appropriate content for an administrative investigation (Background, Investigation, Applicable Authorities, Analysis, and Findings/Recommendations). As defined for this section, Accidental Discharge is the accidental firing of the Electronic Control Weapon's air cartridge.

L 2618 USE OF ELECTRONIC RESTRAINT TRANSPORTATION BELT (ERTB):

Only Department members trained and authorized in the use of the ERTB will use this device. The ERTB will only be used in the following circumstances:

- To incapacitate assaultive or physically resistive suspect to the point where they can be controlled without the necessity to use force likely to cause more serious injury.
- As a defensive weapon in situations where its use is likely to prevent a Department employee or member of the public from being seriously injured.
- To prevent the escape of a prisoner being transported by the Warrants Unit.

L 2619 PROHIBITED USES OF ELECTRONIC RESTRAINT TRANSPORTATION BELT (ERTB):

Use of the ERTB is prohibited on a subject who is not assaultive, physically resisting or attempting to escape.

L 2620 PROVIDING FIRST AID AFTER USE OF ERTB:

Revised 06-30-06

Officers will obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been immobilized by use of the ERTB. Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions or the ERTB was used in a jurisdiction outside the City of San Jose.

In cases where another hospital emergency room is used or if the suspect is already at another hospital facility with an emergency room, the officer will obtain the necessary medical clearance paperwork for booking from that hospital. There is no need to transport the suspect to VMC in this case. The prisoner will only be transferred to VMC upon approval of medical personnel at both facilities.

Jail personnel will be advised that the arrestee was immobilized by the use of the ERTB.

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L 2621 USE OF IMPACT WEAPONS:*Revised 01-01-20*

Impact weapons the Chief of Police authorizes for use in Duty Manual section S 1124 - MINIMUM UNIFORM AND EQUIPMENT ARTICLES REQUIRED FOR ALL OFFICERS include the straight baton, expandable baton, side handle baton, Kendo sticks and Yawara stick. In addition to the authorized impact weapons, impact objects may be used as objectively reasonable based on the totality of the circumstances.

Officers may only intentionally target a suspect's head with an impact weapon as a deadly force option (i.e., when the force being responded to is likely to cause death or serious bodily injury) when the use meets the requirements of Duty Manual section L 2602.1 - DEADLY FORCE.

L 2622 PROVIDING FIRST AID:*Revised 09-27-17*

When use of an impact weapon on any body part other than the head causes injury which would reasonably require medical attention, the officer using the impact weapon shall ensure the injured individual receives proper medical attention.

Officers shall obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been struck in the head with an impact weapon (whether intentionally or unintentionally). Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

L 2623 USE OF POLICE SERVICE DOGS:*Revised 07-24-15*

Properly used Police Service Dogs (Canines) constitute a resource useful in police service. Their uses include searches, tracking, apprehension of suspects, and protection of officers and members of the public from serious physical injury.

The canine handler determines the proper use of the Police Service Dog based upon the totality of the circumstances known at the time of the deployment. When it is believed a suspect may be armed with a weapon likely to cause serious injury or death to the Police Service Dog, the handler shall have the discretion to decide whether the dog will be used to search for or apprehend the suspect.

A Police Service Dog may be used to search for or apprehend a suspect if the handler reasonably believes the suspect is committing, has committed or is about to commit a felony crime, or a misdemeanor crime involving a weapon or violence and if following conditions exist:

- There is a reasonable belief that the individual poses an immediate threat of violence or serious physical injury to any person; AND
- There is reasonable belief that the suspect is actively fleeing, physically resisting, or threatening to resist arrest and the use of the canine would overcome such resistance, prevent injury to arresting officers or other persons and ensure the apprehension of

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the subject; OR

- The individual(s) is/are believed to be hidden in an area where the use of the canine would reduce the threat of violence or serious physical injury to officers or members of the public.

In addition to the above criteria, Police Service Dogs are not used to search for suspects who are believed to be juveniles unless the handler reasonably believes the subject poses an immediate threat of violence or serious physical injury to any other person if they were allowed to escape.

Prior to conducting a search, it is the handler's responsibility to issue a warning to persons who may be in the area to be searched of the intent to conduct a canine search. Once the warning has been issued, the handler will wait a reasonable amount of time prior to deploying the police service dog to search. The warning may be omitted when circumstances indicate that the safety of the searching officers or the public may be compromised by a warning.

A Police Service Dog used for tracking or trailing persons not associated with criminal activity does not fall within this policy.

Canines will not be used for crowd control.

L 2624 USE OF POLICE SERVICE DOGS FOR CROWD CONTROL:

Deleted 01-07-07

L 2625 RISK TO THIRD PARTIES:

In using police service dogs, the canine handler shall exercise due care to avoid unnecessary risk of injury to persons who are not the subject of a search or apprehension.

L 2626 PROVIDING FIRST AID AFTER USE OF POLICE SERVICE DOGS:

Each canine handler is responsible for ensuring that medical treatment is provided when necessary and possible. However, when the circumstances are such that the canine handler cannot directly ensure that medical treatment is provided, the officer will notify an immediate supervisor. The supervisor will then attempt to ensure that such treatment is provided.

L 2627 CAROTID RESTRAINT NOT AUTHORIZED:

Revised 01-24-22

The "Carotid Restraint" is not authorized. "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.

L 2628 PROVIDING FIRST AID AFTER USE OF CAROTID RESTRAINT:

Deleted 01-24-22

L 2628.1 CHOKE HOLD NOT AUTHORIZED:

Revised 01-24-22

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The “Choke Hold” is not authorized. “Choke Hold” means any defensive tactic or force option in which direct pressure is applied to a person’s trachea or windpipe.

L 2628.2 PROVIDING FIRST AID AFTER USE OF CHOKEHOLD:

Deleted 01-24-22

L 2628.3 TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION

Added 12-22-21

Department members shall not use techniques or transport methods that involve a substantial risk of “positional asphyxia.” Positional Asphyxia is defined as, “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.

L 2629 USE OF PROJECTILE IMPACT WEAPONS:

Revised 12-31-21

Only officers who have completed an approved training course taught by a qualified Department member or a representative of the manufacturer supplying the ammunition are authorized to use this type of equipment. Because projectile impact weapons have the potential to cause serious injury or death, this type of weapon will only be used in the following circumstances:

- To be used when objectively reasonable to incapacitate a suspect armed with a weapon likely to cause serious bodily injury or death until the suspect can be controlled and safely taken into custody.
- To be used when objectively reasonable in situations where its use is likely to prevent any person from being seriously injured.

NOTE: Less lethal projectiles containing chemical agents are available for use by authorized personnel. The use of less lethal chemical agent projectiles shall comply with this Duty Manual section and with sections Duty Manual section L 2609 – USE OF CHEMICAL AGENTS and Duty Manual section L 2610 – PROVIDING FIRST AID.

All patrol officers, who have completed an approved training course, shall be required to carry a projectile impact weapon (either a stun-bag shotgun or a 40mm Projectile Impact Weapon) while on-duty; officers not permanently assigned a 40mm Projectile Impact Weapon shall check out a projectile impact weapon (stun-bag shotgun or 40mm Projectile Impact Weapon) from Central Supply at the beginning of each assigned shift.

The intentional discharge of a Projectile Impact Weapon at a suspect shall be documented as a use of force. When an intentional discharge of a Projectile Impact Weapon is used for

the purpose of breaking glass, and the discharge does not result in any person being struck by a projectile, the discharge shall be documented in a General Offense report.

Refer to Duty Manual section L 2305.2 - USE OF CHEMICAL AGENTS OR PROJECTILE IMPACT WEAPONS AT FIRST AMENDMENT ACTIVITIES OR UNLAWFUL CIVIL DISTURBANCES for additional information.

L 2629.5 PROHIBITION ON THE USE OF PROJECTILE IMPACT WEAPONS FOR CROWD CONTROL:

Deleted 12-31-21

L 2630 PROHIBITED USES OF PROJECTILE IMPACT WEAPONS:

Revised 08-18-05

Projectile impact weapons will not be used in the following circumstances:

- On restrained, unconscious or otherwise incapacitated persons
- Except in emergency situations, projectile impact weapons will not be used until a sufficient number of officers are present to immediately take control and custody of the suspect

L 2631 PROVIDING FIRST AID AFTER USE OF PROJECTILE IMPACT WEAPONS:

Revised 06-30-06

Officers will obtain a medical clearance from Valley Medical Center (VMC) for an arrestee who has been immobilized by use of a projectile impact weapon. Another hospital emergency room may be used if, based on the available information, it appears to be necessary to provide immediate emergency medical treatment for the arrestee or if VMC is closed for admissions.

In cases where another hospital emergency room is used or if the suspect is already at another hospital facility with an emergency room, the officer will obtain the necessary medical clearance paperwork for booking from that hospital. There is no need to transport the suspect to VMC in this case. The prisoner will only be transferred to VMC upon approval of medical personnel at both facilities.

Jail personnel will be advised that the arrestee was immobilized by the use of a projectile impact weapon.

L 2632 ACCIDENTAL DISCHARGE OF A PROJECTILE IMPACT WEAPON:

Revised 08-18-05

A command officer will investigate any accidental discharge of a projectile impact weapon. The investigating command officer will submit a detailed memorandum of the results of the investigation through the chain of command to the Chief of Police. The memorandum will follow the administrative outline including: Background, Analysis, Applicable Authorities, Findings and Recommendations.

L 2633 RESPONSIBILITY WHEN A FIREARM IS DISCHARGED:*Revised 08-16-22*

An officer who discharges a firearm either accidentally or in the performance of a police duty, except at an approved range, will protect the scene consistent with the safety of officers and members of the public and evidence and will ensure that an on-duty officer of the officer's subdivision with the rank of lieutenant or higher is notified as soon as time and circumstances permit. When on duty, this may be accomplished by notifying Communications. If an officer of the required rank is not on duty in the officer's subdivision at the time of discharge, the officer will ensure that the watch commander on duty, or any on-duty officer with the rank of lieutenant or higher, is notified.

EXCEPTION: When it is necessary to discharge a firearm for the humane destruction (euthanasia) of a seriously injured animal, and no person was injured or killed and no property was damaged, the officer who discharges the firearm will ensure that the on-duty sergeant responsible for that area is notified and responds to the scene.

L 2634 COMMAND OFFICER'S RESPONSIBILITY WHEN A FIREARM IS DISCHARGED:*Revised 11-21-22*

When a firearm is discharged regardless of whether it results in injury or death, a command officer will notify the Homicide Unit Commander, who will then coordinate with Homicide-Crime Scene Unit members in conducting a thorough investigation into the incident. The Homicide Unit Commander will review the results of the investigation with the Office of the Chief of Police.

L 2635 USE OF THE POLICE VEHICLE:

A police vehicle may be used as a force option in the performance of a police duty, when it is objectively reasonable to do so, and/or in accordance with other provisions of this Manual regarding such use (i.e. legal intervention).

L 2635.5 LEGAL INTERVENTION DEFINED:*Added 02-20-17*

Legal intervention is an intentional act in which injury or damage is caused by law-enforcement intervention, usually resulting in the apprehension or attempted apprehension of a suspect. Legal intervention which results in injury or damage is not a motor vehicle collision insofar as the enforcing agency and violator relationship is concerned. The legal intervention should be documented as a use of force. If intentional acts are committed resulting in injury or damage beyond that which is reasonably expected, the subsequent event(s) should be documented as a motor vehicle collision (see fourth example below Motor Vehicle Collision). The following examples are provided to help distinguish between legal intervention and a motor vehicle collision.

Legal Intervention

- A police officer intentionally caused their vehicle to collide with a suspect's vehicle in an attempt to apprehend a suspect.

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Motor Vehicle Collision

- A suspect, while eluding the police, lost control of their vehicle and collided into another vehicle or object.
- While attempting to apprehend a suspect, a police officer lost control of their vehicle and collided into another vehicle or object.
- A police officer unintentionally collides with the suspect's vehicle.
- While performing legal intervention, the suspect's vehicle loses control and unintentionally collides with an uninvolved vehicle, object, or pedestrian. The collision between the suspect's vehicle and the uninvolved vehicle, object, or pedestrian would be documented on a CHP 555.

L 2636 USE OF FIREARMS:

Revised 11-10-21

Firearms may be discharged in the performance of a police duty only when it is objectively reasonable to do so under the following circumstances. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.

L 2637 WARNING SHOTS:

Revised 06-16-04

An officer may fire a warning shot(s) when it is objectively reasonable and safe to do so under the following circumstances:

- In the defense of any person's life.
- To effect the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony involving the use or a threat to use deadly force, and an objectively reasonable officer could believe that the person presents an imminent danger to the public if they were to escape.

No warning shots will be fired by an officer is using a carbine.

L 2638 DIRECT USE OF FIREARM:

Revised 01-01-20

An officer may discharge a firearm under any of the following circumstances:

- When discharged in a safe manner at an approved range
- When used for the humane destruction (euthanasia) of a seriously injured animal, or to dispatch any animal that poses an immediate threat to any person or other animal, and other dispositions are impractical
- When based on the totality of the circumstances, deadly force is objectively reasonable and necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person.

- When based on the totality of the circumstances, deadly force is objectively reasonable and necessary to effect the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony that threatened or resulted in death or serious bodily injury, and the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

L 2638.1 PROVIDING FIRST AID AFTER THE USE OF A FIREARM:

Added 12-21-20

If a person is injured by a Department member's use of a firearm, whether on-duty or off-duty, whether intentional or unintentional, the following steps shall be taken as soon as practical:

- Immediately summon emergency medical aid
- Check breathing and heartbeat at the scene
- Administer first aid if required

When the injured person is in custody, the treatment will be provided at Valley Medical Center (VMC). Another hospital emergency room may be used if the injured person is taken there for emergency medical treatment or if VMC is closed for admissions.

When the injured person is not in custody, the treatment may be provided at the injured person's facility of choice. If they are unable to provide a preferred facility, the treatment will be provided at VMC. Another hospital emergency room may be used if the injured person is taken there for emergency medical treatment or if VMC is closed for admissions.

Whether the injured person is in custody or not in custody, when treatment is being provided in a medical facility, there is no need to transport the injured person to VMC, unless requested to do so by the treating physician.

L 2638.2 DRAWING A FIREARM:

Added 12-21-20

Drawing a firearm is defined as when an officer removes a firearm from their holster or equips themselves with a rifle or shotgun.

An officer may draw their firearm if they reasonably believe, based on the totality of the circumstances, that deadly force is or may become necessary, or when, consistent with training, circumstances create a reasonable belief that the display of a firearm may help to establish or maintain control in a potentially dangerous situation.

When it is determined that the use of deadly force is not necessary, as soon as practicable, handguns shall be secured or holstered, and rifles/shotguns shall be secured.

L 2638.3 POINTING A FIREARM AT ANOTHER PERSON:

Added 12-21-20

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An officer may intentionally point their firearm (e.g., handgun, shotgun, rifle) at another person if the officer reasonably believes, based on the totality of the circumstances, there is a substantial risk that deadly force is or may become necessary (i.e., the officer reasonably believes there is a credible threat of death or serious bodily injury to themselves, other officers, or members of the public). An officer need not wait until the threat becomes imminent before pointing their firearm at a person. However, an officer must be able to articulate why they reasonably believe deadly force may become necessary. Nothing in this section is intended to take away an officer's ability to defend themselves or another person from serious bodily injury or death.

When an officer points a firearm at another person, this action shall be documented on the Firearm Pointed Template. When a General Offense Report (Form 200-2-AFR) (G.O.) is written, the officer will complete a Firearm Pointed Template for each person at whom the officer points a firearm. When a G.O. is not written, a Street Check will be created, and the officer will complete a Firearm Pointed Template for each person at whom the officer points a firearm.

The pointing of a firearm at another person does not require the completion of an "Automated Use of Force Template" unless the firearm is discharged or used in a manner which constitutes a reportable use of force as defined by Duty Manual section L 2644 - DEFINITION OF REPORTABLE FORCE.

Drawing, equipping, or exhibiting a firearm without intentionally pointing it at a person (e.g., having the firearm at a "low ready" position) does not require documentation.

When it is determined that the use of deadly force is not necessary, as soon as practicable, handguns shall be secured or holstered and rifles/shotguns shall be secured.

EXCEPTION: When an Officer Involved Incident occurs and the investigation is conducted in accordance with the Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines, the Department member's statement and all required templates will be completed as described in Duty Manual section L 2645 - REPORTABLE FORCE BY DEPARTMENT MEMBERS – REQUIRED DOCUMENTATION.

L 2639 HUMANE DESTRUCTION OF ANIMALS:

Officers are occasionally required to respond to incidents involving seriously injured livestock or deer. In order to prevent unnecessary suffering, the animal should be humanely dispatched as soon as possible.

In the case of livestock, officers should request that Communications immediately attempt to contact the animal's owner. If the owner is located, they should be advised of the situation and told to immediately respond to dispatch the animal. If no contact can be made or the owner is unable to respond immediately, the owner should be advised that SJPD will dispatch the animal. The humane treatment of an animal as well as the attitudes and feelings of people directly involved or observing the procedure must be taken into consideration. Officers dispatching seriously injured animals will use their firearm. At all times, the potential for ricochet must be recognized and all precautions must be taken to ensure that euthanasia of an injured animal is conducted in the safest way possible avoiding any threat of injury to

persons or property. Officers dispatching large animals (livestock and deer) will do so in the following manner:

Humane destruction for goat, sheep, and deer

The gun muzzle should be held approximately 10 inches away from the skull when fired. The point of aim should be the midpoint of the top of the head for hornless sheep or goats, or the back of the head just behind the bony ridge between the horns, aimed toward the back of the chin or jaw. The use of hollow point or soft nosed bullets will increase brain destruction and reduce the chance of ricochet.

Humane destruction for cattle

The gun should be held 2-10 inches from the intended point of impact and the bullet should be directed perpendicular to the front of the skull to prevent ricochet. The aim point should be at the intersection of two imaginary lines, each drawn from the inside corner of the eye to the base of the opposite horn (slightly above the ear in hornless animals). If this shot is not possible, the animal may be shot in the area of the ear. The use of hollow point or soft nosed bullets increases the tissue destruction.

If any animal is not killed by the first shot, readjust the barrel slightly and fire a second round.

Once the animal has been dispatched and there is no owner to remove the animal, the officer will notify Communications who will then contact animal control and arrange to have the deceased animal removed.

L 2640

DEPLOYMENT OF CARBINES:

Carbines may be used, based on an articulated need, if the officer reasonably suspects that any of the following conditions exist:

- The suspect is armed with a deadly weapon
- The distance necessary to engage an armed suspect is beyond the effective range of the officer's pistol or shotgun
- The suspect is barricaded or protected by materials that may not be penetrated by the officer's pistol or shotgun
- The officer has reasonable cause to believe an armed suspect is wearing body armor

L 2641

WHEN DEADLY FORCE SHALL NOT BE USED:

Revised 01-01-20

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

Firearms shall not be discharged under the following circumstances:

- At misdemeanants who do not pose an imminent danger of death or serious physical harm to other persons.
- To affect the capture, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony which did not threaten or result in death or serious bodily injury.

L 2641.5 SHOOTING AT MOVING VEHICLES:

Added 04-06-07

Shooting at moving vehicles is generally an ineffective practice and could have unintended ramifications, including the potential injury to other people in the area. Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons.

A moving vehicle may become an uncontrolled deadly weapon that could seriously injure or kill the occupants of the vehicle and/or subjects in its path if the driver becomes incapacitated before the vehicle comes to a stop. The potential harm to others in the area may outweigh the need to immediately apprehend the suspect.

Officers shall not knowingly place themselves into the path of a moving vehicle or into the likely path of a vehicle that is currently stopped but is under the immediate control of a driver. When feasible, officers should attempt to move out of the path of any moving vehicle to a position of cover. This tactic is safer for the officer and may eliminate the need for shooting at the driver or occupant of a moving vehicle thereby also making it safer for others in the area.

Shooting at the driver or occupant of a moving vehicle in self-defense or the defense of another is an option only if:

- The officer reasonably believes they, or another person, cannot move to a safe position, and
- There are no other safe and viable options available, and
- It is in defense of the life of the officer or another person.

When a fleeing vehicle does not pose an immediate threat of serious bodily injury or death to the officer or another person at the scene, firearms will not be discharged at such fleeing vehicles except in extraordinary circumstances when an officer believes with a reasonable certainty that the driver or occupant will inflict harm likely to cause serious bodily injury or death if allowed to escape.

L 2642 ACCIDENTAL DISCHARGE OF FIREARM:

In all instances where there is the accidental discharge of a firearm that does not result in an injury or death, a thorough investigation will be conducted by a command officer in the involved member's chain of command. The investigating command officer will forward a detailed written report through the chain of command to the Chief of Police. The report shall contain the command officer's observations, conclusions and recommendations addressing firearm training.

The command officer will notify the Department Range Supervisor as soon as possible after the incident to schedule weapon inspection and determine the need to provide training. The inspection and training will be conducted as soon as possible.

In all cases of an accidental discharge, the weapon and magazine will be rendered safe, secured and delivered to the Range Supervisor for inspection. If the officer is qualified to carry a City-issued weapon, one will be provided by Central Supply.

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If the weapon is not a City-issued weapon, the command officer will contact the Range Supervisor to determine if a duplicate weapon is available. If a duplicate weapon or the Range Supervisor is unavailable, the command officer will determine the appropriate duty assignment for the involved officer until the officer can be rearmed.

L 2643 REPORTING USE OF FORCE:

Revised 02-15-17

When force is used by a Department member in the course and scope of their duties as a peace officer, the Department member will document the details of such use in a general offense crime report and/or a Narrative/Supplemental Report (Form 200-3A-AFR) which includes the automated use of force template. Details will include:

- The reason for the police response to a call for service, or police initiated detention or arrest
- The behavior of the subject which caused the officer to use force
- Type of force used (verbal and physical tools, techniques and/or tactics used)
- Extent of injuries to any person and the post-force care provided
- Other relevant information regarding the circumstances of the use of force

Exception: When an Officer-Involved Incident occurs, the investigation shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement as well as the automated use of force template will be completed by the Homicide Detective who conducted the interview.

L 2644 DEFINITION OF REPORTABLE FORCE:

Revised 10-10-06

A reportable use of force is defined as any incident in which officers, either on or off duty, exercises their police powers and uses deadly force or any force option including physical force in conformance with L 2603, Force Options Policy.

EXCEPTIONS TO REPORTABLE FORCE: The use of a firm grip control which does not result in injury, the appearance of injury or complaint of pain (e.g., the use of a grip to control the suspect's hands while searching or handcuffing); or that force reasonable to overcome resistance due to physical disability or intoxication, which does not result in injury, the appearance of injury or complaint of pain (e.g., lifting an intoxicated person to a standing position).

L 2645 REPORTABLE FORCE BY DEPARTMENT MEMBERS – REQUIRED DOCUMENTATION:

Revised 07-27-21

- A. Documentation of Reportable Force for Enforcement Situations

Enforcement Situation Defined: Any situation where a Department member is taking enforcement action within the course and scope of their duties as a peace officer.

1. Documentation for Involved Department member in Officer-Involved Incidents:

Investigations of Officer-Involved Incidents shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. See Duty Manual Chapter L 4700 (Officer Involved Shootings) for further reference.

- A Department member who uses deadly force, including the discharge of a firearm, resulting in injury or death, will be interviewed by the Homicide Unit, and the interview will be recorded.
- A Department member whose intentional action, including but not limited to the use of any other deadly or dangerous weapon, such as a projectile impact weapon or Taser (Taser probes contact the subject's body or clothing and/or a "drive stun" is used to effect compliance), proximately causing injury likely to produce death to another, will be interviewed by the Homicide Unit, and the interview will be recorded.
- A Department member involved in the in-custody death of a person, (i.e., the death of a person who has been arrested or detained by a San Jose police officer), will be interviewed by the Homicide Unit, and the interview will be recorded.
- When an Officer-Involved Incident occurs, it shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement as well as the automated Use of Force Template will be completed by the Homicide Detective who conducted the interview.

An officer or investigator who receives updated injury information for an officer or suspect after an automated Use of Force Template has been completed, shall document the updated injury(ies) on an automated Use of Force Injury Update Template.

2. Documentation of Reportable Force for Involved Department member in Non-Officer-Involved Incidents:

In all other enforcement situations where a Department member uses reportable force, they will document the circumstances in a General Offense Report (Form 200-2-AFR), to include the automated Use of Force Template,

and/or any other appropriate investigative or supplemental reports as required. The district supervisor or assigned supervisor (or command officer if a sergeant uses force) will ensure all proper reports are completed, reviewed and approved.

An officer or investigator who receives updated injury information for an officer or suspect after an automated Use of Force Template has been completed, shall document the updated injury(ies) on an automated Use of Force Injury Update Template.

B. Documentation of Reportable Force for Non-Enforcement Situations:

Non-enforcement Situation defined: Any situation where a Department member is not taking an enforcement action but is acting within the course and scope of their duties as a peace officer.

1. Documentation for Involved Department member in an Officer Involved Incident:

When non-enforcement action occurs and a Department member kills or injures a person as a result of the discharge of a firearm, or a Department member's intentional act, including but not limited to the use of any other deadly or dangerous weapon by a Department member, proximately causes injury likely to produce death to another, the involved Department member(s) will be interviewed by the Homicide Unit, and the interview will be recorded.

2. Documentation of Reportable Force for Involved Department member for Non-Officer Involved Incidents:

- a. In non-enforcement situations where reportable force is used for an incident that does not rise to the level of an Officer-Involved Incident and the discharge of a projectile impact weapon or Taser or use of any weapon that results in injury to any person or damage to property, or use of a Taser results in an Electro-Muscular Disruption being applied to another person, the incident will be documented in a General Offense Report (Form 200-2-AFR), to include the automated Use of Force Template, and/or any other appropriate investigative or supplemental reports as required.

An officer or investigator who receives updated injury information for an officer or suspect after an automated Use of Force Template has

been completed, shall document the updated injury(ies) on an automated Use of Force Injury Update Template.

- b. If any weapon discharge occurs during a non-enforcement situation and there is no injury or Electro-Muscular Disruption applied, only a Department Memorandum is used to document the circumstances in the following events:
 - The discharge is accidental, and
 - The discharge is not on an approved range, or
 - The discharge occurs into an authorized clearing barrel

- c. Euthanasia of Animals
The discharge of a firearm for the humane destruction (euthanasia) of a seriously injured animal is documented on a Memorandum and routed through the chain of command. The discharge of a firearm to dispatch an animal during any other action is documented in a General Offense Report (Form 200-2-AFR).

- d. Other Reporting Considerations
Any member performing a function pertaining to a reportable force incident, shall submit all required reports (including Memorandums) by the end of the shift. This includes traffic or crowd control and protection of the scene or evidence.

L 2646 POST-INCIDENT REVIEW PROCEDURE FOR OFFICER-INVOLVED INCIDENTS:
Revised 08-31-19

An Officer-Involved Incident includes:

- A) Officer-involved shootings,
- B) In-custody deaths, and
- C) Any act by an officer, including but not limited to any use of any other deadly or dangerous weapon by an officer, which proximately causes injury likely to produce death to another.

This definition is consistent with the latest Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines, which are the most recent published guidelines.

The following steps will be taken following an Officer-Involved Incident:

- Step 1 – Command Staff Briefing

A formal briefing presented by the designated investigative unit will be held within seven (7) days of the incident with the involved officer's chain of command, all chiefs, PIO, assigned BOI case investigators, on-duty Communications Division supervisor/senior and the Training Unit Commander.

- Step 2 – Factual Presentation

A brief, objective factual presentation concerning the incident will be prepared by the designated investigative unit within 30 days of the incident. The factual presentation will be given to all sworn personnel. The presentation will be presented and documented by the designated investigative unit. The designated investigative unit will retain the documentation of the presentation. The presentation should not be presented to the Department as exoneration of the actions of the involved officers since the criminal investigation will not have been completed. Moreover, the administrative investigation by the Internal Affairs Unit will not have been completed. In addition, critical testing may not have been completed, e.g., toxicology tests. If the cause of death has not been determined, then that fact should be stated as part of the presentation. A statement should be included in the presentation about the limited purpose of the presentation (e.g., to dispel rumor and provide very basic factual information about the incident). The factual presentation should include an admonition that the criminal and administrative investigations of the incident are ongoing and that no final determinations have been made by the District Attorney's Office regarding criminal liability or by the Chief regarding compliance with Department policy and procedure. The City Attorney's Office shall review the draft presentation before it is finalized.

- Step 3 – Convene Officer-Involved Incident Training Review Panel

The Internal Affairs Unit Commander will convene the Officer-Involved Incident Training Review Panel within 90 days of the incident to determine and recommend any training that should be provided as a result of the incident. This meeting shall occur even though the District Attorney's Office has not issued its final report. Since the City Attorney participates in the OIS Training Review Panel, these sessions are subject to the attorney-client privilege and thus the discussions are confidential.

Officer-Involved Incident Training Review Panel Presentation

Homicide Unit Investigators will present a factual synopsis of the incident and investigation to the Panel for the purpose of reviewing Department policy and procedures, training and tactics, officer safety, equipment and communication.

- Step 4 – Implement Training

At the conclusion of the Review Panel Presentation (Step 3), the Training Unit Commander will, if requested by the Chief of Police, prepare a report with the Panel's recommendations to the Chief of Police. This analysis will identify issues and needs regarding training and tactics, equipment, communication, and officer safety, as well as identifying Departmental policies and procedures that may require review and

revision. Since the report will contain the Training Review Panel's analysis and recommendations, the report will be subject to the attorney-client privilege and therefore confidential.

After approval by the Chief's Office, the Training Unit will then implement appropriate training in a manner consistent with the Department's ability and resources. The Department's primary objective is to make every reasonable effort to train and equip officers to manage field situations so that criminal suspects can be taken into custody safely, while minimizing the risk of injury to officers, suspects and members of the public.

The Research and Development Unit will review and revise Department policies and procedures based upon the recommendations of the Panel. The Chief's Office will also implement any recommended changes in equipment and communications through the appropriate units and divisions of the Department.

On an annual basis, the Chief of Police will provide a public summary in narrative format to the Mayor and City Council that will summarize the Panel's recommendations and describe actions taken to achieve those recommendations. This summary will not identify individual officers or other involved persons.

L 2647 USE OF FORCE ANNUAL POLICY REVIEW

Added 12-04-20

The Department will, on an annual basis, conduct a review of its use of force policies. The purpose of this review is to ensure the Department's use of force policies reflect best practices and procedures. This review shall be conducted by the Commander of the Training Unit. Any recommended changes will be brought before the Office of the Chief for review.



L 2700 – SPECIALIST EQUIPMENT:

Added 12-11-19

The Department maintains specialized equipment. Under certain circumstances, their specialized capabilities are advantageous to protecting life and property. Due to the unique characteristics of some equipment, it is appropriate to maintain policies that describe the intended application(s) for this equipment as well as dictating authorized and prohibited uses.

PROCEDURE

L 2701 MINE RESISTANT AMBUSH PROTECTED (MRAP) ARMORED VEHICLE:

Added 12-11-19

In order to enhance the Department's ability to respond to incidents of a greater magnitude, the San Jose Police Department has acquired a Mine-Resistant Ambush Protected (MRAP) armored vehicle. The MRAP is a specialized piece of equipment to be deployed in situations where its unique characteristics would be advantageous in protecting life and property or accomplishing the objectives of the Department. Examples of such incidents include events involving suspects deploying explosives, Improvised Explosive Devices and/or Vehicle-Borne Improvised Explosive Device; large scale rescue operations during times of manmade or natural disaster(s); mass casualty incidents; special or high-profile events that may be a target of domestic or international terrorism; and events requiring multiple armored vehicles.

Authorization:

The use of the MRAP requires the approval of the Special Operations Captain, BFO Deputy Chief, or Assistant Chief of Police.

In the event that the Assistant Chief authorizes the use of the MRAP through a chain of command other than Special Operations, the Patrol Watch Commander will notify the MERGE Commander of its use within a reasonable amount of time.

Authorized Purposes:

The MRAP should only be deployed in situations where the threat exceeds the capability of our regularly used armored vehicles and or incidents of an unusual occurrence that would demand its use. Examples include events involving suspects deploying explosives, Improvised Explosive Devices and/or VehicleBorne Improvised Explosive Devices; large scale rescue operations during times of man-made or natural disaster(s); mass casualty incidents; special or highprofile events that may be a target of domestic or international terrorism; and events requiring multiple armored vehicles.

NOTE: Any other deployments not listed above are unauthorized.

Authorized Employees:

- The MRAP is a unique vehicle and has distinctive driving characteristics due to its

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size, weight, and limited driver visibility. The driver of the MRAP is required to possess a valid Class B California driver's license.

- The MERGE unit will be responsible for training and certifying all drivers, maintaining a list of current certified MRAP operators, and providing the list of certified MRAP operators to Central Supply.
 - A Department member who is a trained and certified MRAP operator, and has received approval to use the MRAP, can check out the key from Central Supply personnel, who will verify the Department member's name is listed as a certified MRAP operator.

Monitoring Use and Reporting:

- MERGE personnel are responsible for the use, care, and maintenance of the MRAP.
- The MERGE Unit Commander will maintain a log of when the MRAP is utilized and will be responsible for the LESO reporting requirements (Significant Incident Report) pertaining to the use of the MRAP as outlined by the LESO Program.
 - Department members operating the MRAP are responsible for reporting any intentional or unintentional damage to the MRAP or its equipment to their supervisor before returning the key. Supervisors must report MRAP damage or equipment loss to the MERGE Unit Commander within a reasonable amount of time. Additionally, in cases of accidental damage, supervisors will conduct an accident investigation in accordance with SJPD Duty Manual L 7000-7006, Accidents Involving Department Members.

L 2702 UNMANNED AIRCRAFT SYSTEM (UAS)

Revised 06-01-23

It is the policy of the Department that duly trained and authorized agency personnel may only deploy an Unmanned Aircraft System (UAS) for law enforcement purposes as specified herein. All UAS deployments, as well as the use, collection, and storage of any audio/video data originating from the use of the UAS, shall comply with applicable law and the policy provisions provided herein.

Definition:

UAS is a system that includes the necessary equipment, network, and personnel to control an unmanned aircraft. An unmanned aircraft is an aircraft intended to navigate in the air without an on-board pilot. It is alternatively called Remotely Piloted Aircraft (RPA), Remotely Operated Vehicle (ROV), or Drone.

Authorized Purposes:

The use of the UAS will be limited to the following authorized missions:

1. Post-incident crime scene preservation and documentation
 - a. A search warrant will be sought when processing a crime scene where a reasonable expectation of privacy exists (e.g., a residence, a private place of

- business not open to the general public, or a medical facility such as a hospital, clinic, or doctor's office)
2. Bomb Squad/Explosive Ordnance Disposal missions
 3. Incidents involving potentially hazardous materials
 - a. The Remote Pilot in Command (RPIC) shall ensure that the drone is piloted from an area deemed safe by a hazardous materials expert, such as a qualified member of the Fire Department.
 4. Search and Rescue operations
 5. Public safety and life preservation missions to include barricaded suspects, hostage situations, active shooters, and high-risk search warrants/tactical operations
 6. The apprehension of armed and dangerous and/or violent fleeing suspects who pose an imminent danger to the public in accordance with Duty Manual section L 4305 - APPREHEND THE OFFENDER(S)
 7. Disaster response and recovery to include natural, technical, or human-caused disasters
 8. Authorized training missions and/or flight demonstrations
 9. Authorized special events
 10. In response to specific requests from local, state, or federal fire authorities for fire response and prevention
 11. When there is probable cause to believe (1) the UAS will record images of a place, thing, condition, or event; and (2) those images would be relevant in proving a certain felony had occurred or is occurring, or a particular person committed or is committing a certain felony and use of the UAS does not infringe upon the reasonable expectation of privacy
 12. RPICs should be mindful of the reasonable expectation of privacy in places such as a residence, covered/secluded backyards, high-rise buildings, private places of business not open to the general public, family planning facilities, or medical facilities, and should seek a search warrant prior to conducting a flight without exigent circumstances or consent
 13. Pursuant to a search warrant
 14. To assist other City departments within the course and scope of their duties and responsibilities as long as it does not conflict with any established laws, policies, or guidelines
 - a. UAS operators are expected to determine if the request by City department is a public safety issue or not. If the issue is not determined to be a public safety issue, the operator shall verify that the City's Digital Privacy Policy is being followed. Other departments must receive approval from the City Manager's designee responsible for overseeing the Digital Privacy Policy (e.g., the Digital Privacy Officer) or their designee or have an approved drone policy in place before the Police Department can assist the other department with the use of the UAS. Police will also report these flights to its public flight log.

The UAS video surveillance equipment shall not be used in any of the following circumstances:

1. For activities not having a public safety purpose
2. To harass or discriminate against a person based upon any protected category and/or status, including but not limited to those listed in City Policy Manual section 1.1.1 and Duty Manual section C 1311 - BEHAVIOR INVOLVING DISCRIMINATION OR HARASSMENT
3. To conduct personal business of any type
4. The UAS shall not be weaponized

UAS-recorded data will not be collected, disseminated, or retained solely for the purpose of monitoring activities protected by the US Constitution, such as the First Amendment's protections of religion, speech, press, assembly, and redress of grievances (e.g., protests, demonstrations)

Authorized Employees:

Only properly trained and qualified Department personnel are authorized to operate a UAS in the National Airspace System pursuant to the provisions contained within the Department's Certificate of Authorization (COA) and/or when allowable under 14 CFR Part 107 ("FAA Part 107"). It shall be the responsibility of the RPIC and the Visual Observer (VO) to ensure strict observance of the terms and provisions contained within the COA, addendums, and pursuant to FAA part 107.

Safety Procedures:

UAS flight crewmembers will follow preflight procedures and flight time limitations outlined in the UAS guidelines.

Before each deployment, the pilot/observer will ensure they gather enough information to make themselves familiar with the weather situation existing throughout the area of deployment. The pilot/observer shall utilize FAA approved weather resources to obtain the latest and most current weather conditions.

The pilot/observer shall make any required notifications to the FAA or the Department as required by this policy, COA, FAA Part 107, and/or UAS guidelines.

Training and Accountability Provisions:

All UAS will only be operated by Department personnel who have been trained in the operation of the system, maintain FAA currency, possess a current FAA Part 107 certificate with a UAS rating as needed, and are authorized by the UAS Program Manager or the assigned Bomb/UAS technician.

It shall be the responsibility of the RPIC to designate a VO for all UAS flights. The RPIC shall instruct the VO on their responsibilities and expectations for the duration of the UAS flight.

To maintain a level of proficiency, UAS flight crewmembers shall be required to attend regular training. Training will be coordinated through the UAS Program Manager or the assigned Bomb/UAS technician.

All UAS flight crewmembers in the assignment shall maintain proficiency in their pilot/observer abilities. Flight crewmembers who do not have any documented training or flight time within the time span of listed in the UAS guidelines, will need to demonstrate proficiency before being a pilot/observer during a deployment or exercise.

Failure to demonstrate proficiency or follow Department rules can result in removal from the voluntary UAS program.

All flight crewmembers will have a training file on record detailing their training history. This training file will be held in conjunction with the member's normal training file per Department policy at the SJPD training unit.

All deployments or exercises will be documented in a flight log and count towards a member's training.

Monitoring Use:

The Chief of Police will appoint a UAS Program Manager (Lieutenant) who will be responsible for the overall direction and management of the UAS program. The Program Manager will have the following responsibilities:

1. Ensuring policies and UAS guidelines conform to current laws, regulations, and best practices.
2. Ensuring UAS usage information is recorded for each flight so it may be included on the SJPD.org Flight Log.
3. Compliance checks with this usage and policy will be completed every fiscal quarter in conjunction with Program Manager reports.
4. The Program Manager will appoint a Program Coordinator (Bomb Unit Sergeant) and the UAS technician (Bomb Unit Officer). The Program Coordinator will be responsible for direct supervision of the UAS program, the UAS technician, and its collateral personnel. In the absence of the Program Coordinator, the UAS technician will be responsible for direct supervision of the UAS program and its collateral personnel. The Program Coordinator will have the following additional responsibilities:
 - a. Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring the COA is current
 - b. Maintaining contact with the FAA and familiarity with pertinent FAA regulations
 - c. Ensuring all authorized flight crewmembers have completed all required FAA and Department approved training in the operation of the UAS
 - d. Ensuring all authorized flight crewmembers comply with all applicable laws, policies, and procedures regarding the use of the UAS

- e. Developing a UAS inspection, maintenance, and record-keeping protocol to ensure the continuing airworthiness of a UAS, up to and including its overhaul or life limits
- f. Recommending program enhancements, particularly regarding safety and information security
- g. Ensuring all training, flight, and maintenance records for each flight crewmember and airframe are maintained

Information Retention and Dissemination:

When a Department-authorized RPIC utilizes any Department UAV capable of recording video and/or audio, the Department member shall initiate recording from the time the UAV leaves the ground until the completion of the flight. UAS operators are expected to be aware of the expectation of privacy while in flight and recording video and audio. Department-authorized RPIC must minimize recording of private property not determined to be evidentiary value or related to the location or subject expected to be recorded with the UAV. Authorized training flights and Bomb Squad render-safe procedures are the only exceptions to recording when the UAV is in flight.

Upon completion of each UAS mission, the Digital Media Evidence (DME) shall be reviewed and evaluated for evidentiary value. Data of identifiable individuals captured during a UAS mission shall not be retained unless there is reasonable suspicion evidence of criminal activity is present. All DME determined to be evidence shall be downloaded into DCS and retained per Department policy.

Video obtained by the UAS operation will be submitted to evidence in accordance with Department policies and procedures.

Aerial photography (still or video) shall be stored with digital evidence in accordance with Department policy and procedure.

All Public Records Act requests for data generated via a UAS deployment shall be referred to the Office of the Chief, Research & Development Unit.

L 2703

ACOUSTIC HAILING DEVICES:

Added 08-29-22

An acoustic hailing device (AHD) is a high-power loudspeaker designed to project sound over long distances, through ambient noise, or through barriers. Events where an AHD may be used include, but are not limited to, First Amendment activities, civil disturbances, active shooter events, tactical events, evacuations, and natural disasters. Department members may use AHDs in the following applications:

- When necessary to provide notifications, instructions, or information.
- When necessary to remove individuals from an area.
- When necessary to deny access to an area that is currently unoccupied.

AHDs may only be used under the following circumstances:

- When the device is used to provide notifications, instructions, or information, the use is authorized by an on-duty lieutenant or higher.
- When a tone or sound is used to remove individuals from an area or deny access to an unoccupied area, the use is authorized by a Deputy Chief or higher.
- The operator has completed an approved training course taught by a qualified Department member or representative of the manufacturer of the AHD.
- The device is positioned at a safe distance from the intended recipients, per manufacturer's specifications.
- The device's volume is set at a safe level for the intended recipients, per the manufacturer's specifications.
- The device is used for a safe duration for the intended recipients, per the manufacturer's specifications.
- When a tone or sound (not speech) is used to move individuals from an area or used to deny access to an area, identification and verbal warning shall be given pursuant to Duty Manual section L 2601.1 - IDENTIFICATION AND VERBAL WARNING or Duty Manual section L 2312 - DISPERSAL ORDER, as applicable.
- When a tone or sound (not speech) is used to move individuals from an area or used to deny access to an area, the use shall be documented on a General Offense report as a use of force pursuant to Duty Manual section L 2600 - USE OF FORCE. The report shall include a description of the tone or sound, the volume setting, the approximate distance to the intended recipients, and the duration of use.
- When a tone or sound (not speech) is used to move individuals from an area or used to deny access to an area, consideration should be given for the environment and/or individuals behind the intended recipients (i.e., the background). The necessity or benefits of using the device should be weighed against the potential effect it may have on uninvolved individuals.
- When used to move individuals from an area, AHDs will be used intermittently to allow the individuals an opportunity to vacate the area, absent any incapacitating effects of the AHD.

AHDs may not be used under the following conditions:

- When used to move individuals from an area, AHDs may not intentionally be used against children, the elderly, or pregnant individuals.
- When used to move individuals from an area, AHDs may not be used at a distance, sound level, or for a duration likely to cause injury, per the manufacturer's specifications.

**L 2800 - PHYSICAL ARREST:**

California Penal Code Sections 834 and 835 define an arrest; however, according to the constitution, an arrest is a seizure of the person pursuant to the Fourth Amendment. Because it is a seizure pursuant to the Fourth Amendment, that arrest must be reasonable. Since the basis for an arrest lies in the doctrine of reasonable cause, any interference with personal mobility, whether a traffic stop, detention for investigation of criminal activity, or an actual arrest, must be tested by the Fourth Amendment.

PROCEDURE**L 2801 GENERAL PROVISIONS DETENTION AND ARREST:**

Arrestees are treated with as much dignity as is reasonably possible and with a minimum of embarrassment. Officers will strive to minimize the time an arrestee spends in custody, transferring arrestees to the County Jail or Juvenile Hall as soon as possible, consistent with a completed investigation. When making an arrest, officers will adhere to the following procedures.

L 2802 AUTHORITY TO ARREST:

Officers will comply with California Penal Code Section 836, which authorizes an arrest under the following conditions:

- Whenever the officer has reasonable cause to believe that the person to be arrested has committed a public offense in such officer's presence
- When a person arrested has committed a felony, although not in an officer's presence
- Whenever an officer has reasonable cause to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed
- When directed by a magistrate or pursuant to the judicial order
- When the person to be arrested has escaped from a place of detention or custody

L 2803 DEFINITION OF REASONABLE CAUSE:

"Reasonable cause to believe" is a phrase that describes the amount of evidence - facts observed, information from others, personal knowledge - that would be sufficient to lead an ordinary and prudent person to reasonably believe that a crime is occurring or has occurred and that the person to be arrested committed such a crime or is committing a crime.

L 2804 DETERMINING REASONABLE CAUSE:

Reasonable cause is determined by a consideration of the facts and circumstances present or apparent to the officer at the time they acted. It is not necessary to believe beyond a reasonable doubt. Rather, the standard is simply reasonable belief.

L 2805 REASONABLE CAUSE SUPPORTED BY FACTS:

Reasonable cause to arrest is supported by facts. Vague "hunches" or suspicions are not enough. However, an officer's experience is definitely a fact which can be relied upon to

support reasonable cause provided the officer is able to document such experience. Officers will establish reasonable cause to arrest by collecting facts of such quality that all logic and common sense point with reasonable certainty in the direction of guilt.

L 2806 EXAMPLE OF FACTS:

Revised 09-12-00

There is almost no limit to the kinds of information that can be used to support reasonable cause; however, at no time will an officer take into consideration race, color, nationality, age, sexual orientation, gender, disability, or religion as the sole justification to support reasonable cause. Among the types of information an officer can rely on are as follows.

L 2807 OBSERVED FACTS:

The following facts surrounding the incident may be considered:

- Appearance of suspect: clothing, grooming, etc.
- Personal characteristics: size, height, sex, etc.
- Location
- Possessions

L 2808 PRIOR KNOWLEDGE:

The following prior knowledge may be considered:

- Suspect's prior record
- Prior observations of the suspect
- Earlier contacts with the suspect

L 2809 OFFICER'S EXPERIENCE:

An officer may consider the following facts if such facts can be documented:

- How criminals act, modus operandi, how they appear, etc.
- What is normal for the neighborhood where the incident occurs
- The sum total of information and lessons an officer has gained during such officer's employment with the Department. An officer must be able to explain this training and experience.

L 2810 INFORMATION FROM OTHERS:

An officer may consider information from others within the following limits.

- RELIABLE INFORMANTS: Information obtained from an informant whose reliability can be articulated, has worked for the police in the past, speaks with personal knowledge of the facts, can be used to establish reasonable cause. In addition, the following elements must be considered:
 - The test of reliability is both the number of suspects the informant has "turned," and the quality of the information imparted
 - If the informant does not have personal knowledge of the events they relate,

the information must be corroborated by facts and circumstances independent of the informant's information

- The information given by the informant must reflect a present violation of the law.
- **CITIZEN INFORMANTS**: Before the information supplied by an untested informant reaches the status of reasonable cause, corroboration is required. The corroboration necessary need not amount to reasonable cause by itself; its only requirement is to provide the missing element of reliability. Hence, the corroboration is sufficient if it reasonably lends itself to the conclusion that the informant is telling the truth.

Untested informants may be corroborated by an officer by developing independent facts, by the informant admitting participation in the crime with the defendant, or by the informant identifying the suspect and stating circumstances surrounding the commission of a crime already known to the police.

NOTE: If the informant is relied upon to establish not only the commission of the crime but also the identity of the suspect, sole reliance on that information will not supply reasonable cause.

In any event, corroboration must pertain to incriminating facts. That is, those facts which relate to the commission of the crime reported and not any fact given to the police by the untested informant.

L 2811 OTHER FACTS REQUIRING CORROBORATION:

Officers may use other information to support the development of reasonable cause. However, some information obtained directly may not support reasonable cause to arrest. Examples of such information are as follows.

L 2812 REASONABLE CAUSE NOT ESTABLISHED:

Revised 02-18-18

A single source of unusual conduct or circumstance more often than not must be supported by either prior information concerning the suspect or other suspicious circumstances or facts before reasonable cause is attained. Examples of circumstances where reasonable cause to arrest is not established are as follows:

- **ODORS**: The mere odor of marijuana or sight of smoke or vapor emitting from a structure is not reasonable cause. If the person in possession of, or using, the marijuana is a qualified medical patient or primary caregiver and within the possession limits and circumstances set forth in the Compassionate Use Act, or the person is age 21 or older and within the possession limits and circumstances set forth in the Adult Use of Marijuana Act (Proposition 64) and the Medicinal and Adult-Use of Cannabis Regulation and Safety Act, then reasonable cause to arrest has not been established.
- **NEEDLE MARKS**: Needle marks alone do not constitute reasonable cause
- **LACK OF IDENTIFICATION**: The lack of driver's license and/or registration card alone does not establish reasonable cause that the car has been stolen.

- FURTIVE CONDUCT: A single incident of furtive conduct, absent of any other information or suspicious circumstances, may not be sufficient to establish reasonable cause
- FLIGHT: Mere flight alone may justify detention for investigation but not for arrest
- PRIOR CRIMINAL RECORD: Information pertaining to a person's prior criminal record, unsupported by other facts, will not establish reasonable cause to arrest
- OFFICER'S EXPERIENCE: An officer's experience or training will not, by itself, establish reasonable cause to arrest

All these sources of information can lead to reasonable cause but they must be corroborated by other facts if they are to be used in establishing reasonable cause to arrest.

L 2813 REASONABLE CAUSE ESTABLISHED:

Revised 02-18-18

Examples of circumstances where reasonable cause to arrest is established are:

- ODORS: Marijuana smoke emitting from a vehicle on a public roadway is reasonable cause to cite for a violation of smoking marijuana in public (an infraction). The odor of marijuana or marijuana smoke may be reasonable suspicion to investigate the source of the marijuana.
- SOUND: The sound of voices discussing contraband coming from an occupied dwelling will support reasonable cause to arrest.
- NEEDLE MARKS: Needle marks in conjunction with dilated pupils or discolored skin tissue supports reasonable cause.
- LACK OF IDENTIFICATION: The manner of driving, conflicting statements of ownership and/or other suspicious circumstances in addition to a lack of license and registration may be sufficient to establish reasonable cause to arrest.
- FURTIVE CONDUCT: Furtive conduct in conjunction with a refusal to stop, or an attempt to delay contact by walking faster, or an attempt to hide from officers, or prior information from a reliable source that a crime has or is being committed by the individual performing the furtive conduct may establish reasonable cause to arrest. Nevertheless, furtive conduct in conjunction with other facts remains a difficult factor on which to base an arrest. Therefore, officers will strive to document as many corroborating facts as possible prior to making an arrest based on furtive conduct.
- FLIGHT: Flight may justify detention for investigative purposes, and once other facts are established that indicate a crime has been committed or is occurring, an arrest may be made. If the flight was to avoid a lawful arrest for an incident occurring prior to flight, an arrest may still be made for such violations. When apprehending a fleeing individual, officers will use authorized procedures to determine the reason for fleeing. If criminal conduct is established, fleeing individuals will be arrested.
- PRIOR CRIMINAL RECORD: Officers observing known criminals who are engaged in conduct or located in places under circumstances which indicate criminal activity

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may be occurring, will detain such individuals and investigate the activity.

When only one of the above factors is present, officers will ensure that corroborating facts are established prior to making an arrest.

L 2814 EXPERT REASONABLE CAUSE:

Reasonable cause may be established by prior experience and specialized training in particular crimes, e.g., narcotic cases. However, the test remains whether the circumstances warrant a reasonably objective officer to entertain a strong suspicion that a crime has been committed. If the facts can be interpreted as expressing innocent activity as well as criminal activity, the benefit of doubt is given to the innocent activity. Therefore, officers who rely on their prior experience or specialized training to establish reasonable cause are prepared to document such facts prior to appearing in court.

L 2815 IRRELEVANT FACTS:

The facts upon which the belief is based must have been known at the time of arrest. What the arrested person said or did or what other circumstances happened after the arrest took place are irrelevant to the question of the lawfulness of the arrest. Officers will base an arrest on only those facts occurring prior to making the arrest.

L 2816 EXCULPATORY EVIDENCE:

When an officer receives or develops exculpatory evidence (evidence which tends to demonstrate a suspect's innocence) concerning a subject who is in-custody, the following procedure is followed:

Cases With an Assigned Investigator

- When the information is received or developed during business hours, the officer will immediately notify the assigned investigator or the appropriate Unit Commander.
- When the information is received or developed after business hours, the officer will immediately notify a Night Detective, weekend investigator or, in their absence, the appropriate Unit Commander.
- The case investigator or Unit Commander will ensure that any necessary follow-up is begun immediately and, if warranted, that the arrested person is released from custody.

Cases With No Assigned Investigator

- When the information is received or developed on a case with no assigned investigator, the officer will immediately notify a supervisor. The watch commander will then be notified and a decision made as to the release of the arrested person.
- Bureau of Investigations Unit Commanders will ensure that all cases are assigned and reviewed in a timely manner. When in-custody cases are received at the end of a work week or during the weekend, the cases are assigned in a manner to ensure prompt review and action.
- Whenever an officer receives or develops exculpatory evidence on an in-custody, on-view investigation, the information is documented in a General Offense Report (Form 200-2-AFR) and/or a Narrative/Supplemental Report (Form 200-3A-AFR).

L 2817 ENTRY INTO A DWELLING TO MAKE AN ARREST:

Officers may generally enter a dwelling to make an arrest in accordance with the following procedures.

L 2818 WARRANT ARRESTS INSIDE DWELLINGS OR OTHER STRUCTURES:

Revised 06-09-17

An arrest warrant authorizes police to enter the premises where a suspect lives, for the limited purpose of taking them into custody, when police have reason to believe the suspect is inside.

Officers wishing to execute an arrest warrant at a dwelling or other structure shall first take the following steps:

- Notify their immediate supervisor.
- Complete an operational plan and have it reviewed by the supervisor, unless there is an exigent circumstance which would make the delay to prepare a plan unreasonable. The operational plan shall include a threat assessment to determine the most appropriate personnel to serve the arrest warrant. If one or more of the criteria listed below are present, the officer or officer's supervisor wishing to serve the arrest warrant, shall consult the MERGE commander or a MERGE sergeant prior to serving the search warrant. Exception: An officer assigned to BOI, or their supervisor, shall consult the CRU Commander or CRU Sergeant. The MERGE unit and CRU may then collaborate/consult with each other to determine who shall execute the arrest warrant.
 1. The suspect has access to, or has a history of using or possessing firearms.
 2. Intelligence indicates that the suspect has a criminal history that includes a felony crime of violence, assaultive behavior toward police, or that they may force a confrontation with officers.
 3. The target location is fortified with metal security doors, gates, or by other means that may frustrate entry into the structure.
 4. There are other aggravating factors present, such as surveillance cameras, look-outs, booby traps, vicious dogs, large/complex floor plans, or the possible presence of an illegal narcotics lab.
 5. The case being investigated involves a felony crime of violence (e.g. homicide, armed robbery, or felony assault) or a crime in which a firearm was used.

If none of the above circumstances are present, the warrant may be served by another unit within the Department (including Patrol) in accordance with chapter L 4800 SEARCH AND SEIZURE without consulting MERGE/CRU personnel.

L 2819 WARRANTLESS ARRESTS INSIDE DWELLINGS OR OTHER STRUCTURES:

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Under the Fourth Amendment to the United States Constitution, warrantless entries into a residence to effectuate a warrantless arrest are generally presumed illegal unless justified by consent or exigent circumstances. The exigent circumstances exception to the warrant requirement enables law enforcement officers to handle “emergencies,” which are situations where presenting both a compelling need for official action and no time to secure a warrant. Officers must make a totality of the circumstances determination that an emergency has arisen. In this regard, officers shall not make a warrantless arrest in a private dwelling at any time unless consent or one of the following categories of exigent circumstances justify the warrantless entry:

EXIGENT CIRCUMSTANCES: Officers may enter to make a warrantless arrest in a private dwelling when there is an exigent situation requiring swift action to prevent one of the following:

- Imminent danger to life
- Escape of a misdemeanor suspect where a lawful detention or arrest was initiated in a public place and the officer is in hot pursuit of the suspect who has retreated into a private place in order to thwart the lawful detention or arrest.
- Escape of a felony suspect where a lawful detention or arrest was initiated in a public place and the officer is in hot pursuit of the suspect who has retreated into a private place in order to thwart the lawful detention or arrest
- Imminent destruction of evidence
- Imminent serious damage to property

EXAMPLES:

- Entry under circumstances which indicate life or property is in danger, e.g., cries for help, gunshots, fire, evidence of a burglary such as a verified response under Duty Manual Chapter L 1600
- Entry in hot pursuit where a misdemeanor suspect flees into a home to escape the police or to evade an arrest on the street and the totality of the circumstances determines a law enforcement emergency has arisen
- Entry in hot pursuit where a felony suspect flees into a home to escape the police or to evade an arrest on the street
- Entry into a home after overhearing a conversation from outside that such suspect is about to destroy evidence, or reliable information that the suspect is presently about to destroy evidence

One of the above circumstances must be present at the time of entry in order to make a warrantless arrest in a home. When a warrantless arrest in a home is made, officers will report the circumstances surrounding such an arrest and document the existence of any exigent circumstances present in a General Offense report.

L 2820

WARRANTLESS ARREST OF OTHERS IN PRIVATE DWELLINGS:

When a lawful entry into a private dwelling has been made and officers observe a violation committed by another person inside the private dwelling, this second person can be arrested.

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EXAMPLES OF LAWFUL ENTRY:

- Pursuant to a search warrant
- Pursuant to an arrest warrant for a different offense
- Pursuant to consent of a co-occupant
- Pursuant to a routine investigation of a crime
- Pursuant to a citizen's call for assistance
- Pursuant to a search resulting from a condition of probation or parole

L 2821 DEFINITION OF SUSPECT'S HOME:

The suspect's residence is the place in which such suspect resides. It can include a tent, motel room, boat, van, etc.

L 2822 SECURING AREA:

When a suspect has been located in a private dwelling and no emergency circumstances authorizing a warrantless arrest are present, officers may conduct a surveillance of the dwelling in order to maintain the continuity of the investigation.

L 2823 OBTAINING EMERGENCY ARREST WARRANT:

When the person to be arrested is located in such person's own home and the "emergency circumstances" are not present, officers will adhere to the procedure contained in Duty Manual section L 3800 - OBTAINING AND SERVING SEARCH WARRANTS.

L 2824 FORCE USED TO ENTER:

Officers may use reasonable force in entering a private dwelling to make an arrest whenever the officer reasonably believes the person to be arrested is in the dwelling and one of the following circumstances are present:

- No response to a "knock and announce" procedure after waiting a reasonable period of time.
- When exceptions as indicated in Duty Manual section L 2818 - WARRANT ARRESTS INSIDE DWELLINGS OR OTHER STRUCTURES are present.

In either case, officers will report the circumstances surrounding the use of force to enter.

L 2825 THE DECISION NOT TO ARREST:

There are circumstances where, although there are grounds for a lawful arrest, better police practice dictates that the offender not be arrested. However, in most cases, it is not the role of a police officer to decide whether an offense should be prosecuted. That is the responsibility of the District Attorney. Any decision not to arrest must be reached only after the officer has carefully weighed the circumstances. Examples of circumstances when it is acceptable police practice not to arrest are as follows:

- When the arrest would cause a greater risk of harm to the general public than the offending conduct or the offender's remaining on the street. Examples are:

- In crowd situations a police officer's decision to arrest may aggravate tension and lead to a riot or other serious disorder
- A minor family dispute where tempers will subside by morning

Nevertheless, officers will, if possible and appropriate, obtain enough information to identify the offender and complete a General Offense Report (Form 200-2-AFR) detailing the circumstances.

- When the arrest would cause harm or embarrassment to an offender who poses no threat of danger to the public's safety or welfare. The following are examples of this kind of situation:
 - The intoxicated person who is harmless and, at most, needs assistance home.
 - The juvenile offender whose wrongdoing would best be handled through informal warning, advice, etc., and a talk with the parents.

As mentioned, a decision not to arrest when there are grounds for arrest is considered good police practice when special circumstances are present. If there is doubt that those circumstances exist, an arrest should be made.

L 2826 IDENTIFICATION DURING AN ARREST:

Added 09-25-21

Pursuant to Section L 2802, an arrest is based on probable cause. As a result, officers may demand identification from an arrested individual, including arrestees who will be issued a citation. Refusal or failure of an arrested individual to identify themselves, under certain circumstances, may constitute a violation of Penal Code section 148(a)(1).

**L 2900 - PRISONER PROCESSING:**

Once an individual is in custody, the Department has a responsibility to the community to ensure that an arrestee is properly controlled and processed. Control may mean mere guarding or may require physical restraint. Processing includes obtaining information about the arrestee and the incident, completion of appropriate forms and physical incarceration in an appropriate place of detention. Therefore, the Department has established procedures that direct a complete and thorough processing of prisoners and thereby ensure that the safety and welfare of the community is maintained.

PROCEDURE**L 2901 PRISONER PROCESSING:**

When an officer makes an arrest, and for any other reason has a person in custody and such person is not confined to a jail or other secure facility, such officer will ensure that the prisoner is in sight continuously and will use the utmost precautions to prevent escape. In addition, Department members, when making an arrest or taking custody of an individual, will adhere to the following procedures:

L 2902 PROCEDURES IMMEDIATELY FOLLOWING ARREST:

Revised 12-22-21

When an arrest has been made, the officer making the arrest will immediately, if possible and practical, perform the following tasks:

- Inform the arrestee of the charge
- Conduct a cursory search to ensure the officer's and others' safety. See Duty Manual section L 5100 – CURSORY SEARCHES.
- Handcuff the arrestee behind the back if there is a danger of escape or if the arrestee poses a danger to the officer's or others' safety. Handcuffs are used as a restraint in any situation where such action is considered warranted. The handcuffs are only to be tightened to the point that the hands do not slip through. And in all cases when the arrestee is to be transported in the vehicle or seated in a chair, the handcuffs are double locked so as to prevent the handcuffs tightening on the arrestee's wrists.
- Search the area within the arrestee's immediate reach. For procedures on search incident to arrest, see Duty Manual section L 4800 – SEARCH AND SEIZURE.
- Officers shall make reasonable efforts to secure any residence and/or vehicle of the arrestee, if they are the sole occupant.
- Transport the arrestee using techniques and methods that do not involve a substantial risk of positional asphyxia. See Duty Manual section L 2628.3 – TECHNIQUES OR TRANSPORT METHODS INVOLVING A SUBSTANTIAL RISK OF POSITIONAL ASPHYXIA – PROHIBITION.
- Transport the arrestee without delay. Officers are not to become involved in enforcement situations unless an immediate emergency exists and no other officers

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are available to respond. If an officer does have to stop with an arrestee, the situation is turned over to another officer as soon as possible. Officers will not become involved in pursuits when transporting arrestees.

- After transporting an arrestee, thoroughly search the police vehicle in the event evidence or weapons have been discarded during transportation.

L 2903 USE OF THE WRAP RESTRAINT DEVICE:

Revised 08-03-07 (previously L 2611)

The WRAP is a lower appendage restraint device designed for controlling the legs of physically violent or actively resisting subjects. The WRAP consists of nylon/Velcro straps and belts. Patrol lieutenants and sergeants will check the WRAP restraints out of Central Supply at the beginning of their assigned shift. In the event a team's sergeant is absent, a designated team member may take out the WRAP.

When a WRAP restraint is required, the officer requesting the device will indicate a code of response. The WRAP is designed to transport subjects in patrol cars once the subject is in a controlled, sitting-up position. Additionally, while waiting for the arrival of a WRAP device, officers may use flex cuffs, or a similar restraint device, to bind physically violent or actively resisting subject's ankles together. At no time, however, will a subject's feet or ankles be directly connected to the subject's wrists or handcuffs.

In an effort to manage a potential medical crisis at scenes where subjects have to be physically restrained with the WRAP restraint, the following procedures are implemented:

Actions at the Scene

Communications will notify the District Sergeant to respond with the WRAP device when it has been determined that deployment of the WRAP is warranted. The sergeant's response code is determined by the circumstances of the event.

Medical clearance does not have to be obtained in order to book a subject who has been restrained with a WRAP. However, if the suspect appears to suffer from an injury or mental or physical illness that requires medical attention, a "Code 3 Fire Department/Paramedic response" is requested as soon as feasible.

If paramedics are called to the scene and they determine the subject does not require or refuses to consent to medical treatment, the transporting officer will record the Fire Department or Rural Metro paramedic's name, identifying number, and Engine/Fire Company information in the General Offense Report (Form 200-2-AFR).

If paramedics are called to the scene and they determine that medical treatment is needed, Rural Metro will transport the subject to Valley Medical Center (VMC). The subject can be transported with the WRAP applied. The transported subject's handcuffs are removed and their arms re-secured with gurney restraints. The paramedics will have the discretion to keep the subject handcuffed if the individual is exceptionally violent. In any event, a patrol unit will follow directly behind the transporting paramedic unit to the hospital. When the transporting paramedics arrive at VMC, the patrol officer will follow the paramedics and the restrained

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subject into the hospital/facility. If the WRAP has been employed during transport, the officer will then remove the WRAP device when safe and practical to do so, but only after lower extremity gurney restraints are applied in its place.

Procedures at the Department of Correction

Officers en route to the jail with a WRAP restrained subject will instruct Communications to advise the Department of Correction (DOC) of their estimated time of arrival and request that they be met at the exterior ramp by jail personnel. Upon arrival, the transporting officer will confer with DOC staff to determine the most effective means of escorting the "WRAPPED" subject into the jail.

The transporting officer will advise DOC medical staff when the subject was given a medical evaluation at the scene and will provide the evaluating paramedic's name and identification number. The DOC medical staff member will then evaluate the subject's physical condition to determine if the booking process can be completed or if the subject will require a medical clearance from VMC.

Once the DOC medical staff clears the subject, DOC officers will assist transporting officer(s) with the removal of the WRAP device.

L 2904 PROHIBITED USES:

Revised 08-03-07 (previously L 2612)

Use of a WRAP restraint is prohibited on subjects who are not physically violent or physically resisting.

L 2905 USE OF THE VIOLENT PATIENT TRANSPORT:

Revised 08-03-07 (previously L 2613)

Violent Patient Transport involves the application of four-point restraints onto a gurney with the assistance of an ambulance crew. Through Rural Metro, a Violent Patient Transport (VPT) can be requested via Communications if the WRAP option is not feasible (e.g., subject is severely injured, arrival time for WRAP too long, etc.). When a field unit requests a VPT, Communications will request the response through Santa Clara County Communications. The following pre-arrival information must be provided to ensure the safety of ambulance crews:

- Complete location information
- Whether a Fire Department response has been requested
- When the scene is secure

The following information should be conveyed to the responding ambulance crew as soon as is practical:

- Is the patient combative/violent/mentally unstable?
- Is the patient restrained/not restrained?
- Is the subject under the influence of drugs/alcohol?

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- Does the subject have any injuries observed by the officer?

Emergency medical technicians will not enter the scene until the subject is under control and the situation requires no further assistance. With the assistance of field units, paramedics and emergency medical technicians will secure the subject to a gurney with four-point restraints. If the subject is to remain handcuffed, an officer must accompany the paramedics to their destination. At the scene, the ambulance crew will confer with officers to determine if the subject will be transported to Emergency Psychiatric Services, the Valley Medical Center Emergency Room. The paramedic or technician may elect to transport the subject to the emergency room if injuries dictate the necessity of an evaluation by an emergency room physician. The destination will be conveyed to field units prior to departure. If the destination changes while en route, Communications will be notified. A Rural Metro supervisor can be reached by pager 24 hours a day. Contact Communications for the phone number.

L 2906 USE OF PRE-PROCESSING CENTER:

Revised 08-26-11

When an officer determines that an in-custody adult or juvenile arrestee is not going to be field released, and the arrestee is not charged with Drunk in Public or Driving under the Influence of Drugs or Alcohol, the arrestee, when appropriate, may be processed through the Department Pre-processing Center. When appropriate, the arresting officer will notify the proper investigative division of the need for their presence and provide assistance as directed. In the absence of investigative officers, especially if the investigative officers are off-duty, the arresting officer is responsible for appropriately processing and interrogating prisoners. BOI officers may elect to conduct interviews either at the Pre-processing Center or at the appropriate BOI interview rooms.

L 2907 PRE-PROCESSING PROCEDURES:

Revised 08-03-07 (previously L 2904)

The California Board of Corrections identifies the Pre-processing Center as a Temporary Holding Facility, thereby mandating that a printed procedural document be maintained which governs the use of the facility. The Bureau of Field Operations maintains operational responsibility for the Pre-processing Center. Officers will utilize the facility only in cases and in the manner defined by the Bureau of Field Operations.

Officers will comply with procedures governing the use of the facility as outlined in the Pre-processing Centers Operational Manual. The operations manual is maintained in a contemporary fashion and posted in a visible location within the processing area.

L 2908 PROCESSING AT BOOKING:

Revised 08-03-07 (previously L 2905)

Officers, when presenting a prisoner for booking at the Santa Clara County Jail, will adhere to the following procedures:

- All appropriate forms are thoroughly completed.
- An inventory is made of the prisoner's property and money, if any, and the items listed on the appropriate form.

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- The signature of the prisoner, the Corrections officer receiving the prisoner, and the officer processing the prisoner are obtained on the Pre-booking form.

This is done in the presence of all three persons. In addition, officers will abide by other rules pertaining to prisoner processing that have been established by the Department of Corrections.

L 2909 BRINGING HANDCUFFED PRISONERS INTO P.A.B.:

Revised 08-03-07 (previously L 2906)

Due to a need for the safety of citizens and officers in the lobby of P.A.B. and the physical appearance of handcuffed arrestees to the average citizen, handcuffed arrestees are not taken into or out of the P.A.B. through the lobby. Officers who need to take an arrested person inside the building beyond Pre-processing will bring the prisoner into the building through the double doors at the bottom of the loading ramp. The elevator nearest that entrance is used for transportation to the appropriate floor.

Arrestees who are being released with a citation or per 849(b) PC are escorted out of PAB (via the south side exit on the first floor). Adult and juvenile prisoners may be released through the Main Lobby with the approval of an on-duty supervisor. Prisoners are not allowed to walk through the police parking lot.

L 2910 STRIP SEARCH - DEFINITION:

Revised 08-03-07 (previously L 2907)

Penal Code Section 4030(c) defines a strip search as a search which requires a person to remove or arrange some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person.

L 2911 STRIP SEARCH PROCEDURE - GENERAL:

Revised 02-09-21

All strip searches, visual and physical body cavity, shall be conducted at the San Jose Police Department's Pre-Processing Center (PPC), unless prior authorization is obtained from the watch commander. Strip searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. In addition, only an officer of the same sex may strip search a suspect.

However, if the arrestee is transgender or intersex, officers will follow the SJPD Pre-Processing Manual policy and procedures applicable to transgender or intersex arrestees which are as follows:

All strip searches of transgender or intersex arrestees will be done in the order of the following parameters:

1. By two officers of the gender requested by the transgender or intersex arrestee.
2. If the arrestee does not specify a preference, then the search will be done by two officers of the same gender as the transgender or intersex arrestee's gender

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expression, (e.g., a transgender man arrestee expressing no preference should be searched by two male officers).

3. If gender expression or identity is not clear to the officer(s), the arrestee will be searched by one female and one male officer, until such time as the gender expression or identity becomes clear. At that point, the search will be done by two officers of the same gender as the transgender or intersex arrestee's gender expression or identity.

Under no circumstances is any officer to touch the breasts, buttocks or genitalia of the person being searched.

- Persons are considered to be participating in the search if their official duties require them to be present at the time the search is conducted (California Penal Code §4030(l)).
- Pursuant to Penal Code §4030(m), any person who knowingly and willfully authorizes or conducts a strip search, visual or physical body cavity, in violation of California Penal Code §4030 is guilty of a misdemeanor.

L 2912

STRIP SEARCH PROCEDURE - JUVENILES:

Revised 08-03-07 (previously L 2909)

A juvenile arrested and held in custody on a misdemeanor or infraction offense, or detained prior to a detention hearing on the grounds that they are person described in Section 300, 601, or 602 W&I, shall not be subject to a strip search or visual body cavity search except for those minors alleged to have committed felonies or offenses involving weapons, controlled substances or violence.

In addition to the above procedure, officers will also follow the procedure listed in Duty Manual section L 2913 - STRIP SEARCH PROCEDURE - MISDEMEANOR ADULT ARRESTS prior to strip searching a juvenile for a misdemeanor arrest.

L 2913

STRIP SEARCH PROCEDURE - MISDEMEANOR ADULT ARRESTS:

Revised 10-28-08 (previously L 2910)

No person arrested for a misdemeanor may be strip searched without a warrant, unless an officer has determined that there is a reasonable suspicion based on specific and clearly articulated facts that lead the officer to believe such person is concealing a weapon or contraband and a strip search will result in the discovery of such weapon or contraband. Reasonable suspicion that the arrestee is concealing a weapon or contraband may be based on specific clearly articulated facts such as the nature of the offense, arrestee's appearance and conduct and the arrestee's prior arrest record. Caution must be used in determining reasonable suspicion based solely on the nature of an offense, even an offense involving weapons, controlled substances or violence, unless the nature of the offense itself presents specific clearly articulated facts and inferences from those facts, which reasonably warrant a suspicion that either weapons or contraband is being harbored by the arrestee. Prior to the search being conducted, the Misdemeanor Strip Search authorization portion of the Intake Form (Form 204-28) must be completed by the officer seeking to conduct the search and reviewed and signed by the on-duty Pre-processing supervisor. The completed authorization

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form is retained in the Pre-Processing Center and made available, on request, to the person searched or their authorized representative.

The completed authorization form must include the following information with respect to any strip search: the time, date and place of the search; and the name and sex of the person conducting the search. A statement of the results of the search, including a list of any items removed from the person searched, shall be recorded in the agency's records and made available, upon request, to the person searched or their authorized representative.

Pre-processing supervisors shall deny warrantless strip search requests on misdemeanor adult arrestees that do not meet the requirements of this section. Strip searches of detainees arrested for misdemeanors in all other circumstances will require a search warrant.

L 2914 STRIP SEARCH PROCEDURE - FELONY ARRESTS (ADULT/JUVENILES):
Revised 08-03-07 (previously Duty Manual section L 2911 - STRIP SEARCH PROCEDURE - GENERAL)

When arresting an adult or juvenile for a felony involving weapons, controlled substances, or violence, the same guidelines used for misdemeanor searches will apply Duty Manual section L 2912 - STRIP SEARCH PROCEDURE - JUVENILES and Duty Manual section L 2913 - STRIP SEARCH PROCEDURE - MISDEMEANOR ADULT ARRESTS with the exception that no strip search authorization form is required.

L 2915 STRIP SEARCH PROCEDURE - BODY CAVITY:
Revised 08-03-07 (previously Duty Manual section L 2912 - STRIP SEARCH PROCEDURE - JUVENILES)

Under no circumstances is a physical body cavity search to be conducted without a written search warrant first being obtained. The body cavity search will only be conducted by medical personnel and only after approval by supervisory officer.

L 2916 DETENTION PROCEDURES:
Revised 08-03-07 (previously Duty Manual section L 2913 - STRIP SEARCH PROCEDURE - MISDEMEANOR ADULT ARRESTS)

In-custody individuals are held in an appropriate place of detention in accordance with the following procedures.

L 2917 MALE ADULTS:
Revised 08-03-07 (previously Duty Manual section L 2914 - STRIP SEARCH PROCEDURE - FELONY ARRESTS ADULT/JUVENILES)

Males 18 years and older will normally be booked into the County Jail. However, circumstances may require locating the prisoner at a different facility (separating suspects for investigative purposes). Such needs are communicated to booking officers who will then determine the most appropriate facility.

L 2918 FEMALE ADULTS:

Revised 08-03-07 (previously Duty Manual section L 2915 - STRIP SEARCH PROCEDURE - BODY CAVITY)

Females 18 years and older will normally be booked into the County Jail unless, as indicated in Duty Manual section L 2914 - STRIP SEARCH PROCEDURE - FELONY ARRESTS (ADULT/JUVENILES), other arrangements are necessary.

L 2919 JUVENILES:

Revised 08-03-07 (previously Duty Manual section L 2916 - DETENTION PROCEDURES)

In accordance to State law, juveniles cannot remain in the police facility longer than six hours without good cause. When a minor is processed through the Pre-processing Center, the arresting officer shall report the final disposition and time to the on-duty Pre-processing staff. If the time of the disposition exceeds the State-mandated six-hour maximum time limit, the arresting officer must also provide a brief explanation for the six-hour time violation. The Pre-Processing Center officer receiving the information shall record the disposition and time in the log along with the name of the officer furnishing the information.

If continued detention is appropriate, officers will process juveniles through the Juvenile Intake Center at the Juvenile Probation Department.

L 2920 DISPOSITION OF MINOR CHILDREN OF SEVERELY ILL OR ARRESTED PARENT:

Revised 05-02-16

In cases where the following takes place, officers will adhere to guidelines 1- 6.

- • The custodial parent cannot continue to care for their child because that parent is being arrested, or
- • The custodial parent is so severely ill as to require emergency medical care and,
- • The officer does not know or reasonably suspect that the child has been the victim of child abuse or neglect perpetrated by the parent(s) or a legal guardian.

1. The officer shall ascertain the parent's preferences concerning arrangements for the care of the child. The officer shall take reasonable steps to facilitate the custodial parent's decision to leave the child with a relative or family friend. In the event that the parent's expressed choice of care arrangements cannot be fulfilled for any of the reasons given in Paragraph 5 below, then the officer shall take reasonable steps to facilitate a secondary choice.

2. Officers will document the parent's childcare arrangement on a Supplemental Offense Crime Report from the original event. If there is no law violation that requires a General Offense Crime Report (GO) (such as a parental illness situation), a GO entitled "Parent's Child Care Arrangements" will be completed. The documentation on the GO or Supplemental Offense Crime Report shall include basic identification and residence information of the minor child. The report will also document the person accepting custody of the minor at the request of the custodial parent in those situations where the parent's childcare arrangements involve having another adult act as caretaker for the minor child.

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3. Whenever circumstances allow, officers will attempt to obtain the signature of the custodial parent on the new Parent/Legal Guardian Child Care Arrangement Documentation Form (Form 204-18), which will document the parent's chosen childcare arrangement.

4. The district sergeant will review and approve the parent's childcare arrangements prior to the officer leaving the scene.

5. If the circumstances dictate that the parent's request(s) for placement cannot or should not be fulfilled because the proposed caretaker cannot be located or is unwilling to take custody of the child, the caretaker is obviously intoxicated or otherwise incapable of caring for a minor, or other circumstances known to the officer indicate that the parent's childcare arrangements would pose an immediate threat to the child's health or safety, then the officer should follow the Joint Response Protocol specified in Department memorandum 2004-10, Joint Police – Social Worker Child Abuse and Neglect Response Protocol.

6. If officers at the scene determine that there is reasonable cause to believe that the minor is, or that there is a substantial risk that the child will become, a victim of child abuse or neglect perpetrated by the parent(s) or a legal guardian, and in addition there is an immediate danger of physical or sexual abuse to the child or other immediate threat to the child's health or safety, then the officer should follow the Joint Response Protocol specified in Department memorandum 2004-10. In these instances, the officers at the scene shall not allow the minor children to be released to relatives, friends or other persons suggested by the parent or guardian who is the subject of the investigation.

L 2921 **MENTALLY ILL PERSONS:**

Revised 08-03-07 (previously L 2918)

Mentally ill persons not in custody for a criminal offense are transported to an approved County facility for screening. Criminal offenders who are believed to be mentally ill will be booked at County Jail and jail staff will be advised.

L 2922 **SICK OR INJURED SUSPECTS IN CUSTODY:**

Revised 04-09-21 (previously L 2919)

Officers will evaluate illnesses or injuries of suspects in their custody. Suspects with illnesses or injuries requiring immediate medical attention will be transported to Valley Medical Center and medical treatment obtained. An ambulance or police vehicle may be used for transporting depending on the prisoner's condition. In extreme emergencies the nearest hospital will be used. The prisoner will later be transferred, upon approval of medical personnel, to Valley Medical Center. Upon arrival at a medical facility, the officer transporting the prisoner will adhere to the following preliminary procedures:

- Advise hospital emergency room of the prisoner's presence.
- Complete all appropriate hospital forms in accordance with hospital procedures.
- Ensure that the prisoner remains under control during the preliminary processing.
- Determine as soon as possible if the suspect is going to be admitted or treated and released.

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When the preliminary tasks have been completed, the officer having custody of the prisoner will ensure that one of the following appropriate procedures is employed:

- **MISDEMEANOR CRIME - SUSPECT NOT ADMITTED:** The officer having custody of a suspect will gather sufficient information to accurately identify the suspect. The officer may then issue a citation in accordance with Duty Manual section L 3100 - CRIMINAL CITATIONS to Duty Manual section L 3113 - GUIDELINES FOR THE ISSUANCE OF CITATIONS FOR MISDEMEANOR ON-VIEW ARRESTS AND WARRANT CITATION RELEASE, 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 that 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.
- **MISDEMEANOR CRIME - SUSPECT 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 Duty Manual section L 3100 – CRIMINAL CITATIONS to Duty Manual section L 3113 - GUIDELINES FOR THE ISSUANCE OF CITATIONS FOR MISDEMEANOR ON-VIEW ARRESTS AND WARRANT CITATION RELEASE. When a suspect is unconscious and unable to sign the citation, as much information as possible will be obtained about the suspect's identity and a complaint may be obtained at a later time. If circumstances of the crime indicate that booking is appropriate to protect the public (i.e., No bail warrant or high bail on a non-citable warrant), the officer will adhere to the "Hospital Booking" procedure Section L 2924.
- **FELONY CRIME - SUSPECT NOT ADMITTED:** The officer having custody of the suspect will stand by until completion of medical treatment and then process the suspect in accordance with established procedures.
- **FELONY CRIME - SUSPECT ADMITTED:** All felony suspects will be booked in accordance with the "Hospital Booking" procedure Section L 2924 - HOSPITAL BOOKING unless directed otherwise by supervising officers.

L 2923

VIOLENT SUSPECTS:

Revised 08-03-07 (previously L 2920)

Officers transporting a violent suspect to a medical facility for treatment will stand by with the suspect until medical treatment is completed or until the suspect is booked in accordance with the "Hospital Booking" procedure, Section L 2924 - HOSPITAL BOOKING.

L 2924

HOSPITAL BOOKING:

Revised 08-03-07 (previously L 2921)

When a suspect has been admitted to Valley Medical Center, or other medical facility when necessary, and it is determined that booking is appropriate, the following procedures will be adhered to:

- **NOTIFICATION:** The officer having custody of the suspect will contact the Department

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of Corrections Booking Control Desk and advise a supervisor on duty of the circumstances.

- DETERMINING EXTENT OF SECURITY REQUIRED: The Department of Corrections Booking Supervisor will then determine, based on the nature of the crime, if a guard is necessary. When it is determined that a guard is necessary, the officer having custody of the suspect will stand by with the suspect until arrival of the Department of Corrections personnel. If the Department of Corrections determines that a guard is not necessary, the Department of Corrections supervisor making the decision will place a "custody hold" on the suspect.
- OFFICER'S RESPONSIBILITY AT HOSPITAL: The officer responsible for the booking of the suspect will perform the following tasks prior to leaving the hospital:
 - Obtain as much of the pre-booking form information as possible.
 - Obtain all the clothing and personal property of the suspect; unless the person's medical condition prevents removal and/or collection (The Department of Corrections requires all clothing and property at time of booking).
 - Ensure that physical evidence from the suspect's person or belongings are collected, property marked and packaged for booking.
 - Perform other necessary tasks as required or directed.

The officer booking the suspect will, upon arrival of the Department of Corrections personnel or placement of a "custody hold," respond to the Department of Corrections booking desk and perform those tasks necessary and required of a normal booking.

Line Operations/Procedures

L 3000 – L 3900



San Jose Police Department Duty Manual

**L 3000 - JUVENILE CONTACTS:**

"The best interest of the child" balanced with community safety is the primary concern in working with juveniles. Therefore, in cases involving minors taken into custody, officers will use discretionary judgment in preferring the alternative disposition which least restricts the minor's freedom of movement, but provides compatibility to the best interest of the community.

PROCEDURE**L 3001 JUVENILE CONTACTS - GENERAL PROVISIONS:**

A juvenile is a person under 18 years of age. When an officer contacts a juvenile, such officer will process the incident in accordance with the following procedures.

L 3002 DETERMINING PROPER DISPOSITION:

Officers will, when possible and practical, contact the Juvenile Division for guidance as to a proper disposition.

L 3003 DISPOSITION IN THE FIELD:

Officers are encouraged to dispose of juvenile matters in the field using an appropriate citation or counseling and release whenever the circumstances indicate that the use of such alternatives are in the best interest of the juvenile and consistent with the safety and well-being of the community. When issuing a juvenile citation, use the "Juvenile Contact Report Citation Form". The San Jose Police Records Division will ensure that all appropriate reports are forwarded directly to the Santa Clara County Juvenile Probation Department. The Juvenile Detail will liaison with Juvenile Probation in order to conduct any necessary follow-up.

L 3004 REPORTING ACTION TAKEN IN THE FIELD:

Actions taken in the field involving the disposition of a juvenile shall be reported in a "Juvenile Contact Report" (JCR) and in a General Offense Report (Form 200-2-AFR) All reports will be reviewed by the Juvenile Unit. A Juvenile Contact Report can be written in juvenile misdemeanor cases (i.e., shoplifting), when a juvenile has been booked, cited or released after formal police action has been deferred and the case is solved on its face. In addition to the JCR, a general offense report shall be completed documenting the entities involved in the case. A general offense report is completed in the event that there are adult suspects (i.e., child abuse, child molest). In the event that all suspects are minors, a JCR and supplemental general offense entity reports will suffice.

L 3005 DEGREE OF PROOF:

The same degree of proof is needed in the arrest of a juvenile as in the arrest of an adult. Evidence and statements are preserved for use in Juvenile Court.

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L 3006 NOTIFICATION OF CUSTODY:

The officer having custody of the juvenile is responsible for notifying the minor's parents, guardian or responsible relative that the juvenile is in custody. When the juvenile is delivered to Juvenile Probation, officers will advise an appropriate relative to call the Juvenile Probation Department to secure information regarding the juvenile's status as it pertains to visitation and/or release.

When a juvenile is arrested or detained and taken to the Preprocessing Center, Juvenile Bureau or other place of confinement, they must immediately, and in no case later than one hour from the time of arrival at the place of confinement, advise the minor of their right to make two local calls at public expense. One call can be made to an attorney and the other to a parent, guardian, relative or employer.

Minors not in custody who are taken to an office setting for interview are excluded from the above requirement.

L 3007 MINORS AT SCHOOLS:

In order to avoid possible embarrassment to children and their parents, uniformed officers should not interrogate nor take youngsters into custody at school except in emergency situations.

Emergency situations are defined as a set of circumstances in which students are committing acts of violence or where there is a need to take the child into custody for his own or the public's protection. If officers need further advice concerning interrogation of a student at a school, they should call the Juvenile Detail for assistance.

L 3008 ADVISEMENT OF SUPERIOR COURT INVOLVEMENT:

The officer assigned to the incident will advise both the parent and the minor that all cases referred to the Juvenile Probation Department will necessitate involvement of the Superior Court.

L 3009 USE OF JUVENILE PROBATION FACILITIES:

The taking into custody of a juvenile should be considered a method of providing guidance and protection. When the incident requires referral to Juvenile Probation, officers will adhere to one of the following appropriate procedures.

L 3010 TEMPORARY EMERGENCY CUSTODY OF DEPENDENT JUVENILES (305(A) W&I) WITHOUT A WARRANT:

Revised 05-02-16

W&I § 300, which defines children who are subject to the dependency jurisdiction of Juvenile Court, includes subdivisions of W&I § 305:

- a. Physical abuse constituting serious physical harm;
- b. Failure to provide or protect from serious physical harm or illness;
- c. Emotional abuse constituting serious emotional damage;

- d. Sexual abuse;
- e. Severe physical abuse of child under the age of five years by a parent or person known to the parent;
- f. Parent or guardian causes death of another child through abuse or neglect;
- g. Caretaker absence or abandonment; parent has been incarcerated or institutionalized and cannot arrange for care of the child;
- h. Child has been freed for adoption by one or both of the parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted;
- i. Cruelty; and
- j. Abuse or neglect of a sibling and substantial risk that the child will be abused or neglected.

Generally, the acts of abuse or neglect of the child referred to in Section 300 are those of the child's parent or guardian, except as to subdivision (e).

In order for a police officer to take temporary custody of a child from a parent or guardian without a warrant pursuant to W&I § 305(a), all three of the following elements must be present:

1. Probable cause to believe that the child falls under W&I § 300; and
2. Probable cause to believe that the child is in immediate danger of either:
 - a. serious physical harm or sexual abuse or
 - b. the child is in need of immediate emergency medical care;and
3. Probable cause to believe that the child is likely to experience serious bodily injury or sexual abuse in the time that would be required to obtain a warrant.

In the case of an unattended child, in order to take the child into temporary custody without a warrant the officer must not only have probable cause for the three elements above, but the officer must also take the additional procedural step of contacting the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker from the Santa Clara County Department of Family & Children's Services to assume custody of the child.

Whenever feasible, officers should consider less intrusive alternatives prior to removing a child without a warrant pursuant to W&I § 305.

If there is no immediate danger of serious bodily injury or sexual abuse to the child, a court order must be obtained to remove the child.

For additional guidance, officers shall refer to SJPD Memorandum 2004-010 Joint Police - Social Worker Child Abuse and Neglect Response Protocol.

L 3011 STATUS OFFENDERS (601 W&I):

Revised 06-22-20

Officers may, without a warrant, take custody of any minor between 12 years of age and 17 years of age when the minor continuously disobeys the reasonable and proper orders or directions of a parent, guardian or custodian, or is beyond the control of such persons.

The officer assigned to the incident will determine that the elements of 601 W&I are clearly present and that the minor between 12 years of age and 17 years of age is not a law violator (602 W&I) or a dependent minor (300 W&I). These facts are recorded on a J.C.R. (Juvenile Contact Report) by the assigned officer.

The officer will then inform the reporting party that juvenile laws do not provide for placement of status offenders into secure detention facilities and will then attempt to resolve the issue in accordance with the following procedures.

REFERRAL FOR COUNSELING: Officers will first attempt to resolve the issue through use of public or private counseling services. Available agencies can be located by contacting the Juvenile Detail.

At no time will a "status offender" (601 W&I) be taken into the main detention facility.

L 3011.5 HANDCUFFING JUVENILES:

Added 10-30-20

Juveniles under 12 years old should not be placed in handcuffs unless the juvenile is being arrested for having committed an offense for which the juvenile can be taken into custody per 602(b) W&I.

EXCEPTION: Juveniles under 12 years old may be handcuffed when being actively violent toward themselves or others. However, the handcuffs should be removed as soon as it is safe or practical to do so.

When a juvenile under 12 years old is placed in handcuffs, a thoroughly completed Street Check shall be performed. All the appropriate checkboxes and disposition of the juvenile shall be completed.

L 3012 LAW VIOLATORS (602 W&I):

Revised 06-22-20

Any minor between 12 and 17 years of age who violates any federal, state, city or county criminal statutes or ordinances other than a curfew violation based solely on age, is within the jurisdiction of the juvenile court, which may declare the minor to be a ward of the court. (602(a)W&I)

Any minor who is under 12 years of age when they are alleged to have committed any of the following offenses will be taken into custody:

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1. Murder
2. Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
3. Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
4. Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.
5. Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

The Santa Clara County Police Chief's Association's Juvenile Detention Reform Protocol provides procedures regarding the decision to release a minor or to take a minor into custody. The releasing or taking a minor into custody shall be performed in compliance with the procedures contained in the most current Juvenile Detention Reform Protocol.

Diversion resources for minors issued a criminal citation include:

- The Bill Wilson Center - 3490 The Alameda, San Jose, which provides alternative community housing resources for juveniles. Officers should contact the Center at 408-243-0222 prior to transporting a minor to the facility to ensure a bed is available.
- The Alum Rock Counseling Center can be contacted anytime at 408-294-0579 and will respond for on-scene crisis intervention or to set up long-term counseling services.
- Juvenile Hall staff also connects minor offenders with appropriate diversion programs.

This policy does not preclude officers from collecting and preserving evidence for criminal investigations. As such, officers should still transport in-custody juveniles, prior to citation and release or physical booking, involved in crimes in which the collection of photographic or fingerprint evidence would be beneficial.

CITIZEN'S ARREST INVOLVING MISDEMEANOR VIOLATION: Discretion will be used in permitting minors to arrest other minors, and the procedure should not be followed in such cases unless no other alternative is available.

A completed "Juvenile Contact Report" will then be submitted detailing the circumstances of the incident. Officer(s) shall also complete a general offense report detailing the entities involved.

L 3012.5 INTERROGATION OF LAW VIOLATORS AGE 17 AND YOUNGER:

Revised 11-20-20

Officers shall ensure juveniles 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any Miranda rights; the consultation may not be waived. Officers may obtain a custodial statement from a juvenile 17 years of age or younger without legal counsel only if both of the following criteria are met:

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1. The officer reasonably believes the information they are seeking is necessary to protect life or property from an imminent threat.
2. The officer's questions are limited to those reasonably necessary to obtain the information.

NOTE: This section does not preclude officers from complying with Duty Manual section L 4507 CUSTODY OF JUVENILES, which states an officer must advise a juvenile of their constitutional rights when taken into custody for any of the following: a violation of 601 or 602 W&I, a violation of a court order, or escape from a court-ordered detention facility or place of commitment.

L 3013 PLACEMENT OF JUVENILES IN DETENTION FACILITY:

In all cases where detention at the Juvenile Intake Center is the desired disposition, clearance is obtained, if possible, from the Juvenile Detail. If a member of the Juvenile Detail is not available and the situation justifies detention, the arresting officer may place the minor in the Juvenile Intake Center. When a decision to place a juvenile in a detention facility is made, officers will ensure that one of the following elements is present:

- The juvenile has been properly taken into custody for a violation of a federal, state or local law
- The juvenile is a ward or dependent of the Juvenile Court and there is reasonable cause to believe that the juvenile has violated an order of such court or has escaped from any commitment ordered by such court. (625 W&I)

Officers will transport the juvenile to the main Intake Center entrance and advise Juvenile Probation personnel of their presence and that they have a "law violator" ready for processing.

In addition, officers will thoroughly report on a J.C.R. Form all facts which indicate detention is necessary. Such facts include, but are not limited to the following:

- The circumstances which establish the elements of the crime
- Facts which indicate the juvenile is likely to flee the jurisdiction of the court
- Facts which indicate that detention is urgent and of immediate necessity in order to protect the juvenile or the person or property of someone else

The officer will then present the report to Juvenile Intake Center personnel at the time of processing.

L 3014 MULTIPLE ARREST PROCEDURE:

When five or more juveniles are taken into custody at the same time, the following procedures will be adhered to.

L 3015 PREPLANNED OPERATION:

The officer in command of a preplanned operation in which multiple arrests of juveniles is anticipated will, when possible, notify the Juvenile Intake Center one to four hours prior to the commencement of such operations in order to allow Juvenile Intake Center personnel the time to make appropriate preparations.

L 3016 SPONTANEOUS OPERATION:

When an incident requires multiple arrests of juveniles, the officer in command at the scene will ensure that the Juvenile Intake Center is notified as soon as possible. In any event, notification is made from the scene and not delayed until arrival at a police or processing facility.

L 3017 NOTIFICATION AND RESPONSIBILITIES OF JUVENILE DETAIL:

The officer in charge at the scene will ensure that the Juvenile Division is notified of the number of juveniles in custody and the circumstances. The Juvenile Division will then assign a representative from the Department to the Juvenile Intake Center to assist in processing. If Juvenile Detail personnel are not on duty or otherwise unavailable, the supervisor of the area in which the incident occurred will ensure that a Department representative is assigned to assist Juvenile Intake personnel. The officer assigned to the Juvenile Intake Center will cooperate with Juvenile Probation personnel in determining a proper disposition of each juvenile in custody.

L 3018 OFFICER'S INITIAL RESPONSIBILITIES:

Officers participating in a multiple detention incident will adhere to the following procedures prior to transporting to the Juvenile Intake Center:

- Determine the arresting officer's name and what law(s) the individual juvenile has violated.
- Determine the identity, age and address of the juvenile.
- Complete appropriate departmental forms, including a brief J.C.R., indicating specific charges(s) and circumstances of custody. Once initial processing is completed, officers will notify Juvenile personnel that those in custody are ready to be transported to the Juvenile Intake Center.

L 3019 PROCEDURE AT JUVENILE INTAKE CENTER:

Upon arrival at the Juvenile Intake Center, officers will make their presence known to Intake Center personnel but will remain outside the center with those in custody until directed to proceed with final processing. Final processing may consist of entering one at a time or in groups. Officers will cooperate with Juvenile Intake personnel in processing multiple custody juveniles.

L 3020 OBTAINING MEDICAL TREATMENT:

Revised 06-30-06

When circumstances, facts or other sources of information are such that it is reasonable to believe that a juvenile is in need of immediate medical treatment, the officer assigned to the incident will obtain such medical treatment in accordance with the following procedures:

- IN A PUBLIC PLACE: When a juvenile is discovered in a public place and is in need of immediate medical treatment, the officer will take the juvenile into custody and ensure that transportation is made to Valley Medical Center (VMC), or other hospital facility if appropriate. When the emergency is severe and immediate medical treatment is required, officers may transport such juvenile to the closest medical facility. Upon arrival at a medical facility, officers will abide by the medical facility's procedures pertaining to completing forms, obtaining parental consent and other

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procedures deemed necessary by medical staff personnel.

- **IN A PRIVATE DWELLING:** When the circumstances are such that it is reasonable to believe that a juvenile is in need of medical care and a parent, guardian or other person in control of a juvenile's welfare refuses to provide the officer with information regarding the condition of the juvenile, or refuses to allow an officer's entrance into the place where the juvenile resides in order to investigate the condition of such a juvenile, officers will document all such facts available and notify the senior officer on duty in the Juvenile Division or, when not available, the Juvenile Probation Department, who will then arrange an immediate Juvenile Court hearing to determine if the juvenile should be taken into custody.

EXCEPTION: When the facts, circumstances or other information leads an officer to reasonably believe that a medical emergency exists and a delay in obtaining medical aid would threaten the life of a juvenile, such officer will contact a District Sergeant, explain the circumstances and proceed as directed. When a District Sergeant is not available, the officer is authorized to take immediate custody of the juvenile.

In any event, the officer intending to take custody of such a juvenile will explain to the parent, guardian or other person in control of the juvenile that the law authorizes such action and will demand entry.

When entry is allowed, the juvenile is taken into custody and transported to the nearest medical facility.

When entry is denied, the officer may use all means, short of deadly force (unless attacked with deadly force), to obtain custody of the juvenile and will then transport the juvenile to the nearest medical facility.

(Refer to Duty Manual section L 3010 - TEMPORARY EMERGENCY CUSTODY OF DEPENDENT JUVENILES (305(A) W&I) WITHOUT A WARRANT or to Section 305 of the Welfare and Institutions Code)

- **JUVENILES ARRESTED FOR CERTAIN OFFENSES:** Persons under 18 years of age who are arrested for drunkenness, glue sniffing or narcotics and who display the symptoms of intoxication to a degree where injury might result, must be taken to the Valley Medical Center or other hospital facility if appropriate, for an examination if detention is anticipated. A medical clearance is obtained from the examining physician and delivered with the juvenile to the desk counselor at the Juvenile Intake Center. In borderline cases, the juvenile is taken for an examination only upon the direction of the desk counselor. In all cases, officers will ensure that the facts, circumstances and information are adequate to establish reasonable cause to believe that immediate medical treatment was necessary and required in taking a juvenile into custody. In addition, officers will report all such facts, circumstances and information received on appropriate forms and will submit such reports to the Juvenile Division prior to ending the tour of duty during which the incident occurred.

L 3021

NON-EMERGENCY MEDICAL TREATMENT:

When the circumstances, facts or other sources of information indicate that a juvenile is in need of medical treatment which is not of an emergency nature, officers will report the facts

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of the case to the Juvenile Division. The Juvenile Division will, if appropriate, contact the Juvenile Probation Department and advise them of the circumstances. Officers may, depending on the nature of the medical treatment required, notify the Juvenile Division or Probation Department directly or submit a report detailing the circumstances of the case.

L 3022**POLICE HOLDS ON JUVENILES AT HOSPITALS:**

Only the Santa Clara County Juvenile Probation Department has authority to request that a hospital place a hold on a juvenile. When an officer wishes to ensure the custody of an injured individual under 18 who has been taken to a hospital, such officer will adhere to the following procedures:

- PROTECTIVE CUSTODY CASES: When a child is placed in a hospital because such child has been the victim of abuse or neglect, the investigating officer will fill out a J.C.R. placing the child in protective custody under the provisions of Section 300 of the Welfare and Institutions Code. The officer will then notify the hospital that the child is in protective custody and is not to be released to such child's parents. The officer will sign the form and deliver it to the Children's Shelter.
- CASES INVOLVING JUVENILE OFFENSES: When a case involves violation of 601 or 602 of the W&I Code, the officer concerned must determine which of the following procedures to apply:
 - Normal Procedure: The Juvenile Probation Department is notified that the child is in custody. The officer will request the hospital to notify the Department's Juvenile Unit when the child is to be released. An officer from this Department is present at the time of release to transport the child to the Juvenile Intake Center.
 - Cases of a Very Serious Nature. If, in the opinion of the investigating officer, a case is so serious that a hold must be placed on a juvenile, such officer will call Juvenile Probation and request a hold. An officer from the Department of Corrections will then be assigned as a guard. This procedure is to be avoided whenever possible. It is expensive and, in the opinion of the Juvenile Probation Department, unnecessary in nearly all cases.

L 3023**RELEASE FROM CUSTODY:**

Once a person under 18 years of age has been placed in any facility, the Children's Shelter included, the release can only be made by the County Juvenile Probation Department. The officer will not intervene. If facts develop that would relate to continued detention, the officer should make these known to the Juvenile Division as soon as possible. The Juvenile Division officer assigned to the case will then relay the additional facts to the Juvenile Probation Department without delay.

L 3024**PHYSICAL CHILD ABUSE, ENDANGERMENT OR NEGLECT:**

Revised 03-09-21

Officers assigned to investigate incidents involving physical abuse, sexual abuse, endangerment, child neglect, unjustifiable mental suffering, emotional abuse, child death, parental kidnapping or child abduction shall utilize the Santa Clara County Child Abuse Protocol as a guideline for their investigations. The protocol is detailed and will provide

valuable investigative assistance to responding officers. A link to the protocol may be found on the SJPD policies and procedures virtual library.

Officers investigating sexual crimes involving children shall refer to SJPD Duty Manual section L 6000 - INVESTIGATION OF SEX CRIMES, as well as Section 7 (Sexual Abuse) of the Child Abuse Protocol.

Each officer has an individual responsibility to assist survivors through a trauma-informed approach, offer and explain resources to the survivor, conduct appropriate investigative tasks, make arrests when allowed by law, and properly document the incident whenever suspected physical abuse, sexual abuse, endangerment, child neglect, unjustifiable mental suffering, emotional abuse, child death, parental kidnapping or child abduction is discovered or otherwise reported.

L 3024.5 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO VICTIMS OF CHILD ABUSE

Added 05-29-17

The victim of child abuse (273a and 273d PC), or the victim's parent or guardian if the victim is a minor, may request their name not be disclosed under the California Public Records Act. Notification of the right to confidentiality, pursuant to Government Code Section 6254 and Penal Code Section 293, shall be verbally provided to the victim or the victim's parent/guardian if the victim is a minor. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

L 3025 DEFINITIONS:

Added 04-30-16

Child Abuse - generally refers to non-accidental infliction of any injury upon a child by another person. It includes physical abuse, neglect, molestation, and emotional abuse.

Disclosure - means to tell or reveal. A disclosure occurs when a child has told someone that certain things have happened or have been done to the child.

Physical Abuse - is defined as inflicted physical injury, which most often represents unreasonably severe corporal punishment. Assaults such as burning, biting, poking, twisting limbs, or otherwise torturing a child, are also forms of physical abuse.

General Neglect and Endangerment - Neglect and endangerment includes both acts and omissions on the part of a parent or caregiver. It is the failure to protect, provide or supervise. It includes willfully causing or permitting a child to be in circumstances which endanger the health or well-being of the child.

L 3026 MANDATORY REPORTING:

Added 04-30-16

Anyone may report suspected child abuse or child neglect. Child abuse or neglect includes: non-accidental physical injuries including unlawful corporal punishment and willful cruelty (P.C. 11165.3, 11165.4); severe or general physical neglect, including inadequate supervision

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or medical neglect (P.C. 11165.2); sexual abuse including assault or exploitation (P.C. 11165.1) or unjustifiable mental suffering or emotional abuse (P.C. 11165.3).

Mandatory reporting is required when knowledge or reasonable suspicion of child abuse or neglect is obtained in the reporter's professional capacity or within the scope of his or her employment (P.C. 11166(a)). Peace officers are mandated reporters (P.C. 11165.7(a)(19)). Failure of a mandated reporter to report suspected abuse is a misdemeanor.

L 3027 REPORTING:

Added 04-30-16

Officers shall report ALL incidents of alleged or suspected physical child abuse, endangerment or neglect, including cases which are unfounded and acts which result in non-accidental injury of a child, even if it does not rise to the level of a crime, on a General Offense (GO) report, in addition to other forms required to investigate or process the case.

L 3028 CROSS REPORTING (DFCS – JOINT RESPONSE):

Added 04-30-16

All incidents of suspected child abuse, endangerment or neglect, shall be cross-reported to the Department of Family and Children's Services (DFCS formerly known as Child Protective Services) via the Joint Response Protocol especially when an arrest is made and the suspect is the child's parent and/or guardian. Joint Response should also be activated when a victim of child abuse, endangerment or neglect has siblings or other children living in the affected home.

A DFCS Social Worker is available 24-hours a day to respond to any scene and assist officers; however, DFCS will conduct their own independent investigation. DFCS can be an invaluable resource as they have expertise in handling children and suspected abuse. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect (W&I 827).

When responding to a call with DFCS, the responding officer shall obtain as much information as possible from the DFCS social worker before questioning the child. In these instances, a joint investigation shall be conducted while keeping in mind the officer's investigative focus may differ from that of the social worker.

Officers shall refer to SJPD memo 2004-010 Joint Police – Social Worker Child Abuse and Neglect Response Protocol, for guidance.

L 3029 PATROL PROCEDURES – INVESTIGATION:

Added 04-30-16

Unless exigent circumstances exist, or the officer has obtained parental consent, the investigating officer or social worker must obtain a search warrant, protective custody warrant, or other court order to enter the child's home to place a child into protective custody, or obtain an investigatory or sexual abuse medical exam. (See *Rogers v. San Joaquin* (2007, 9th Cir.) 487 F.3d 1288; *Calabretta v. Floyd* (1999, 9th Cir.) 189 F.3d 808; *Wallis v. Spencer*

(1999, 9th Cir.) 202 F.3d 1126; Mabe v. San Bernardino DPSS (2001, 9th Cir.) 237 F.3d 1101; Doe v. Lebbos (2003, 9th Cir.) 348 F.3d 820.)

If the initial report of abuse is to law enforcement, the responding officer should follow the Joint Response Protocol. The officer should include the DFCS social worker in interviews with the child victim and family members, when possible. Interviews should include the reporting party, victims, suspects, siblings, caregivers, relatives, teachers, social workers, and/or hospital or medical personnel.

All interviews shall be recorded, especially spontaneous statements by suspects or witnesses. If spontaneous statements are not recorded, they should be documented in the General Offense (GO) report.

The following guidelines should be followed for interviews:

- Interview each party separately
- Children should not be used to translate statements
- Children should be interviewed as few times as possible
- Children should be interviewed in a comfortable room and the child should be put at ease.
- The suspect should not be present during the interview
- Non-suspect parents should not be present in the immediate area
- Children should be interviewed in a non-leading, non-suggestive manner.

Refer to the Child Abuse Protocol, Interview Techniques, Section 11, for guidance.

In all cases, a timeline should be established for the following:

- The care and custody of the child
- When physical symptoms first appeared
- Previous medical conditions and medical care sought or received

Obtain full history of prior physical abuse or neglect toward:

- The child
- Siblings
- Intimate partner
- Other family member(s)

Avoid reading Miranda warnings to non-custodial suspects.

L 3030

PHOTOGRAPHS AND EVIDENCE:

Added 04-30-16

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All injuries and their treatment should be photographed and include several angles and from different distances, along with a full body picture including the face, that can be used for identification purposes and a measuring device for comparison. Photograph the environment, lack of injuries or anything that may be of evidentiary value.

Be conscientious of a child's privacy and dignity when photographing injuries. If the injury is on the child's genitalia or other private areas of a child's body, it should be photographed by a physician.

When a child is transported to the hospital for medical treatment for their injuries, request the parent or guardian sign a medical release form for the child's medical records. Officers should obtain contact information for all fire, paramedic, or medical personnel involved in the case.

In all physical abuse cases involving an item used to strike or injure the child, the object should be seized. If need be, ask the child where the item is located. Examples include: belts, shoes, sticks, kitchen utensils or any other instrument.

Officers should describe all sights, odors, or unusual sounds which are pertinent to the case.

L 3031 TYPES OF PHYSICAL INJURIES:

Added 04-30-16

Abusive Head Trauma which results in serious intracranial injury may occur without any visible evidence of trauma on the face or scalp. Being shaken or thrown against an object are common causes of abusive head trauma. A subdural hematoma, which is a collection of blood outside the brain, is usually caused by a tear in the blood vessels that run along the surface of the brain commonly caused by a sudden blow. This is a common child abuse injury in children younger than 24 months old with a peak incidence rate at approximately 6 months old and can be life-threatening. Signs of a subdural hematoma include: irritability, lethargy, lack of eating, vomiting, seizures, or coma.

Internal Injuries caused by blunt blows to the body may cause serious internal injuries to the liver, spleen, pancreas, kidneys and other vital organs. These injuries may even cause shock and result in death. There may be no visible injury.

Fractures which occur in non-mobile children are very rare and are often due to abuse or neglect. Fractures of the long bones are almost always caused by abuse when they occur before a child starts walking. Common areas of fractures include the ribs, arms and legs.

Bruises may appear in a characteristic pattern such as a hand or an instrument including paddles, switches or extension cords. Bruises seen on infants are suspicious and should be considered non-accidental until proven otherwise.

Burns rarely occur without some level of negligence or abuse by a caregiver. Contact or branding burns occur when an object is placed on a child's skin. Common objects used are cigarettes, curling irons, irons, or electric heaters.

Scalding a child with hot liquid is the most common abusive burn. Young children are scalded by immersion and older children by having liquids thrown or poured on them. If a child is immersed in water there may be sharply demarcated marks on the child's body.

Diseases which cause a child to bruise easily are rare. Consult a qualified medical physician if questions arise regarding bruising and a child's medical condition.

L 3032 INTERVIEWS ON SCHOOL GROUNDS:

Added 04-30-16

When an officer interviews a suspected victim of child abuse or neglect during school hours on school grounds concerning a report of child abuse or neglect that occurred within the child's home or an out-of-home care facility, there is a statutory requirement that the officer inform the child victim, prior to the interview, of their right to have any adult member of the school staff, including a volunteer aid, present during the interview (P.C. 11174.3).

The purpose of the staff person's presence at the interview is to lend support to the child and enable the child to be as comfortable as possible. The staff person shall not participate in the interview or discuss the facts or circumstances of the case with the child. The staff member is also bound by the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as a misdemeanor (P.C. 11167.5(a)).

Officers should be mindful that a Joint Response notification is required and to make every effort to coordinate with DFCS so the child is interviewed as few times as possible as directed by the Child Abuse Protocol.

L 3033 NOTIFICATIONS:

Added 04-30-16

When a child has sustained a severe injury, such as a head injury (brain bleed), broken bone, and/or severe bruising, or the injury is severe enough the child is hospitalized and the injury is due to suspected abuse or neglect, the incident shall be reported to the Family Violence Unit (FVU) as soon as practical. If the notification occurs after hours, contact should be made with the on-call FVU Commander or their designee.

Any event of potential child abuse, endangerment, neglect or unexplained injury which resulted in a child death or death is imminent shall be reported to the Homicide Unit immediately. If the notification occurs after hours, contact should be made with on-call Homicide Unit personnel.

L 3034 SEVERE CHILD INJURY OR DEATH:

Added 04-30-16

In all instances where a child's injury is severe and was likely caused by abuse, endangerment, neglect or unexplained actions, regardless of whether the child was under the direct and immediate supervision of a parent or guardian, the Severe Child Injury or Death (SCID) protocol must be activated.

Once enough information is known about the incident, including the general prognosis of the child, the patrol Incident Commander will make the appropriate notifications to the Family Violence or Homicide Unit and activate the SCID protocol by calling SJPD Communications.

The scene of occurrence will be preserved and treated as a homicide scene until relieved of that duty by the Homicide Unit Commander, other commander, or a member of the Severe Child Injury Team.

The SCID team members include the following: Law enforcement, Medical expert-VMC, DFCS Social Worker, Deputy District Attorney, Crime Lab Criminalists, and upon request, the Coroner, Coroner's Investigator, and a District Attorney Investigator.

The law enforcement agency with jurisdiction over the case may consult with any and all members of the SCID Team during an investigation. All members of the SCID Team shall cooperate and share information to reach decisions that are in the best interest of the investigation.

L 3035 CHILD ENDANGERMENT AND NEGLECT:

Added 04-30-16

When officers encounter situations involving children who are exposed to dangerous environments, the safety and well-being of those children shall not be overlooked. In addition to any other violations, the following factors should be considered when determining whether or not to arrest the suspect(s) for child neglect or endangerment without a warrant:

- For misdemeanor crimes- the occurrence of the offense(s) in the officer's presence
- Imminent danger to the victim, suspect, or community
- The likelihood the suspect(s) will flee
- Destruction of evidence
- Verification of identification of suspect(s)
- All other considerations regarding lawful arrest which are consistent with current law

There are instances when the parent or guardian is homeless, which by itself is not justification for protective custody placement of a child, unless there are other factors which would lend a reasonable officer to believe the child is in imminent danger. If the presenting problem is homelessness, other suitable placement should be sought. Officers have the option of activating Joint Response in any field situation where a parent or guardian may benefit from social services, but this is solely the officer's discretion.

Officers should refer to Section 6 (Neglect and Endangerment) letter A (General Neglect and Endangerment) of the Child Abuse Protocol for a list of physical indicators a child is being neglected or endangered. Likewise, Section 6 (Specific Concerns) of the Child Abuse Protocol discusses issues of truancy, children born under the influence of a controlled substance, children left in an automobile, near drowning, failure to provide proper medical care, and an extensive description of cases involving drug-endangered children (DEC).

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L 3036**ARREST:***Added 04-30-16*

Officers should avoid a premature arrest; however, if probable cause exists to make an arrest, the officer may do so. Delaying an arrest may aid in maintaining a relationship with the suspect(s) which will allow continuing non-custodial interviews until definitive information is obtained from medical experts identifying all injuries with corresponding time limits.

L 3037**PROTECTIVE CUSTODY AND EMERGENCY PROTECTIVE RESTRAINING ORDERS (EPROS):***Added 04-30-16*

Department members sometimes encounter field situations in which a custodial parent is unable to care for their child due to arrest or severe illness requiring emergency medical care. There are times when the custodial parent is able to articulate to the Department member who should care for the child during the parent's absence. Officers shall refer to SJPD Duty Manual section L 2920 – DISPOSITION OF MINOR CHILDREN OF SEVERELY ILL OR ARRESTED PARENT, for guidance.

When considering whether a child should be placed into protective custody, including children left unattended, officers shall refer to SJPD Duty Manual section L 3010 – TEMPORARY EMERGENCY CUSTODY OF DEPENDENT JUVENILES (305(A) W&I) WITHOUT A WARRANT.

When a decision has been made to take a child into protective custody, officers must complete a Juvenile Contract Report (JCR) for each child. If multiple children are taken on the same case, only one JCR needs to have narrative. Additional JCRs may be used and only the children's names and dates of birth are needed. The JCR must contain sufficient factual information to justify protective custody placement.

Officers should keep in mind the GO report and the JCR are separate documents and sufficient details to support the protective custody should be included in both reports. Officers will not write in the GO "refer to JCR" for details of the protective custody as the JCR is only used for a child's disposition and is not considered a part of the crime report. The JCR; however, will be made available to the child's parents should further juvenile or family court proceedings occur. The JCR must be signed by the officer and the child's parents must be notified of protective custody.

In all situations, officers should assess children for imminent danger, the need for immediate medical attention, and weapons storage (P.C. 12035, 12036, WI 300).

Federal statute states DFCS shall make reasonable efforts to prevent the need for removal prior to placing a child into protective custody (Federal Statute, Title 42 U.S.C.A. § 671(a)(15)). It is ultimately the decision of the officer on scene whether to place minor children into protective custody without a court order. If there is a lack of agreement, DFCS may seek a court order via their on-call judge.

The investigating officer should consult with the social worker and consider whether an Emergency Protective Restraining Order (EPRO) is appropriate for any and all children at

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risk from an offender in the home so that a child can safely remain with a non-offending parent (Family Code 6250).

The following are circumstances in which an EPRO may be issued:

- When a child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident or abuse or threat of abuse by the family or household member (Family Code 6250(b)).
- When a child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation or a recent threat to abduct the child or flee with the child from the jurisdiction (Family Code 6250(c)).

L 3038

FOLLOW-UP:

Added 04-30-16

Every child abuse report routed to The Family Violence Unit will be reviewed by a sergeant and forwarded to the courts, assigned for follow up, referred to an outside agency or closed for lack of evidence.

All reports will be reviewed to ensure the Child Abuse Protocol has been followed, to determine the protective custody needs of the child and any at-risk siblings, and ensure the incident was cross-reported to DFCS.

If a detective is assigned, they will verify the preliminary investigation has addressed all elements of the reported crime, determine the need for further interviews, photographs, collection of evidence as well as check the custody status of the suspect and ensure they were interviewed. In instances where the suspect is unidentified or at large, notification and coordination will occur with the appropriate law enforcement agencies.

L 3039

CROSS REPORTING – OTHER AGENCIES:

Added 04-30-16

Incidents of child abuse, endangerment, or neglect, which includes a death or near-death event involving licensed or unlicensed child-care facilities, such as group homes, preschools, family day-care homes or other such facilities, require notification to the California Department of Social Services, Community Care Licensing Division, at 1-844-538-8766. Cross-reporting is typically handled by the investigator, but can also be done by a patrol officer.



L 3100 - CRIMINAL CITATIONS:

Revised 07-14-23

Citations are employed as an alternative to physical arrest in all misdemeanor situations, except those prohibited by law or in which the arresting officer or the Department can articulate specific factors which cause a belief that the citation process is not appropriate. In the interest of public safety, nothing prevents an officer from first booking an arrestee before release, regardless of the bail amount.

PROCEDURE

L 3101 CRIMINAL CITATIONS:

Revised 02-03-23

Penal Code section 853.6 authorizes the use of criminal citations whenever the following elements are present:

- Probable cause for an arrest exists
- All offenses are infractions and/or misdemeanors
- The subject does not demand to be taken before a magistrate
- No domestic violence or violation of a court order offenses

Refer to Duty Manual section L 3113 - ELIGIBILITY FOR THE ISSUANCE OF CRIMINAL CITATIONS, OR MISDEMEANOR OR INFRACTION WARRANT CITATIONS for further information.

In any event, officers will adhere to the following procedures when using the criminal citation in lieu of booking.

L 3101.1 CITATION RELEASE FOR A FELONY PROHIBITED:

Added 07-14-23

Citation release for any felony is prohibited. All persons arrested with an active felony warrant shall be booked at a jail facility or administratively (e.g., paper booking at a hospital).

L 3102 PROCEDURE PRIOR TO ISSUING:

Revised 02-03-23

When the circumstances surrounding an arrest allow for the issuance of a citation, the arresting officer will conduct a brief background investigation to determine if the arrested individual should be issued a citation and released. This investigation will include the following items, if applicable, to ensure the subject can be located at a later date if they fail to appear as promised:

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- Adequate proof of identity
- Adequate proof of residence
- Length of time at present residence
- Work status and history
- Criminal record
- Marital and family status
- Any other facts or information which would assist the arresting officer in determining if a citation and release is appropriate

A citation is not issued if there is a reasonable likelihood the offense would continue or resume or the safety of persons or property would be imminently endangered by release of the person arrested.

The decision to use a citation is made by the arresting officer or as directed by a supervisor. When a decision is made to issue a citation, officers will obtain adequate information to ensure that the individual receiving the citation can be located at a later date if such individual fails to appear as promised.

L 3103 COMPLETING THE CITATION:

Revised 07-01-22

Officers are required to use an electronic citation (“e-cite”) system when issuing any citation, except when experiencing technical issues with any of the following:

- E-cite handheld device
- E-cite printer
- Designated e-cite server

Information required on the face of the citation must be filled in as completely as possible. In securing a violator’s name, address, description, etc., an officer must exercise the same care as though the information was to be used for a warrant. Where information is not available, the word “none” is used in the proper space. Citations are not issued for offenses without identifiers such as driver’s license number, date of birth, or permanent resident card, in addition to the name and physical description.

Paper citations: The defendant’s copy of the citation is given to the violator after they sign it.

Electronic citations: A completed paper copy may be printed prior to the violator signing the e-cite. Once the violator signs the electronic citation device, the officer may then provide the previously printed, un-signed paper copy to the violator. The e-cite will later upload with the violator’s signature present. If a violator requests a copy of the citation with their signature present, one shall be provided.

L 3104 THUMBPRINT ON PAPER CITATION OR WITH AN ELECTRONIC CITATION:

Revised 07-01-22

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In any case in which a paper citation is issued to a person arrested for an infraction, except as specified in sections 40302, 40303, 40305, and 40305.5 of the Vehicle Code, or for a misdemeanor, including any city or county ordinance, an officer shall require the arrestee to place a right thumbprint on the citation if the arrested person has no driver's license or other satisfactory evidence of identity in their possession.

When a paper citation is issued and the officer reasonably believes the identification provided is either counterfeit or does not belong to the arrestee, the officer shall require a right thumbprint to be placed on the citation. If the arrestee has a missing or disfigured right thumb, the Department may require a left thumbprint or fingerprint, and the officer will indicate which thumb or finger was used. The print should be placed at the bottom area of the citation where the space for the diagram appears. If obtaining a thumbprint poses a threat to officer safety, officers are not required to take one.

When issuing an electronic citation, officers will utilize a fingerprint card (Form 200-10E) available from Central Supply. The violator's thumbprint will be placed on the front of the card (matte side), with the case number, date, officer, badge number, etc. The issuing officer will take a digital photograph of the completed fingerprint card using the e-cite's integrated image capture feature. The image of the completed fingerprint card will upload when the e-cite is uploaded/synced. The fingerprint card is not considered evidence and may be disposed of after it is photographed.

L 3104.1 PHOTOGRAPHING VIOLATORS AND ARRESTEES WITHOUT SATISFACTORY IDENTIFICATION:

Added 07-01-22

Regardless of issuing a paper citation or electronic citation, if the violator has no driver's license or satisfactory evidence of identity in their possession, or the officer believes the identification provided is counterfeit or does not belong to the violator/arrestee, an officer may photograph the violator using a Department issued camera or the image capture feature in the e-cite system. All photographs shall be uploaded to aid in identifying the violator.

L 3105 BOOKING AT A LATER TIME:

Revised 02-08-19

In all cases in which an officer has issued a criminal citation for a misdemeanor violation in lieu of a physical arrest and the defendant is to be booked at a later time, the officer will instruct the defendant to appear at the Fingerprint Unit for fingerprinting prior to the date set for arraignment. The Operations Support Services Division performs this service from 0800-1500 hours, Monday thru Friday, with the exception of holidays. Officers will instruct individuals requiring booking before arraignment that failure to appear at the Fingerprint Unit will result in the court returning the individual to the Police Department for processing.

EXAMPLE: Petty theft cases where state law requires that persons arrested must be fingerprinted. In such cases, officers will indicate that booking is required on the "Notice to Appear" (Form 200-15).

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**L 3106 RESPONSIBILITY OF OPERATIONS SUPPORT SERVICES DIVISION MEMBERS
- DELAYED BOOKING:**

Operations Support Services Division members, by affixing their signature, will indicate on the reverse side of the defendant's copy of the citation that the defendant has been booked. The violator will then be instructed to appear in court at the arraignment time indicated on the citation.

L 3107 BOOKING AND CITABLE VIOLATIONS COMBINED:

When officers book an adult subject into the County Jail, the subject is booked for all charges; a citation is not used.

EXCEPTION: When the offense is a marijuana violation which would normally require a citation, the officer will document the violation in a General Offense Report (Form 200-2-AFR). A criminal citation is not issued, per Duty Manual section L 3207 - CONCURRENT ON-VIEW Violations.

EXCEPTION: When an arrest is made pursuant to a warrant and a citable violation is discovered, the officer making the warrant arrest may issue a citation for the citable violation at the time of booking and report the incident in a General Offense Report (Form 200-2-AFR).

L 3108 CRIMINAL CITATIONS DURING BOOKING PROCESS:

Where officers have the option to issue a criminal citation, such issuance may occur at any time prior to the Department of Corrections taking custody of the arrestee. The process of "taking custody" is complete whenever all the tasks required of an officer during the booking process have been completed and the officer is free to return to service. Officers will, when deciding whether or not to issue a criminal citation during the booking process, assess all the elements listed in Section L 3102 (Procedure Prior to Issuing). When a citation is issued, the booking process is discontinued and the citation issued in accordance with established procedures.

L 3109 TIME OF ARRAIGNMENT:

Revised 05-16-06

All arraignments for criminal violations and court specified traffic misdemeanors which have resulted in a citation in place of a physical arrest are scheduled in the manner set and approved by the Presiding Judge of the Superior Court. Extreme care must be taken to see that the date on which the arrested person is required to appear in court is not a Saturday, Sunday or holiday. In instances when the date falls on a weekend or holiday, appearances are scheduled for the next available court date. A calendar should be checked each and every time a citation is issued in place of a physical arrest.

L 3110 TRAFFIC CITATIONS TO JUVENILES ARRESTED:

Revised 07-01-22

Whenever a juvenile is admitted into Juvenile Hall for traffic violations, except Sections 10851 through 10854 of the California Vehicle Code, the arresting officer will also issue a traffic citation. Paper citations issued to juveniles for Reckless Driving are accompanied by notes on the pink copy or in the Notes section of the e-cite and/or a Juvenile Contact Report (County Form 2259). Under Juvenile Court law, the citation is the legal means by which the juvenile

is brought before the Juvenile Court Traffic referee and the means by which this information is transmitted to the Department of Motor Vehicles.

L 3111 CITATIONS FOR MUNICIPAL CODE VIOLATIONS:

In adult cases involving San Jose Municipal Code infractions, where no follow-up is required and where no property or evidence is taken into custody, officers will record the facts and circumstances of the incident on the Department's copy of the citation, similar to the process used when issuing a traffic violation citation - the General Offense Report (Form 200-2-AFR) is not used.

Officers will set a court date as in citations for other criminal offenses.

L 3112 CONCURRENT VIOLATIONS OF DIFFERENT CODES:

Citable violations from different statute codes are listed on the same citation form (i.e., C.V.C., P.C., and Muni Code).

L 3113 GUIDELINES FOR THE ISSUANCE OF CITATIONS FOR MISDEMEANOR ON-VIEW ARRESTS AND WARRANT CITATION RELEASE:

Revised 07-14-23

Nothing in this section prevents an officer from first booking an arrestee before release.

All persons arrested where any of the following circumstances exist are ineligible for citation release and shall be booked at a jail facility or administratively (e.g., paper booking at a hospital):

- The subject cannot provide satisfactory evidence of personal identification
- The subject demands to be taken before a magistrate
- The subject refuses to sign the citation

All persons arrested for "on-view" misdemeanor violations, or misdemeanor or infraction warrants for any of the following are ineligible for citation release and shall be booked at a jail facility or administratively, or released to comport with Duty Manual Chapter L 3600 - INFORMANTS:

- A felony or wobbler
- The offense involves domestic violence (including but not limited to PC 273.5; PC 242-243(e); PC 242-243(e)(1); PC 646.9 (Stalking); PC 273.5(e) (Domestic Violence with a prior conviction within 7 years); PC 422 (Felony), or PC 273.6
- The subject is arrested for a violation of any protective court order

In all circumstances, unless articulable and extenuating circumstances exist, all persons arrested for "on-view" misdemeanor violations, or misdemeanor or infraction warrants for any of the following should be booked at a jail facility or administratively:

- The subject was arrested and released for a similar charge (other than PC 647(f) or H&S 11550) in the previous twenty-four (24) hours, or there is a reasonable likelihood the safety of persons or property is imminently endangered by the

release of the subject

- The arresting officer or a supervisor determines there is likelihood of reoccurrence or a risk to persons or property if the subject is cited and released
- The offense involves violence (including but not limited to PC 136.1, 236/237, 368(f), 422, and 452(d), and brandishing a weapon (including an imitation firearm)
- The offense involves a probation violation (including but not limited to PC 1203.2(a) or PC 1203.2(b))
- The offense involves sexual assault (including but not limited to PC 314, 290, 243.4, and 647.6(a)(1))
- The offense involves a firearm (including but not limited to PC 30305(a)(1))
- The offense involves delaying, resisting, or obstruction, including but not limited to PC 135, 148, 148.5, 148.9 and VC 2800
- The offense involves being an accessory after the fact, harboring, concealing, or aiding a fugitive, or escape to avoid any punishment pursuant to crimes including but not limited to PC 32
- The subject is arrested for any on-view impaired driving. Absent other eligibility guidelines, warrants for impaired driving or CVC 23247(e) are eligible for cite and release
- The subject is arrested for any on-view or warrant for PC 192 or on-view violation of CVC 23247(e), 40302, or 40303
- The subject is a danger to themselves or to others due to intoxication, influence of narcotics, or requires immediate medical care
- The prosecution of the offense or offenses for which the person is arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the arrestee
- There is reason to believe the subject would not appear at the time and place specified in the notice to appear (e.g., three or more failures to appear in the previous three years)
- The bail of any one warrant is set for \$15,000 or more
- The subject has three or more active warrants for Failure to Appear
- Warrant is listed as “No Bail”, “No SCIT”, “No Cite Release” and/or any other terminology indicating cite and release is inappropriate.

CITATION RELEASE PROCEDURE

A person taken into custody in the field, either for an on-view misdemeanor charge, or a misdemeanor or infraction warrant, who is eligible for citation release under this policy, should be cited and released in the field or transported to the Main Jail for identification and then cited and released.

In-Field On-View Misdemeanor Cite and Release

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Officers will issue an electronic citation unless experiencing any of the technical issues listed in Duty Manual section L 3103 – COMPLETING THE CITATION.

In-Field Misdemeanor or Infraction Warrant Cite and Release

Officers will adhere to the above guidelines to determine the subject's eligibility for cite and release. Officers will complete the following steps:

1. Have the warrant confirmed through Communications and determine the following:
 - Court date
 - Court address
 - Court telephone number
 - Whether booking is required.
2. Advise Communications the subject is being cited for the warrant. Communications members will notify the Warrants Unit the subject is being cited and request the warrant be removed from the Wanted Person System. If the officer is unable to complete the citation due to an unforeseen circumstance (e.g., Code 3 Fill or priority call), the officer will notify Communications the subject was not cited then Communications will advise the Warrants Unit to reinstate the warrant.
3. Complete the Warrant Citation / Notice to Appear (Form 491). This form is used only for eligible subjects who are cited for outstanding warrants.

Note: Officers will complete a separate Warrant Citation / Notice to Appear (Form 491) for each warrant involving a separate court. If there is insufficient space to list all of the warrant charges, continue listing the charges on an additional Warrant Citation / Notice to Appear (Form 491), completing all of the information on the form. Above the CEN number, hand-write how many pages exist in the complete document (e.g., Page 1 of 2, Page 2 of 2, etc.).

4. Affix the subject's right thumbprint to the face sheet and the pink copy of the Warrant citation / Notice to Appear (Form 491).
5. Have the subject read and sign the Warrant Citation / Notice to Appear (Form 491), explain the pre-booking requirement, which is described on the back of the form, then give them the yellow copy.
6. By the end of shift, the Warrant Citation / Notice to Appear (Form 491) must be placed in the "Warrants Only" drop box in the BFO Report Writing Room or taken directly to the Warrants Unit. The Warrants Unit will attach the Warrant Citation / Notice to Appear (Form 491) to the warrant or warrant abstract and forward it to the appropriate court(s).

Persons arrested pursuant to out-of-county warrants shall also be cited, when eligible. In addition to the above process, a General Offense Report (Form 200-2-AFR) is required to document the occurrence.



L 3200 - MARIJUANA LAW VIOLATIONS:

Revised 02-18-18

Whenever an officer makes an arrest involving a marijuana law violation, the criminal citation is employed as an alternative to physical arrest if the law or proper authority mandates its use. When the use of criminal citation is not mandated by law or required by proper authority, violators are booked. Officers will not cite or arrest physicians, primary caregivers, or patients possessing or using marijuana or concentrated cannabis for legitimate medicinal purposes in accordance with 11362.5 H&S. Officers will not cite or arrest persons cultivating, possessing, or using marijuana or concentrated cannabis for personal use if doing so in accordance with the Adult Use of Marijuana Act (Proposition 64) or the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (MAUCRSA).

PROCEDURE

L 3201 MMIC CARDS AND CULTIVATION, POSSESSION OR USE OF MARIJUANA:

Revised 02-18-18

When encountering marijuana or concentrated cannabis in a field situation, officers will first determine if the person cultivating, possessing, or furnishing the drug is age 21 or older, has a valid Medical Marijuana Identification Card (MMIC), or a doctor's written or oral recommendation for its medical use.

Medical Marijuana Identification Card Protocol

California State Medical Marijuana Identification Cards (MMIC) are issued by individual counties. A MMIC issued by any California county is valid anywhere in the State. Each MMIC issued by the California Department of Health Services (CDHS) will contain the following information:

- A unique user identification number
- Date of expiration
- Name and telephone number of the county program that has approved the application
- Internet address and phone number used to verify the validity of the MMIC
- Photo identification of the cardholder

A MMIC can be easily confused with a card provided by a doctor's office. A MMIC will not have the patient's name printed on the card. It will bear a photograph of the person to whom it has been issued and a unique identification number. A plastic card with the patient's name printed on it is not a MMIC; it shall be treated as a doctor's recommendation for the purposes of determining an appropriate course of action and possession limits described in L 3201.

Officers can verify the validity of the MMIC via Communications. Communications will verify the MMIC is valid by logging on to https://mmic.cdph.ca.gov/MMIC_Search.aspx and running the MMIC serial number through the provided verification process.

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Officers will not arrest or cite anyone possessing a valid Medical Marijuana Identification Card authorized by the CDHS and issued by a county health department for possessing, growing or transporting marijuana or concentrated cannabis in the amounts within the following limits as permitted under the Medical Marijuana Program Act (MMPA):

- No more than eight (8) ounces of dried marijuana (mature processed flowers or buds),
- No more than six (6) mature (flowering) plants, or
- No more than twelve (12) immature (non-flowering) plants.

A person, with or without a MMIC, who possesses a doctor's recommendation stating the quantity limits set out above do not meet the qualified patient's medical needs, in which case the qualified patient or primary caregiver may possess a larger amount of marijuana consistent with the patient's medical needs, will not be arrested or cited by officers if that person possesses a quantity of marijuana that does not exceed the person's medical needs as stated in the doctor's recommendation.

Officers will not cite or arrest anyone who does not have a MMIC if they are: (1) age 21 or older (see below), (2) a qualified patient, (3) or a designated primary caregiver.

Officers will not arrest anyone age 21 or older who:

- Possesses, processes, transports, purchases, obtains, or gives away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;
- Possesses, processes, transports, purchases, obtains, or gives away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;
- Possesses, plants, cultivates, harvests, dries, or processes not more than six (6) living marijuana plants in a residence (per residence, not per person in a residence) and possesses the marijuana produced by the plants (in accordance with restrictions in section 11362.2 H&S);
- Smokes or ingests marijuana or marijuana products in private; or
- Possesses, transports, purchases, obtains, uses, manufactures, or gives away marijuana accessories to persons 21 years of age or older without any compensation whatsoever

Marijuana and marijuana products involved in any way with conduct deemed lawful under section 11362.1 of the Health & Safety Code are not contraband nor subject to seizure, and no conduct deemed lawful by section 11362.1 of the Health & Safety Code shall constitute the basis for detention, search, or arrest.

Officers will not impound or seize any marijuana that any of the above persons have in their possession unless:

- For persons age 21 or older without a doctor's recommendation, the amount exceeds:
 - Twenty-eight and a half (28.5) grams not in the form of concentrated cannabis;

- Eight (8) grams of concentrated cannabis;
- Six (6) live plants, or the amount produced by those plants, at a residence
- For persons under age 21, any amount unless they possess either a MMIC or a valid written or verbal doctor's recommendation for cannabis;
- For persons with a MMIC, regardless of age, the amount exceeds eight (8) ounces of dried cannabis, six (6) mature (flowering) plants or twelve (12) immature (not flowering) plants; or
- For persons with or without a MMIC, but in possession of a valid written or verbal doctor's recommendation, regardless of age, the quantity does not exceed the person's current medical needs as stated in the doctor's recommendation.

If the investigating officer determines that a marijuana law violation has occurred, the officer shall seize all marijuana and book it into evidence in accordance with established procedures.

L 3201.1 MEDICAL MARIJUANA DEFINITIONS:

Revised 02-18-18

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health or safety of that patient or person. A primary caregiver must be at least 18 years of age, unless the primary caregiver is:

- The parent of a minor child who is either a qualified patient or a person with an identification card, or
- A minor person 14 years of age or older who is otherwise entitled to make medical decisions under state law.

"Qualified patient" means a person who is entitled to the protections of H&S 11362.5 but who does not have an identification card issued pursuant to the MMPA.

L 3201.2 PERSONS WITHOUT A VALID MEDICAL MARIJUANA IDENTIFICATION CARD:

Revised 02-18-18

If the person(s) possessing or furnishing marijuana does not have a valid Medical Marijuana Identification Card but claims to be: (1) a qualified patient, or (2) the patient's designated primary caregiver, officers will determine if the person meets the criteria for exemption from criminal liability under the Adult Use of Marijuana Act (AUMA), the Compassionate Use Act (CUA), or the Medical Marijuana Program Act (MMPA). This determination includes ascertaining whether the person (1) is age 21 or older and within the possession limits and circumstances set forth in the AUMA (defined in H&S 11362.1 and 11362.2), (2) has a written or oral recommendation or approval for medical use by a physician, or (3) meets the criteria for being a primary caregiver under the CUA and MMPA. Officers shall look at the totality of the circumstances using the same reasonable person standard utilized in other cases for determining whether there is probable cause for citation or arrest under applicable sections of the California Health and Safety Code or other State codes. If the doctor's recommendation can be substantiated, no enforcement action should be taken.

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Officers may cite or arrest when probable cause exists that the person is violating applicable sections of the California Health and Safety Code, or if the person claims they have a doctor's recommendation for cannabis, but no medical documentation can be provided and the person's explanation as to a physician's recommendation or approval is unreasonable or cannot be substantiated. In the absence of medical documentation, officers will determine whether under the totality of the circumstances it is reasonable to believe that the marijuana found in possession is consistent with personal adult use as allowed under the Adult Use of Marijuana Act (Proposition 64, or AUMA) or personal medical use by a qualified patient as allowed under the CUA and MMPA. If enforcement action is taken, Officers will document:

- the names, ages, addresses, phone numbers, and capacity of any involved parties,
- the duration of care,
- nature of the suspect's illness,
- amount the suspect uses at any given time to alleviate the symptoms of their illness,
- quantity of marijuana in their possession,
- any related paraphernalia in their possession,
- date of physician's approval or recommendation for marijuana use,
- manner in which the patient uses the marijuana (eating it, smoking it, or other form of use) and
- any other pertinent information when a suspect claims to be either a qualified patient, or the patient's designated primary caregiver.

Persons arrested or receiving a citation who claim, but cannot substantiate, that they have a valid doctor's recommendation for medical marijuana should be notified by the arresting or citing officer to call, or have their attorney call if they are represented, the District Attorney's Office as soon as possible if they can produce any verification of a physician's recommendation or authorization for marijuana use.

Possession of a MMIC does not protect individuals from federal prosecution or seizure of marijuana plants under the Federal Controlled Substances Act.

L 3202 ADULT PROCEDURE:

The following procedure will be adhered to in all marijuana law violations involving adults.

L 3203 ARRESTS FOR MARIJUANA OFFENSES:

Revised 02-18-18

Officers arresting an adult for a marijuana law violation other than a violation of 11359(c) H&S, 11359(d) H&S, 11358(d) H&S, or 11360(a)(3) H&S, will utilize the criminal citation and field release the violator whenever all of the following elements are satisfied:

- The violator provides satisfactory evidence of identity
- The violator gives their written promise to appear in court

L 3204 REFUSAL TO SIGN CITATION OR INSUFFICIENT IDENTIFICATION:
Whenever a refusal to sign the citation or a lack of satisfactory identification occurs, the violator is booked.

L 3205 POSSESSION, TRANSPORTATION OR GIVING AWAY OF MARIJUANA MORE THAN ONE OUNCE:
Deleted 02-18-18

L 3206 POSSESSION OF CONCENTRATED CANNABIS:
Deleted 02-18-18

L 3207 CONCURRENT ON-VIEW VIOLATIONS:
Revised 02-18-18

Officers will not include possession, transportation or giving away of marijuana as an additional charge when booking an arrestee for other violations. Instead, the marijuana law violation is included in the General Offense Report (Form 200-2-AFR) - no criminal citation is issued.

L 3208 VIOLATIONS DISCOVERED DURING WARRANT ARRESTS:
When an arrest is made pursuant to a warrant and a mandatory citation violation is discovered, the officer making the warrant arrest will issue a citation for the mandatory citation violation at the time of booking and report the incident in a General Offense Report (Form 200-2-AFR)

L 3209 JUVENILE PROCEDURES:
Adhere to the following procedures in all marijuana law violations involving juveniles.

L 3210 ARRESTS OF JUVENILES FOR MARIJUANA OFFENSES:
Revised 02-18-18

Officers arresting a juvenile for a marijuana law violation will issue a Juvenile Citation (JCR) and release the juvenile whenever the following elements are satisfied:

- The juvenile provides satisfactory evidence of identity
- The juvenile gives his written promise to appear in Juvenile Court when notified

Whenever possible, officers will notify a parent or guardian of the issuance of a Juvenile Citation (JCR). Officers must also complete a General Offense Report (Form 200-2-AFR) document each entity involved in the incident.

L 3211 REFUSAL TO SIGN CITATION OR INSUFFICIENT EVIDENCE OR IDENTITY:
A juvenile refusing to sign a JCR Citation or failing to produce satisfactory identification is placed in a Juvenile Center.

L 3212 POSSESSION, TRANSPORTATION OR GIVING AWAY OF MARIJUANA MORE THAN ONE OUNCE:
Deleted 02-18-18

L 3213 POSSESSION OF CONCENTRATED CANNABIS:*Revised 09-18-06*

Whenever any juvenile possesses, transports or furnishes any form or amount of "concentrated cannabis", and it is determined that the concentrated cannabis is not for medical purposes as provided in section 11362.5 H&S, the violator is processed through the Juvenile Center.

L 3214 CONCURRENT VIOLATIONS:

If independent grounds for an arrest occurs and the juvenile is processed through the Juvenile Center, all marijuana law violations are included on the Juvenile Contact Report at the time of processing. A separate juvenile citation is not issued.

L 3215 USE OF SUBSECTIONS ON FORMS:

Whenever a citation is issued or booking procedure used, the appropriate subsection must be used on all appropriate forms. Examples: H&S 11357(a) or H&S 11357(b).

L 3216 CULTIVATION OF MARIJUANA:*Revised 02-18-18*

Officers occasionally receive information from citizens or informants regarding marijuana cultivation. These situations provide the opportunity to conduct investigative follow-up and are not of immediate exigency. In these situations, the officer can contact the Covert Response Unit or the METRO Unit for assistance and direction in attempting to determine the appropriate course of action.

If the person cultivating the marijuana can be identified and their cultivation or possession falls within the protections of the Adult Use of Marijuana Act (AUMA), the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (MAUCRSA), the Compassionate Use Act (CUA), the Medical Marijuana Program Act (MMPA), or the San Jose Municipal Code (SJMC), then the possibility of arresting the person or seizing the property can be eliminated because the person has not committed a criminal violation.

A more common situation arises when a citizen who has discovered cultivated marijuana during the course of their normal business calls officers to report the incident. In these cases, officers at the scene can conduct the necessary investigation and determine whether any criminal violations are present.

In cases where a person is cultivating or in possession of marijuana, and the marijuana they are cultivating or possesses falls outside the quantities and circumstances set forth in the Adult Use of Marijuana Act (AUMA), the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (MAUCRSA), or the person makes an unsubstantiated claim they are a qualified medical patient or primary caregiver pursuant to the Compassionate Use Act (CUA) or the Medical Marijuana Program Act (MMPA), or the person is in violation of local ordinance (generally San Jose Municipal Code Chapter 6.88, specifically 6.88.900 Personal Use Cultivation Requirements and Regulations), the officer will take action appropriate for the circumstances (e.g., investigate, write a General Offense Report, issue a citation, or arrest and book into jail).

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In cases where a violation of law has been established, the investigating officer will do the following:

- Conduct a thorough investigation using established investigative techniques
- Photograph the scene
- Obtain statements from involved parties
- Seize evidence (if lawfully allowed to do so)
- If the suspect is identified, document their involvement, cite & release or book as appropriate for the totality of the circumstances
- Document the investigation in a General Offense Report

L 3217 RETURNING MARIJUANA:

Revised 02-18-18

In cases where marijuana has been seized as personal property for safekeeping or as evidence under state law and it is later discovered that the person from whom it was seized is legally entitled to use, possess or cultivate the marijuana, the Department has the obligation to offer to return the seized property as soon as possible after receiving sufficient proof of the person's entitlement under the Adult Use of Marijuana Act, the Compassionate Use Act, the Medical Marijuana Program Act, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Under any of these circumstances, the property shall be treated as any other personal property needing to be returned to its owner. The Property and Evidence Control Unit shall coordinate the Department's action in complying with this section. Marijuana shall only be returned to the owner from whom it was booked (or a qualified person acting on their behalf), and only after establishing their identity and their right to possess it under the Adult Use of Marijuana Act, the Compassionate Use Act, the Medical Marijuana Program Act, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

L 3218 CANNABIS BUSINESSES:

Added 02-18-18

Effective January 1, 2018, the State of California began issuing licenses for commercial cannabis activity. Commercial cannabis activity includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, sale, exchange or barter of cannabis and/or cannabis products for any compensation whatsoever. State licenses can either be an "A" license, indicating the licensee can engage in cannabis activities for the adult-use market, or an "M" license, indicating the licensee can engage in cannabis activities for the medical use market. A licensee can be issued both licenses and conduct both "A" and "M" activities at or from the same location, if they hold both license types for the given activity.

Businesses or collectives engaging in commercial cannabis activity must have both a local authorization, license or permit and a State license for the same activity.

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In San Jose, there are currently sixteen (16) cannabis businesses operating with local authorization (also known as collectives or dispensaries). These businesses hold a "Notice of Completed Registration" issued by the City Manager for each cannabis activity they are authorized to conduct. These businesses must also obtain a State license for the corresponding activity. Any cannabis business in San Jose without a Notice of Completed Registration is not operating with a local authorization and is engaging in commercial cannabis activity in violation of State law.

Registered cannabis business employees are issued an employee identification badge by the Chief of Police. Manager identification badges are purple and employee identification badges are green. Officers investigating incidents involving a registered collective shall ask to speak to a manager, identified by a purple badge.

Cannabis businesses in San Jose are required to report crimes occurring at their location, similar to cardrooms. Patrol Officers or Community Service Officers called to a cannabis business reporting criminal activity shall gather any evidence, take statements, and write a General Offense report documenting the alleged criminal activity. When an officer completes a report involving a crime committed at, near, or involving registered cannabis business, the officer shall document the incident in a General Offense report with an added offense code of "RPT" and an extension "6."

Cannabis businesses operations are regulated by the Police Department's Division of Cannabis Regulation. Operational requirements can be found in San Jose Municipal Code Chapter 6.88 and the City Manager Regulations for Medical and Non-medical Cannabis. When an officer documents a municipal violation committed by a cannabis business, the offense code of "MUNI" with an extension of "7" shall be used. When an officer documents a municipal violation committed by an individual, the offense code of "MUNI" with an extension of "8" shall be used.

L 3219

CANNABIS DELIVERY BUSINESSES:

Added 02-18-18

Cannabis delivery is allowed by State law if the cannabis delivery business holds a local authorization, license or permit and a corresponding State license for the same activity. In San Jose, cannabis businesses in possession of a Notice of Completed Registration for Delivery are locally authorized to deliver cannabis to customers. Such a business must also have a State license. They must adhere to the provisions and requirements found in SJMC Chapter 6.88 and the City Manager Regulations for Medical and Non-medical Cannabis, and State regulations for delivery services.

Cannabis delivery to or from a location in San Jose by any person or business not in possession of a Notice of Completed Registration for Delivery and a corresponding State license is prohibited. However, a cannabis delivery business passing through San Jose (originating outside of San Jose and delivering to a destination outside of San Jose) is not prohibited, if they possess a State license for delivery. Deliveries are not allowed between the hours of 10:00 p.m. and 6:00 a.m.

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Officers coming into contact with a person claiming to be a cannabis delivery driver shall do the following:

- Verify the driver has a valid driver's license, registration, and proof of insurance
- Ascertain the name of the cannabis business for which they are delivering
- Verify the person is in possession of a Notice of Completed Registration for Delivery for the cannabis business for which they are delivering (if a San Jose cannabis business)
- Verify the person is in possession of a State license for delivery for the cannabis business for which they are delivering
- Determine the person's point of origin and their destination
- Obtain the delivery manifest (detailed accounting of the cannabis they have in their possession, minus any deliveries they may have already completed)
- If the person claims to be working for a San Jose registered cannabis business, obtain their employee identification badge:
 - Their badge should not be expired.
 - Their badge should have a "Registered Collective Driver" sticker below their picture.
 - Verify there is a dual-facing video camera operating in the vehicle.
 - Verify the cannabis is being stored in a locked, secure container bolted, cabled, or otherwise attached to the inside of the vehicle.

Officers may inspect the quantity of cannabis in the vehicle and compare it to the manifest and driver's statements of any completed deliveries. If all of the above information can be verified, no further action need be taken. If an officer suspects the delivery is being conducted in violation of local or state regulations, but the conduct is not criminal in nature, the officer shall document the incident in a General Offense Report ("GO") with an added offense code of "RPT" and an extension of "6". Non-criminal violations can lead to administrative penalties and fines for these businesses.

Example: An officer stops a vehicle for a traffic violation and discovers the driver is conducting marijuana deliveries for a San Jose registered cannabis business/collective. The person stopped has local and State licenses for delivery, a SJPd issued employee identification badge, and the marijuana is locked in a secure container; however, the time is 11:00 p.m. Deliveries are not allowed between the hours of 10:00 p.m. and 6:00 a.m.

This violation shall be documented for administrative follow-up by the Police Department's Division of Cannabis Regulation. Documentation shall include driver statements and photos of licenses, identification badges, the delivery manifest, cannabis and cannabis products, and how the cannabis was being stored. This example involves a San Jose registered cannabis business/collective, so the appropriate offense code is "MUNI" with an extension of "7." If the suspected delivery was conducted by a non-San Jose

cannabis business, the appropriate offense code would be "INFO" with an added offense code of "RPT" and an extension of "6."

If an officer has reasonable suspicion that the delivery is not being conducted by a business, but rather an individual selling marijuana in violation of state marijuana laws, the officer shall take appropriate action for the totality of circumstances and in accordance with Duty Manual section L 3203 - ARRESTS FOR MARIJUANA OFFENSES.

**L 3300 – STREET CHECKS:***Revised 09-25-21*

A Street Check is a useful and effective means of maintaining the safety and welfare of the community. By remaining alert, perceiving circumstances that may indicate crime, contacting suspicious individuals, and conducting Street Checks, officers serve the community by preventing, discovering, and solving crimes. Street Checks are authorized during consensual encounters, detentions, and arrests.

Examples of Street Checks are observations of suspicious persons or known criminals, suspicious vehicles, or records of conversations between police officers and any number of different types of subjects (e.g., suspects, witnesses, victims, guardians, etc.). Street Checks, on their own, do not develop probable cause and are not considered an arrest.

PROCEDURE**L 3301 STREET CHECKS - DEFINITION:***Revised 09-25-21*

A feature in Versadex that creates a record of a contact between an officer and a person, even if no crime or other police incident has occurred.

L 3302 STREET CHECKS DURING CONSENSUAL ENCOUNTERS:*Revised 09-25-21*

An officer may conduct a consensual encounter with anyone, at any time, for any reason. The officer may ask the persons anything, including questions regarding criminal activity and consent to engage in investigative techniques, such as Street Checks. The person is under no legal obligation to participate in a consensual encounter. Absent exigent circumstances, officer safety, or the contact developing into a detention or arrest, the officer may not give orders to a person during a consensual encounter. Street Checks completed during consensual encounters will be entered into Versadex.

L 3302.5 STREET CHECKS DURING DETENTIONS:*Added 09-25-21*

If an officer has a 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 Street Check or complete a General Offense Report (Form 200-2-AFR). 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 based on reasonable suspicion.

L 3303 REASONABLE SUSPICION:*Revised 09-25-21*

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 detain that individual for a

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reasonable period of time to conduct an investigation. The officer may exercise this authority in any place the officer has a right to be. Both pedestrians and individuals in vehicles may be detained pursuant to reasonable suspicion. The following elements must be present before a reasonable suspicion detention is authorized:

- The officer has reasonable suspicion that some unusual or out of the ordinary activity is or has taken place
- There is some indication that the individual under suspicion is connected to the unusual activity
- There is some suggestion that the unusual activity is related to crime
- All three elements must be present before a reasonable suspicion detention is conducted.

The term "reasonable suspicion" is not capable of precise definition. It is more than a hunch or mere speculation on the part of the officer but less than the probable cause necessary for an arrest.

Reasonable suspicion 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. In addition, officers will strive to utilize factors which can be documented later. Mere hunches or guesses are not adequate.

L 3304

USE OF HANDCUFFS DURING REASONABLE SUSPICION DETENTIONS:

Added 08-08-22

The purpose of applying handcuffs and other approved restraint devices on a person is to maintain physical control and reduce the possibility that a situation may escalate necessitating force.

When conducting a detention, officers may handcuff any detainee they believe reasonably warrants that degree of restraint. However, the application of handcuffs during detentions should not be considered standard operating procedure in all circumstances. Each situation should be evaluated considering the specific articulable facts known to the officer at the time. Those facts include but are not limited to the following:

- The detainee is uncooperative
- The officer has a reasonable belief the detainee could be armed
- The officer has information the detainee is about to commit a violent crime
- The detainee matches the description of a person who is reasonably believed to have committed a violent crime
- The detainee acts in a manner raising a reasonable possibility of danger or flight
- The detainees outnumber the officers in the immediate area

Handcuffs should be removed within a reasonable amount of time after it is determined the detainee is no longer a threat and probable cause for arrest does not exist.

L 3305 USE OF FORCE TO DETAIN:*Revised 09-25-21*

Officers will use only that amount of force reasonable under the circumstances to effect the stop of a person. The means used may be a verbal request, an order, or the use of physical force. However, when using physical force, officers shall consider whether the amount of force needed to effect the detention is reasonable based on the severity of the crime at issue, whether the subject poses an immediate threat to officers or others, and the subject's level of resistance or attempt to evade by flight.

L 3306 REFUSAL TO COOPERATE:*Revised 09-25-21*

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 probable cause if it would be reasonable for an innocent individual to cooperate. An example is as follows:

- An individual fitting the description of a burglary suspect is observed walking down the sidewalk in the vicinity of a recent "channel lock" burglary. The time is 0400 hours. Officers stop and question the individual who then refuses to give a name and address. The officers then discover a pair of "channel lock" pliers on the person. Under these circumstances, the officers may attach some weight to a refusal to answer the routine questions regarding identity and address. In light of all the surrounding circumstances, an arrest for burglary would be proper. Nevertheless, officers cannot compel an individual to cooperate in a Street Check.

L 3307 TREATMENT OF DETAINED INDIVIDUALS:*Revised 09-25-21*

An officer will act with as much restraint and courtesy toward individuals being stopped as is possible under the circumstances and will identify themselves as a law enforcement officer as soon as practical. During the interview, the officer initiating the stop will advise the stopped individual of the reason and purpose of the Street Check.

L 3308 MOVING THE DETAINED INDIVIDUAL:*Revised 09-25-21*

Officers should not transport or otherwise move a stopped individual from the location where the stop is made except to verify answers given and only when no other method of verification is available. Nevertheless, the distance such an individual may be moved is extremely limited and a reasonable standard would be to limit the distance to 100 feet or less. Stops are intended by law to be on-the-spot inquiries. When a suspect is moved farther than a limited distance, courts will be more likely to conclude that an arrest has in fact been made, thus causing problems pertaining to developing probable cause to arrest.

L 3309 DURATION OF STOP:*Revised 09-25-21**Public Version**Security Procedures Redacted Pursuant to California Government Code 7923.600**Page 374*

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, including the completion of a Street Check. Should further suspicious circumstances arise during this period, 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/or the reliability of the answers given. However, officers should not detain a person in excess of this time limit merely to ask further questions.

L 3310 DOCUMENTING A STREET CHECK:

Revised 09-25-21

Since a detention is based on suspicious activity that relates to crime, officers should complete a Street Check in the Mobile Report Entry (MRE) when a detention occurs. In addition, officers initiating a detention are encouraged to add a text document detailing the specific facts and circumstances which justified the stop. If warranted, a General Offense Report (Form 200-2-AFR) or Narrative/Supplemental Report (Form 200-3A-AFR) can also be completed.

L 3311 PHOTOGRAPHING PERSONS DURING DETENTIONS:

Added 07-25-05

Officers may take photographs of detained persons in relation to the specific crime for which the person is being detained. The following information will need to be documented in a General Offense Report (Form 200-2-AFR), Street Check, Narrative/Supplemental Report (Form 200-3A-AFR), or any other investigative report completed during the contact with any person being photographed:

- The legal justification for the detention
- Details regarding the crime and the detainee's relationship to that crime, case number, name and DOB of person photographed, date of photograph and the photographing officer's name and badge number
- If consent is required, the act of consent is recorded in the report. The exact verbal statement providing consent is documented (Example: "Go ahead, I don't care"). Merely writing "consent" is insufficient

If the person is believed to be a gang member, the information on the accompanying documentation should include the subject's claim of gang affiliation or additional gang membership criteria, such as those listed in the Street Check.

Note: Consent to take a person's photograph is not needed when a subject is under arrest (including citable offenses) or when taking pictures of an individual in criminal investigation surveillance.

L 3312 REQUESTING/DEMANDING IDENTIFICATION FOR A STREET CHECK:

Added 09-25-21

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Consensual Encounter

An officer may ask for identification from a person during a consensual encounter. An officer may not demand identification from a person during a consensual encounter. There is no statutory requirement for a person contacted during a consensual encounter to identify oneself, unless probable cause is established during the consensual encounter.

Reasonable Suspicion

An officer may ask for identification from a person detained with reasonable suspicion. However, there is no statutory requirement for a person contacted during a detention, without probable cause, to identify oneself, unless probable cause is established during the contact.

Probable Cause

An officer may ask for or demand identification from a person detained with probable cause. Refusal to identify oneself after probable cause has been established may, under certain circumstances, constitute a violation of Penal Code section 148(a)(1).



L 3400 - CITIZEN CONTACTS:

The nature of the Department's mission 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. Officers are authorized to initiate such contacts in an approved and effective manner when necessary to achieve the Department's mission.

PROCEDURE

L 3401 CITIZEN CONTACTS - 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.

L 3402 JUSTIFICATION AND AUTHORITY:

Whenever the training, experience or knowledge of an officer indicates 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.

L 3403 CONDUCT DURING 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 was engaged in before the contact was made. However, an officer may continue to observe such a person and when additional facts warrant, conduct a Street Check (SC) or arrest.

L 3404 PHOTOGRAPHING PERSONS DURING CONTACTS:

Added 07-25-05

Taking a photograph of a person during a consensual contact will require consent from the person before taking the photograph. Documentation of the consent, as well as other pertinent information (case number, name and DOB of the person photographed, date of photograph and officer's name and badge number), shall be noted in a text document on a Street Check (SC).

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If the person provides consent, the act of consent will be recorded in the text of the Street Check. The exact verbal statement providing consent will be documented. (Example: "Go ahead, I don't care."). Merely writing "consent" is insufficient.

If the person is believed to be a gang member, accompanying documentation supporting this belief should be documented within the street check text template designated as "Gang SC". In addition, the Reason field on the SC should be "2 – Gang Validation" to ensure it is properly routed to the Gang Investigations Unit Street Check Handle (HGIUSC).

L 3405

IDENTIFICATION DURING A CITIZEN CONTACT:

Added 09-25-21

Pursuant to L 3401, a Citizen Contact is based upon consent and not upon reasonable suspicion to detain or probable cause to arrest. As a result, officers may ask for identification during a Citizen Contact. Officers may not demand identification during a Citizen Contact. The refusal or failure of an individual contacted during a Citizen Contact to identify themselves or to produce identification upon request of a police officer cannot be the sole cause for detention or arrest. In addition, officers may not threaten an individual contacted during a Citizen Contact with arrest solely upon their refusal to identify themselves.



L 3500 - PRIVATE PERSON/CITIZEN ARREST:

Added 06-24-05

California Penal Code § 837 allows a private person or citizen to place another person under arrest. Officers who are requested by a private person or citizen to receive the arrest of an alleged perpetrator must first investigate to determine if there is probable cause to believe that the accused perpetrator has committed a crime. Officers should ensure there are specific facts to lead the officer to believe the person arrested has committed the crime.

PROCEDURE

L 3501 PRIVATE PERSON/CITIZEN ARREST-DEFINITIONS:

Added 06-24-05

California Penal Code § 837 allows a private person or citizen to arrest another person: (1) for a public offense committed or attempted in their presence, (2) when the person arrested has in fact committed a felony, although not in the private person's presence, and (3) when a felony has in fact been committed, and the private person has reasonable cause for believing the person arrested to have committed it.

L 3502 RECEIVING A PRIVATE PERSON/CITIZEN ARREST:

Added 06-24-05

Officers in a field situation where a private person asks an officer to make an arrest or to receive custody of another person placed under arrest pursuant to the private person arrest authority of Penal Code § 837 shall adhere to the following procedures:

- Prior to making an arrest or accepting custody of the private person arrestee, the officer will diligently investigate the factual circumstances in order to make a determination whether probable cause exists to believe that the person to be arrested has committed a crime. This includes interviewing the complaining witness, the alleged perpetrator and any other witnesses who may have information regarding the incident.
- When the responding officer, after conducting a field investigation, determines that probable cause exists to believe that the person to be arrested has committed a crime, the officer shall exercise their professional judgment to determine the appropriate enforcement action under the circumstances.

L 3503 REFUSING A PRIVATE PERSON/CITIZEN ARREST:

Added 06-24-05

When a private person requests an officer to receive another person pursuant to a private person's arrest and the officer determines that probable cause is lacking, officers shall adhere to the following procedures:

- Officers will explain to the complaining party that officers must make an independent

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professional assessment of the factual circumstances to determine whether or not probable cause exists to support an arrest and exercise their professional judgment to determine the appropriate enforcement action to be taken when probable cause exists.

- If the person insists on making the arrest, officers shall refuse to accept custody of the arrestee. Officers may, if appropriate, provide information to the complaining party on public and private agencies and professional organizations that provide alternative methods of dispute resolution. Officers may advise the person to contact a personal attorney for advice, the Santa Clara County Bar Association for a referral or may direct them to www.sjpd.org, the Department's public website, which contains a comprehensive list of various resources for referrals.
- Officers will complete a General Offense Report (Form 200-2-AFR) detailing the allegations and factual circumstances bearing on an officer's determination to refuse to accept custody.

L 3504

PRIVATE PROPERTY TRESPASS ENFORCEMENT: UNION LABOR ACTIVITY AND EXPRESSIVE CONDUCT AT SHOPPING CENTERS AND MALLS:

Revised 02-24-14

When a person is peacefully engaged in the exercise of constitutionally or statutorily protected rights in a place that is deemed a public forum, and the person is not engaged in unprotected conduct that would constitute a separate criminal violation of state law or the San Jose Municipal Code, there is normally no probable cause to arrest the person under trespass laws (e.g., SJMC Section 10.20.140, subdivision (o) of Penal Code Section 602, Penal Code Section 602.1) at the request of the property owner or manager or other person who is lawfully in charge of the premises. The United States and California Constitutions protect from police interference the right of persons to peacefully assemble, petition, leaflet, solicit donations, seek employment, protest, picket, and engage in other peacefully conducted expressive conduct in any place that is deemed a public forum. Under the First Amendment of the United States Constitution, only publicly owned property can be deemed a public forum. However, the liberty of speech, petition, and assembly provisions of the California Constitution have been construed to deem specified private property to constitute a public forum under certain limited circumstances.

Places where persons may peacefully exercise their rights to assemble, petition, and engage in expressive conduct include, but are not limited to, publicly owned sidewalks, streets, parks, plazas and parking lots.

Shopping Centers and Malls

Under the California Constitution, private property at a shopping center or mall is considered to be a public forum if the area is designed and furnished in a way that induces shoppers to congregate for purposes of entertainment, relaxation, or conversation, and not merely to walk to or from a parking area, or to walk from one store to another, or to view a store's merchandise and advertising displays. If a shopping center or mall has common areas that, by design, are conducive to social activities, such areas may be deemed to be a public forum. If an area in a shopping center or mall constitutes a public forum, then it is considered open to persons who wish to peacefully assemble, petition or engage in other expressive conduct

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that does not unreasonably interfere with the private commercial business purposes to which the property is otherwise dedicated.

However, private walkways and store entrances that are merely designed to allow persons to walk to or from a parking area, or to walk from one store to another, to view a store's merchandise and advertising displays, or to enter or exit a store do not constitute a public forum. Private parking lots and garages at shopping centers or malls do not constitute a public forum.

Officers may arrest or accept a private person's arrest of a person refusing to leave a private walkway, store entrance, parking lot or garage or other similar area that does not constitute a public forum at a shopping center or mall regardless of whether or not the person is peacefully engaged in expressive conduct such as picketing, leafleting, soliciting donations, or soliciting signatures for petitions if the officer has probable cause to believe that the person is committing a private property trespass or if the officer has probable cause to believe that the person is committing other criminal violations of the California Codes or the San Jose Municipal Code.

Statutory Protection for Lawful Union Labor Activities

California and Federal statutory law provide a protected right to engage in lawful labor union activities, including work sites that may not be open to the general public and private sidewalks adjacent to the entryways of private businesses, construction sites or other areas that are the subject of a labor dispute. This separate statutory right generally includes peaceful union organizing or strike activities such as picketing, leafleting and prearranged worker safety inspections by union officials on behalf of union members working at the site that is the subject of a labor dispute.

The statutory protections for lawful labor union activities excludes from the statutory protection conduct that is unlawful including breach of the peace, violence, disorderly conduct, fraud, the unlawful blocking of access or egress to premises where a labor dispute exists, or other similar unlawful activity. Any unlawful activity, outside the scope of lawful labor activities, may be subject to criminal enforcement if an investigation determines that probable cause exists.

**L 3600 - INFORMANTS:**

The Department recognizes that informants have long been an effective tool in law enforcement. Members are encouraged to develop criminal intelligence information through the recruitment and proper management of informants. Members who obtain criminal intelligence information are responsible for bringing it to the attention of those who can best utilize it. It does not serve the mission of the Department to seek out information that is not related to criminal matters.

PROCEDURE**L 3601 INFORMANTS - DEFINITION:**

For the purpose of this policy, the term informant shall include any person who provides information about criminal activity and/or actively assists law enforcement for reasons other than good citizenship. Common motivations include pending criminal matters, money, revenge or anger.

L 3602 RECRUITMENT OF INFORMANTS:

All officers should look upon each field contact, witness or suspect as a potential source of information. Informants must be recruited and managed in a manner which is consistent with the law, Department policy and the professional image of the Department.

L 3603 INFORMANTS WITH PENDING CRIMINAL MATTERS:

Officers interviewing a potential informant with a pending criminal matter will not make any promises (actual or implied) as to the eventual sentence or disposition in the informant's case. Only the Courts and the District Attorney may enter into agreements that affect the outcome of a defendant's case.

L 3604 PROCESSING THE CASE (ARRESTING OFFICER):

Officers who have arrested an informant or potential informant for a criminal violation, other than a warrant, will report all details of the arrest in a General Offense Report (Form 200-2-AFR) and will route the report to appropriate unit in the Bureau of Investigations. Officers should verbally advise the investigator assigned the case of the defendant's informant status.

L 3605 PROCESSING THE CASE (INVESTIGATOR):

Officers in the Bureau of Investigations who have been assigned a criminal matter where an informant is a defendant will in every instance present the case to the District Attorney for review.

L 3606 SELECTION OF SUITABLE INFORMANTS:

Not every person contacted is suitable as a potential informant. The Department's overall responsibility to the community must be balanced against the need to gather criminal intelligence. As a general rule, persons charged with crimes of serious violence or sexual misconduct (other than prostitution-related offenses) should not be considered as potential informants.

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- L 3607 RELEASE OF INFORMANTS CHARGED WITH CRIMES OF VIOLENCE:**
Except upon the approval of the Deputy Chief of the Bureau of Investigations, or their designee, an officer will not seek the release of an informant from custody nor a reduction of a sentence, when the informant is charged with a crime of serious violence or sexual misconduct (other than prostitution-related offenses).
- L 3608 RELEASE OF INFORMANTS CHARGED WITH OTHER CRIMES:**
Officers seeking the release of an arrestee-informant will, prior to the booking process, obtain approval from higher authority before release. Officers assigned patrol duties in the Bureau of Field Operations will seek the permission of the on-duty watch commander. Officers assigned to a specialized unit or the Bureau of Investigations will seek approval from their Unit Commander.
- L 3609 CITATION RELEASE OF INFORMANTS CHARGED WITH CRIMES:**
When an arrestee-informant has a pending criminal matter where a citation would normally be an appropriate option, officers may release the informant from custody, with a citation, to aid in the gathering of criminal intelligence.
- L 3610 MANAGEMENT OF INFORMANTS:**
Officers from all Bureaus are encouraged to gather and use information from informants. However, some specialized units and units in the Bureau of Investigations are better suited by the nature of their assignment, training, equipment and funding to supervise an informant during an investigation. Officers must keep in mind that informants are recruited to assist the Department, and they do not become their personal property. Informants willing to render active assistance to the Department are directed to the appropriate investigative unit. Active assistance is defined as Department supervised covert activity, such as narcotic buys, sales and agent introductions.
- L 3611 INFORMANTS SUPPLYING INFORMATION ONLY:**
When an informant has agreed to supply only information and no active assistance, the officer receiving the information will ensure that the information is delivered to the appropriate unit in the Bureau of Investigations in a timely manner. The information may be recorded in memorandum form or relayed verbally to the Commander of the unit with the responsibility to investigate the crime the informant is discussing. Nothing in this section prevents an officer in the Bureau of Field Operations from conducting an investigation or enhancing the information they received from the informant, as long as the effort is consistent with their job assignment. Follow-up includes, but is not limited to, making arrests and serving search warrants. The Bureau of Investigations may assume control at any point in the follow-up investigation.
- L 3612 UNIT RESPONSIBILITY:**
It is the responsibility of the Commander of a unit, or their designee, to which an informant is referred, to review the nature of the information and assistance being offered. The Unit Commander will then refer the informant to another unit for supervision, assign the informant to an investigator within their unit or choose not to use them.
- The officer who has developed the informant is advised as to the identity of the supervising investigator. Where possible, the officer developing the informant is permitted to work with the investigator and informant.

L 3613 BUREAU OF FIELD OPERATIONS RESPONSIBILITY:

When an officer within the Bureau of Field Operations has developed an informant who is going to render active assistance to a specialized unit or a unit within the Bureau of Investigations, the watch commander within the chain of command of said officer may assign the officer temporarily to the unit conducting the investigation, with the concurrence of the unit's Commander. In those situations where the informant must be used immediately and the proper unit within the Bureau of Investigations is not available, the watch commander may assign the officer and his informant to a specialized unit within the Bureau of Field Operations for supervision.

L 3614 OFFICER'S RESPONSIBILITY (BFO):

Patrol officers within the Bureau of Field Operations will not conduct buys, sales or other undercover type activities, on or off duty, without the approval of the watch commander, unless assigned TDY to a specialized unit or a unit within the Bureau of Investigations.

L 3615 REWARDING INFORMANTS CHARGED WITH CRIMES:

When an informant with a pending criminal case (not a crime of violence or sexual misconduct) has provided useful information about a criminal matter, the extent of the informant's assistance may be brought to the attention of the Court and District Attorney. When a Department member's intention is to reward an informant in this manner, the following steps are taken in order:

- Obtain the approval of the Deputy Chief of the Bureau of Investigations or their designee
- Inform the investigator assigned the informant's case
- Inform District Attorney
- Inform the Court

Information concerning the informant's assistance may be transmitted either verbally or in memorandum form.

L 3616 REWARDING INFORMANTS WORKING FOR MONEY:

Officers will meet with the Unit Commander to determine if any funds are provided to an informant. This is done prior to any promises to the informant by the officer. Officers wishing to reward an informant with money for productive information or assistance will contact the Commander of the unit who has responsibility for the crime being investigated or the unit within the Bureau of Investigations which supervised the investigation.

L 3617 UNIT COMMANDER'S RESPONSIBILITY:

When an informant has provided assistance or information to a unit within the Bureau of Investigations or to an officer who is working with a unit within the Bureau of Investigations, it is the responsibility of the Commander of the unit to determine the amount of the reward and provide the funds. If the unit does not have a confidential fund, the money is provided by the Deputy Chief of the Bureau of Investigations.

L 3618 METHOD OF PAYMENT:

Generally, it is not a good policy for officers to pay informants large amounts of money in un-witnessed transactions. Therefore, it is the responsibility of the Commander of the unit dispersing the money to establish the manner in which rewards are paid.

L 3619 INFORMANT/OFFICER - OPPOSITE SEX:

Since informants are not motivated by reason of good citizenship, care must be taken during meetings with informants who are of the opposite sex. A second officer must witness all meetings where informants are of the opposite sex.

L 3620 MINOR INFORMANTS:

Revised 06-24-19

Minor informants present unique problems by virtue of their immaturity of judgment, lack of life experience and the responsibility and control that parents have over their children. Penal Code Section 701.5 sets the limitations, conditions, and procedures to be followed when using a minor as an informant.

Subdivision (e) of Penal Code Section 701.5 defines a "minor" informant as:

A minor who participates, on behalf of a law enforcement agency, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the minor's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the minor is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the minor.

Subdivision (a) of Penal Code Section 701.5 prohibits a peace officer from using a minor who is 12 years of age or younger as an informant. Penal Code Section 701.5(b) provides that no peace officer or agent of a peace officer shall use a person under the age of 18 years as a minor informant, except as authorized pursuant to the Stop Tobacco Access to Kids Enforcement Act (Division 8.5 (commencing with Section 22950) of the Business and Professions Code) for the purposes of that act, unless the peace officer or agent of a peace officer has obtained an order from the court authorizing the minor's cooperation. Therefore, only minors over 12 years of age and younger than 18 years of age can be used as informants in criminal cases.

The following conditions must be met prior to the use of an informant who is a minor over 12 years of age and under 18 years of age:

1. **COMMAND OFFICER AUTHORIZATION** - If seeking to use a minor as an informant, officers must first receive the authorization of a command officer. Officers assigned to a specialized unit or a unit within the Bureau of Investigations will obtain permission from the Commander of that unit. Officers assigned to a patrol function within the Bureau of Field Operations will obtain permission from the Watch Commander or their designee.
2. **SIGNED PARENTAL PERMISSION** - If seeking to use a minor as an informant, officers must obtain written, signed permission from the parent or guardian of the

minor, unless the parent or guardian is a suspect in the criminal investigation. Include in the content of the document, in general terms, the type of activity the minor is expected to perform. The command officer granting authorization for the Department will then review the document. Nothing in this section prohibits an officer from obtaining criminal intelligence information from a minor.

3. COURT ORDER – A court order must be obtained authorizing the use of the minor as an informant.
4. Under Subdivision (c) of Penal Code Section 701.5, prior to issuing an order authorizing a minor to be used as an informant in a criminal investigation, the court must find that agreement to act as a minor informant is voluntary and is being entered into knowingly and intelligently, after consideration of (1) the age and maturity of the minor, (2) the gravity of the minor's alleged offense, (3) the safety of the public, and (4) the interests of justice.

Per Subdivision (d) of Penal Code Section 701.5, the following conditions must be satisfied prior to the court making the finding required in subdivision (c):

1. The court has found probable cause that the minor committed the alleged offense. The finding of probable cause shall only be for the purpose of issuing the order pursuant to subdivision (b) and shall not prejudice the minor in any future proceedings.
2. The court has advised the minor of the mandatory minimum and maximum sentence for the alleged offense.
3. The court has disclosed to the minor the benefit of cooperating with the peace officer or agent of a peace officer.
4. The minor's parent or guardian has consented to the agreement by the minor, unless the parent or guardian is a suspect in the criminal investigation.



L 3700 – WARRANTS / SUBPOENAS / COURT ORDERS:

The Department will seek a criminal complaint and arrest warrant whenever an investigation discloses sufficient evidence to identify the perpetrator of a criminal offense.

PROCEDURE

L 3701 OBTAINING CRIMINAL COMPLAINTS:

Revised 10-25-07

When the preliminary investigation is completed and the case is assigned to an appropriate investigative unit, the officer assigned to complete the investigation will, when appropriate, obtain a criminal complaint in accordance with the following procedures:

- FELONY CASES: Prepare all appropriate forms and seek the complaint in person from the District Attorney's Office.
- MISDEMEANOR: NOT IN CUSTODY: Seek the complaint in person from the District Attorney's Office.
- MISDEMEANOR: IN CUSTODY: The complaint for a misdemeanor violation, where the perpetrator is in custody, is processed by the Court Liaison Unit.
- TRAFFIC RELATED OFFENSES: Complaints pertaining to felony/misdemeanor traffic offenses may be obtained by the Traffic Investigations Unit. In some cases, the Traffic/Court Liaison Unit will obtain the complaint.

When obtaining complaints through the District Attorney's Office, the officer processing the case will supply the District Attorney with the appropriate reports and other forms in order to sufficiently establish that the offense was committed and that there is reasonable cause to believe that a specific person committed the offense.

When presenting criminal cases to issuing Deputy District Attorneys for the purpose of filing a criminal complaint in Superior Court, the copy stamped "COURT COPY" must have the following information redacted pertaining to victims and witnesses, including reporting or complaining and other parties, and juveniles who either have been taken into custody by a law enforcement agency or are otherwise subject to the jurisdiction of juvenile court:

1. Full name
2. Address
3. Telephone Number
4. Driver's License Number

5. California Identification Card Number
6. Social Security Number (this item is to be redacted for all parties, including Suspects)
7. Date of Birth
8. Place of Employment
9. Employee Identification Number
10. Mother's Maiden Name
11. Demand Deposit Account Number
12. Savings Account Number
13. Checking Account Number
14. Credit Card Number
15. Other personal financial information

L 3702

OBTAINING EMERGENCY ARREST WARRANT

Revised 05-16-06

When an officer seeks to arrest a suspect in the suspect's home and the elements required to make a lawful entry are not present, the officer will adhere to the following procedures:

- NORMAL WORKING HOURS: The officer seeking the emergency arrest warrant will prepare a report detailing the facts and circumstances which establish reasonable cause to make the arrest. The officer will then contact or respond to the District Attorney's Office and obtain approval to seek the warrant from the Court. Once approval from the District Attorney's Office is received, the investigating officer will proceed as follows:

File the affidavit and other appropriate forms by appearing in person at the Office of the Clerk of the Superior Court.

Adhere to court procedures in obtaining the signature of a magistrate. This may involve swearing to the truthfulness of the affidavit and/or answering further questions before a magistrate.

Once the affidavit and other appropriate forms are filed with the Clerk of the Superior Court, the arrest warrant may be served.

- AFTER WORKING HOURS: When the circumstances are such that an immediate arrest is necessary and the District Attorney's Office and courts are not working, officers will adhere to the following procedures:

Prepare a report detailing the circumstances and facts that establish reasonable cause to arrest.

Contact Communications and obtain the telephone number of the Deputy District Attorney and magistrate on call at that time.

Contact the Deputy District Attorney and explain the circumstances of the case. The on-call attorney may require a meeting with the officer seeking the arrest warrant or may discuss the case via telephone. In addition, the District Attorney's representative may direct the officer to obtain more evidence, contact the on-call magistrate or perform other functions as necessary.

Once the District Attorney's representative and the on-call magistrate have been contacted, signatures obtained on the appropriate forms and other legal processes performed, the arrest warrant may be served. In on-call cases, officers will cooperate with personnel from other agencies and adhere to the procedures that such agencies have established to process a request for the issuance of an arrest warrant.

L 3703 OBTAINING JUVENILE ARREST WARRANT:

Obtaining of juvenile arrest warrants will be coordinated through the Juvenile Unit. When Juvenile Unit personnel have reviewed the facts and circumstances involved in the case, the officer seeking the juvenile arrest warrant will then contact the Deputy District Attorney assigned to the Juvenile Intake Center who will make a determination whether or not to approve the issuance of the warrant.

L 3704 RETAINING COPY OF JUVENILE WARRANT:

The investigator may make a copy of the warrant, marked "COPY" for such investigator's own use prior to sending the warrant to the Warrants Unit. No other copies are made, except that certified copies may be made by the Warrants Unit when necessary.

L 3705 REFUSAL TO ISSUE:

When the District Attorney's Office or a magistrate refuses to issue an arrest warrant, the Department member seeking the warrant of arrest will determine what further evidence is needed and, when possible and practical, continue the investigation until such evidence is obtained. Once the additional evidence is obtained, the member seeking the warrant will re-contact the District Attorney's Office.

L 3706 OBTAINING COMPLAINTS FOR ASSAULTING A POLICE OFFICER:

When seeking a complaint against a suspect for assaulting a police officer, the following procedures will be adhered to.

L 3707 INITIAL REPORT:

The victim officer, when available, will complete all reports essential for prosecution. The reports will contain, in addition to the basic elements, the following information:

- Words used by the suspect
- Actions of the suspect
- Weapon or means used by the suspect to perpetrate the attack
- The events which precipitated the violation(s)
- Actions taken in self-defense by the officer
- Actions taken to subdue the arrestee

The victim officer may include other facts or circumstances but the above information is completely reported.

If the victim officer is incapacitated because of injuries sustained during an attack, the officer in command or responsible for investigating the case will ensure that proper reports are made to obtain a complaint.

L 3708 PROCESSING REPORTS:

Revised 05-10-13

The victim officer's supervisor shall ensure the General Offense Report (Form 200-2-AFR) contains the correct offense codes. Versadex uses these offense codes to determine the routing of cases to the appropriate investigative unit within the Bureau of Investigations (BOI).

L 3709 AVAILABILITY OF VICTIM OFFICER:

When the incident occurs on a day that the courts are working, the victim officer will indicate where they can be contacted during that day and the next working court day. When the incident occurs during a time that the courts are not working, the victim officer will indicate where they can be contacted during the next working court day.

L 3710 PROCEDURE OF INVESTIGATING UNIT

Revised 03-20-08

Once the appropriate unit has completed compiling the case file, the assigned investigator will bring the case to the District Attorney's Office without delay. The District Attorney will make the final determination as to the appropriate charges for filing.

L 3711 PROCEDURE AFTER APPROPRIATE CHARGE DETERMINED:

Removed 03-20-08

L 3712 PROCESSING ADULT WARRANTS OF ARREST:

Revised 02-05-04

An officer obtaining a warrant of arrest will bring the warrant to the Warrants Unit of the Operations Support Services Division (OSSD) where it will be placed on file. Officers filing warrants will complete and submit a "Suspect Identification Information" form (Form 202-43), as described in Section R 1540 if there is a request for special processing, evidence seizure, officer notification or information that is additional to the original warrant. Officers filing warrants of arrest are not automatically notified when the warrants are served. Therefore, officers wanting to be notified are responsible for listing their request on the Suspect Identification Information form.

The warrant is provided to the Warrants Unit the same working day it is received from the court. The Warrants Unit will enter the warrant into WPS on a statewide level. The California Department of Justice electronically forwards information for entry into NCIC. To ensure non-extraditable warrants are properly labeled as such, the Warrants Unit will ensure the term "NOEX OUTSIDE CA" is included in the miscellaneous field.

L 3713 PROCESSING JUVENILE WARRANTS OF ARREST:

Warrants Unit members will process juvenile warrants in the same manner as adult warrants except that juvenile warrants are entered in PIN and DOJ only. No NCIC entry is made. In addition, no walkover or release provisions are available.

L 3714 CASE NUMBERS ON WARRANTS:

To accomplish inclusion of a case number on an arrest warrant, the officer signing the complaint will write their badge number and appropriate case number above the signature as in the following example:

Badge #1199 SJ# 99-123-0049
Sgt. I.M. Robillard

The officer's badge number and the San Jose case number will appear on the warrant just above the defendant's name on the backside of the warrant.

L 3715 REMOVAL OF WARRANT FROM FILES:

When a warrant is placed in the files of the Warrants Unit, that warrant is removed only under the following circumstances:

- When the warrant is recalled by the court or the District Attorney's Office
- When the party for whom the warrant was issued is arraigned in court or booked at the County Jail
- When a certified copy of the warrant must be made in court for extradition purposes

Any other extenuating circumstances resulting in the need for the original warrant to be removed from the files MUST be cleared through the Commander of the Operations Support Services Division.

L 3716 WARRANT RETRIEVAL:

Revised 06-06-14

When Department members are processing an arrestee for a warrant arrest, the officer will first confirm with Communications or the San Jose Warrants Unit if the warrant will be sent directly to county jail. If the warrant is sent directly to jail, the officer may proceed directly to lower booking. If the agency cannot send the warrant to jail, the officer shall utilize the pneumatic tube located adjacent to the access ramp on the west side of PAB to retrieve the warrant abstract. Department members are reminded that the reason for the pneumatic tube is to minimize the occasions that arrestees must be escorted through PAB.

- The officer will drive up to the pneumatic tube/telephone and call Warrants
- The officer will identify themselves and request the original warrant
- Warrant Department members will confirm the identity of the officer
- The warrant will then be "tubed" to the officer
- The officer will retrieve the warrant and send the tube back to Warrants
- The officer may then proceed on to lower booking

L 3717 RESPONSIBILITY TO CONDUCT A WARRANT CHECK:
Officers will perform a warrant check on all persons in custody prior to booking on an on-view charge or whenever there is reason to believe that an individual has outstanding warrants.

L 3718 PERMITS AND CLEARANCES:
Individuals applying for permits, property releases, fingerprints or job application clearances are checked for warrants by the Department member processing the request. A notation is made on the appropriate form that the warrant check has been made.

L 3719 OPTIONAL BOOKINGS:
Officers should make a warrant check in all cases in which a citation may be issued in lieu of a physical booking. The warrant check should be made by the easiest method available (i.e., radio, telephone, police call box).

L 3720 VIOLATIONS INVOLVING DRIVER LICENSES:
Officers will warrant check any driver without a driver's license in their possession or any driver whom the officer suspects has a revoked or suspended license.

L 3721 PROCEDURE UPON NOTIFICATION OF WARRANT:

Revised 07-14-23

When the officer is notified that a warrant may be outstanding, the following procedures will be adhered to:

- **VERIFICATION OF IDENTITY:** The arresting officer, prior to booking, will make a diligent effort to verify that the subject being arrested pursuant to the warrant is in fact the person for whom the warrant was issued (i.e., descriptors, fingerprint verification, booking photographs, other photo databases, etc.)
- **CONFIRMATION:** The officer will determine the validity of the warrant by requesting that the warrant be confirmed. Once notified of confirmation, an arrest pursuant to the warrant will be made. Unless extraordinary circumstances exist, every effort should be made by investigating officers to confirm all warrants with SJPD Warrants through SJPD Communications
- **NOTIFICATION OF ARREST:** The arresting officer will then ensure that the Warrants Unit is informed that an arrest has been made
- **DETERMINING DISPOSITION:** The arresting officer will determine which agency holds the warrant and then obtain the warrant from either the Warrants Unit or have the warrant sent directly to the jail.

L 3721.1 INVESTIGATIVE STEPS AFTER NOTIFICATION OF WARRANT:

Added 07-14-23

Investigating officers shall make a diligent effort to attempt to determine if a detained subject is the subject related to the warrant. Officers should consider utilizing investigative techniques including but not limited to the following:

- Confirm descriptors (e.g., scars, marks, tattoos, height, weight, hair, eyes, etc.) on the warrant match that of the subject detained

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- Utilize photo databases (e.g., SJPD Mugshots, Santa Clara County Mugshots, CAL photo, Parolee Leads, Versadex, TLO, etc.)
- Fingerprint verification (e.g., Mobile I.D.)
- Confirm age and date of birth
- Interview other detainees or associated parties
- Internet search (e.g., Google, social media, etc.).

As soon as it can be determined an individual is not the subject related to the warrant and there is no further reasonable suspicion, safety concerns, or on-view charges to justify further detention, the person should be promptly released.

Whether or not the subject is related to the warrant, investigating officers should notify SJPD Warrants as soon as practicable of the identification and disposition.

L 3722 SERVING MISDEMEANOR WARRANTS:

Officers intending to serve a misdemeanor warrant between the hours of 2200 and 0600 hours will ensure that the warrant is endorsed for night service. When such endorsement is lacking, officers will not serve the warrant unless the following circumstances are present:

- The arrest is made in a public place
- The arrest is made when the person is already in custody pursuant to another lawful arrest

When the original warrant is not in the arresting officer's possession, verification of a night service endorsement will be sought from the originating agency. If a night service endorsement is verified, the name and identification number of the person verifying the endorsement will be obtained by the officer before an arrest is made.

L 3723 SERVING JUVENILE WARRANTS:

The service of the warrant is the responsibility of the investigator assigned to the case. Investigators will keep a written record of each service attempt on the back of their copy for "due diligence" purposes. The investigator will confirm the warrant with the Warrants Unit prior to making an arrest. Juvenile warrants are not assigned to the Warrants Unit for service.

L 3724 WARRANT SERVICE ON COLLEGE CAMPUSES:

To prevent a simple arrest from escalating into a major incident or riot, an officer attempting to serve an arrest warrant on a college campus within the City will contact the Chief of the college police. The college administrations have agreed to this procedure.

L 3725 DEPARTMENT WARRANT ARRESTS BY OUTSIDE AGENCY:

The Department will respond immediately to the request of another local law enforcement agency to pick up defendants held by them on our warrants. This procedure is followed only in cases in which the requesting law enforcement agency is within the County of Santa Clara and the outside agency has made the request for an immediate response.

L 3726 REPORTING WARRANT ARRESTS:

The arresting officer will complete a General Offense Report (Form 200-2-AFR) whenever the following circumstances are present:

- When the arrest results from a warrant issued by an agency outside of Santa Clara County
- When the arrestee is being booked on other charges
- When directed to do so by a supervising or command officer

Officers are not required to report other warrant arrests. However, a General Offense Report (Form 200-2-AFR) may be made if the arresting officer believes that the circumstances surrounding the arrest justify such action.

L 3728 COORDINATION OF SERVICE OF ARREST / BENCH WARRANTS & DUE DILIGENCE TRACKING:

Added 02-05-04

When officers seek to serve outstanding San Jose Police Department arrest and bench warrants, it is incumbent on them to ensure the warrant is valid and there is not a duplication of effort in attempting to locate the individual. It is also necessary to track any attempts to serve the warrant, information gained about the subject's whereabouts and when a subject no longer lives at a listed address.

Whenever an officer intends to serve an arrest or bench warrant, the following steps must be taken:

- Determine if the warrant is still valid. The Warrants Unit is contacted to make that determination.
- Warrants Unit members will advise the officer of any information contained on the Arrest / Bench Warrant Tracking section of the Suspect Identification Information / Due Diligence form (Form 202-43). The Arrest / Bench Warrant Tracking section is the second page (back) of the Suspect Identification Information form. It is used to track attempted service of the warrant, to note additional information or a new address for the subject and to track which officer is attempting to serve the warrant.
- If an officer is already attempting to serve the warrant, as indicated by the information on the tracking sheet, either contact that officer to provide assistance or do not attempt to serve the warrant.
- If an officer's name is not listed on the tracking sheet, the officer intending service of the warrant will provide or write their name on the form thereby assuming responsibility for warrant service.
- Use only that time allotted to attempt to serve the warrant. Field officers will have a maximum of one week in which to serve a warrant. Bureau of Investigations and MERGE Officers will have a maximum of 21 days in which to attempt service of a warrant.
- If the officer attempts to serve the warrant and / or obtains additional information as to the subject's whereabouts, the officer will contact the Warrants Unit with that

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information, which is written on the tracking sheet. Contact of Warrants Unit members can be made in person, by completing the BFO beat copy of the tracking sheet and routing it to the Warrants Unit

When an investigator intends to serve a warrant or desires for a special unit to attempt service, the following steps are taken:

- Provide the Warrants Unit with a Suspect Identification Information and Due Diligence form (Form 202-43) with the back page completed to indicate what officer or Unit is responsible for the warrant service.
- Provide any other information that is of assistance to officers that may attempt to serve the warrant.

The Suspect Identification Information and Due Diligence form is attached to the original warrant by Warrants Unit members and is an official form that can be subpoenaed for court purposes.

L 3729

UNSUCCESSFUL ATTEMPT TO SERVE A WARRANT:

Added 07-14-23

SJPD Warrants should be notified as soon as practicable after an unsuccessful attempt is made to serve any Santa Clara County warrant or any out-of-county felony warrant (e.g., the subject no longer resides at the listed address or the address is invalid). SJPD Warrants personnel will update the due diligence form on Santa Clara County warrants or notify out-of-county agencies via teletype.



L 3800 - OBTAINING AND SERVING SEARCH WARRANTS

The Department will seek a search warrant whenever there is reasonable cause to believe that evidence or contraband is located in a place where officers cannot search without the authority of a search warrant.

PROCEDURE

L 3801 OBTAINING AND SERVING OF SEARCH WARRANTS - GENERAL PROVISIONS: *Revised 07-19-03*

In order to obtain a search warrant, the following elements must be present:

- **REASONABLE CAUSE**: The reasonable cause required for the issuance of a search warrant is governed by the same rules which are applicable to arrests and searches with or without warrants.
- **SPECIFICS REQUIRED**: The affidavit must name or describe the person to be searched and particularly describe the property and the place to be searched. An officer must disclose in the affidavit any known separate residences or dwellings that they know reasonably believes exist at the address for which a warrant is issued regardless of whether the separate residence or dwelling has a separate address.
- **THE AFFIDAVIT**: An affidavit is a written statement under oath setting forth the facts establishing reasonable cause. Department members seeking a search warrant will prepare a report (affidavit) which includes the circumstances of the crime and the facts which establish reasonable cause. The Department member will ensure that the report is delivered to the District Attorney's Office at the time the request for a warrant is made.

L 3802 EXAMPLE OF CIRCUMSTANCES:

The following are circumstances which, if present, would support the issuance of a search warrant:

- When the property was stolen or embezzled
- When the property or things were used as the means of committing a felony
- When the property or things are in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom they may have delivered it for the purpose of concealing it or preventing its being discovered
- When the property or things to be seized consists of any item or constitutes any evidence which tends to show a felony has been committed, or tends to show that a particular person has committed a felony

- When the property or things to be seized consists of evidence which tends to show that sexual exploitation of a child has occurred or is occurring

L 3803 REFUSAL TO ISSUE:

When the District Attorney's Office or a magistrate refuses to issue a search warrant, the Department member seeking the search warrant will determine what further evidence is needed and, when possible and practical, continue the investigation until such evidence is obtained. Once the additional evidence is obtained, the officer seeking the warrant will re-contact the District Attorney' Office.

L 3804 SECURING AREAS WHILE OBTAINING WARRANT:

Officers are authorized to limit and control access to dwellings or areas whenever they have reasonable cause to believe the dwelling or area contains items of evidence and a search warrant is being sought immediately.

L 3805 OBTAINING THE WARRANT:

The officer intending to search will, when necessary, obtain a search warrant in accordance with the following procedures.

L 3806 OBTAINING DURING NORMAL WORKING HOURS:

Revised 07-07-21

The officer intending to search will prepare an affidavit and search warrant detailing the facts and circumstances that establish reasonable cause to conduct the search. The officer will seek approval from the District Attorney's Office. Once approval from the District Attorney's Office is received, the officer will proceed as follows:

1. The Officer shall email an electronic "PDF" version of the draft search warrant, signed affidavit, and all supporting documents to the court's daytime search warrant email account: daywarrant@scscourt.org.
 - The affidavit may contain a scanned signature, a "digital" or "electronic" signature, which is any mark made with the intent that it be a signature. The following is an example of a valid electronic signature:

Jane Smith
Electronically signed by Officer Jane Smith,
Jane.smith@sanjoseca.gov,
Date and Time
 - The email shall include a brief description of what is attached, the number of pages attached, and a contact phone number for the officer.
2. A Supervising Judge will receive the email and assign it to an available judge for review. The Supervising Judge will copy the officer and Reviewing Judge on the assignment email.

The Reviewing Judge may contact the officer with questions or to verify that all the pages were received and that the electronic signature is genuine.

- If the Reviewing Judge has questions related to the Probable Cause to issue the warrant, the officer should edit the affidavit and submit a new request. Information from the phone call will usually not be admissible at a motion challenging the warrant.
 - Any further status questions or updates should be directed to the Reviewing Judge rather than the general day warrant address. If the officer does not receive a timely response from the Reviewing Judge, the officer should contact the Reviewing Judge's courtroom clerk for status updates.
3. The Reviewing Judge will review the documents and, if everything is in order, will:
 - A. Sign the warrant.
 - B. Note the date and time on the warrant.
 - C. Email the signed warrant back to the officer.
 4. The signed warrant received by the officer is the "original warrant." The officer can print and execute the warrant like any traditional hard-copy warrant.
 5. Within 10 days after the judge signed the warrant:
 - A. The officer shall file a copy of the search warrant, affidavit, and search warrant return with the clerk's office. A "Search Warrant Number" will be assigned at that time.

Note: A judge's signature is no longer required on search warrant returns.
 - B. If the warrant is not executed, the officer shall mark the face of the warrant "Not Executed" and file a copy of the un-executed warrant with the clerk's office.
 6. The officer shall upload a copy of the signed search warrant, search warrant return, affidavit, any supporting documents, and emails with the judge into Versadex, unless under seal by the court.

L 3807

OBTAINING AFTER WORKING HOURS:

Revised 07-07-21

When the circumstances are such that an immediate search is necessary to preserve evidence or contraband and the District Attorney's Office and courts are not working, members will adhere to the following procedures:

1. Prepare an affidavit and search warrant detailing the circumstances and facts which establish reasonable cause to search.
2. Contact County Communications at (408) 299-2501 and ask for the On-Call Search Warrant Deputy District Attorney.

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3. The On-Call Search Warrant Deputy District Attorney shall contact the officer to discuss the warrant. The On-Call Search Warrant Deputy District Attorney shall provide an email address for the officer to send a draft copy of the affidavit and proposed search warrant.
4. The On-Call Search Warrant Deputy District Attorney will contact County Communications and ask them to alert the On-Call Judge that a request for an after-hours search warrant is being sent by the officer. The judge may contact the On-Call Search Warrant Deputy District Attorney for further information.
5. The officer shall email an electronic "PDF" version of the draft warrant, signed affidavit, and all supporting documents to the court's nighttime search warrant email account: djudge@scscourt.org.

- The affidavit may contain a scanned signature, a "digital" or "electronic" signature, which is any mark made with the intent that it be a signature. The following is an example of a valid electronic signature:

Jane Smith
Electronically signed by Officer Jane Smith,
Jane.smith@sanjoseca.gov,
Date and Time

- The cover-email should include a phone number for the judge to contact the officer, but no other extra information about the case.
6. If the judge agrees to issue the warrant, the judge will:
 - A. Sign the warrant.
 - B. Note the date and time on the warrant.
 - C. Email the signed warrant back to the officer.

NOTE: The judge may call the officer with questions or to verify all the pages were received and that the electronic signature is genuine.

7. The signed warrant received by the officer is the "original warrant." The officer can print and execute the warrant like any traditional hard-copy warrant.
8. Within 10 days after the judge signed the warrant:
 - A. The officer shall then file a copy of the search warrant and search warrant return with the clerk's office. A "Search Warrant Number" will be assigned at that time.

Note: A judge's signature is no longer required on search warrant returns.

- B. If the warrant is not executed, the officer shall mark the face of the warrant "Not Executed" and file a copy of the un-executed warrant with the clerk's office.

9. The officer shall upload a copy of the signed search warrant, search warrant return, affidavit, any supporting documents, and emails with the judge into Versadex, unless under seal by the court.

L 3808 OBTAINING SEARCH WARRANTS AFTER WORKING HOURS - EMERGENCY SITUATIONS:

Revised 01-05-19

Emergency situations are those instances where a search warrant is needed in less than an hour. Examples are homicide, rape, robbery or other cases where the occupant of the premises, whether victim or defendant, is either incapable or unwilling to give consent for an immediate search and valuable evidence may be lost if there is a delay.

- When the circumstances are such that an emergency situation exists and an immediate search is imperative to preserve evidence or contraband and the District Attorney's Office and courts are not working, officers shall refer to the procedures outlined in L 3807 OBTAINING AFTER WORKING HOURS.

L 3809 SERVING THE WARRANT

A search warrant should be served as soon as practical but not later than 10 days from the date of issue. If the search is to be delayed, the obtainment of the warrant should be postponed.

L 3810 NIGHTTIME SEARCHES:

Search warrants must be served between the hours of 0700 hours and 2200 hours. To serve a search warrant after the specified hours, good cause must be shown in the affidavit, and the magistrate must insert a direction in the warrant to allow such a search.

L 3811 EXTENDING SEARCHES INTO NIGHTTIME:

Generally, search warrants should be executed only in the daytime, which is between 0700 and 2200 hours, unless endorsed for night service. If a search is begun during the daytime, it may be extended into the nighttime provided that it is done in a reasonable manner.

L 3812 PRECAUTIONS PRIOR TO SERVING SEARCH WARRANTS:

Revised 04-24-20

The officer serving a search warrant will determine the following prior to execution of the warrant:

- If, in fact, the premises to be searched are the actual premises where it is believed the item to be seized is located.

- If the premises to be searched are the premises listed on the warrant. If there is doubt as to these facts, the officer intending to serve the warrant will discontinue the operation and take those steps necessary to correct the problem. If the officer serving the warrant determines that the premises described as the place to be searched in the warrant has more residences or dwellings than are described in the warrant, then the officer may not search the residence or dwelling that is not described in the warrant, absent exigent circumstances. Likewise, if the officer determines that the premises described in the warrant as the place to be searched

is not the residence of the person described in the warrant, then the officer may not search that residence absent exigent circumstances.

- If the premises to be searched have dogs present that will interfere with the successful execution of the warrant. This interference could include; (1) barking to alert the persons on the premise of the officer's presence if a governmental interest at stake under the terms of the search warrant makes surprise, stealth or a swift approach essential (e.g., the need to protect human life in the case of a hostage rescue operation or the likely destruction of vital evidence), or (2) attacking officers and it appears that the dog presents a serious threat to officer safety taking into account the physical characteristics or known history of the dog (size, breed or known propensity to attack). If officers have knowledge that dogs are present on the premises and it appears reasonably likely that the dogs will interfere with the successful execution of the warrant, officers shall develop and implement a reasonable plan using non-lethal means to immobilize, isolate or otherwise prevent the dogs from interfering with the execution of the warrant.

Nothing in this order is meant to preclude an officer from using reasonable deadly force options on dogs when other means have been exhausted or would be unreasonable based on the totality of the circumstances (i.e., a sudden attack by a dog capable of doing serious injury to an officer that could not be reasonably anticipated and planned for in advance).

Complete an operational plan and have it reviewed by the supervisor, unless there is an exigent circumstance which would make the delay to prepare a plan unreasonable. The operational plan shall include a threat assessment to determine the most appropriate personnel to serve the search warrant. If one or more of the criteria listed below are present, officers wishing to serve the search warrant shall consult the MERGE commander or a MERGE sergeant prior to serving the search warrant. Exception: an officer assigned to BOI, or their supervisor, who has a search warrant to be served in conjunction with an arrest warrant shall consult the CRU Commander or CRU Sergeant. The MERGE unit and CRU may collaborate/consult to determine who will execute the search warrant:

1. The suspect has access to, or has a history of using or possessing firearms.
2. Intelligence indicates that the suspect has a criminal history that includes a felony crime of violence, assaultive behavior toward police, or that they may force a confrontation with officers.
3. The target location is fortified with metal security doors, gates or by other means that may frustrate entry into the structure.
4. There are other aggravating factors present, such as surveillance cameras, look-outs, booby traps, vicious dogs, large/complex floor plans, or the possible presence of an illegal narcotics lab.
5. The case being investigated involves a felony crime of violence (e.g. homicide, armed robbery, or felony assaults) or a crime in which a firearm was used.

If none of the above circumstances are present, the warrant may be served by another unit within the Department without consulting MERGE/CRU personnel.

L 3813 ENTRY ONTO THE PREMISES:

Entering premises to conduct a search and seizure pursuant to a warrant is accomplished in a manner which is legal, courteous and the least destructive.

L 3814 ANNOUNCEMENT AND DELAY REQUIRED:

Revised 04-01-01

Prior to entering a house or other dwelling, officers will assess the procedures specified in Section L 4802 (Conduct of the Search) and will comply with such procedures as are appropriate.

L 3815 INVENTORY REPORT AFTER SEARCH:

The officer obtaining the search warrant will, as soon as possible, file with the Clerk of the Court that issued the warrant an inventory of the items seized. This document is prepared by the District Attorney's Office on information supplied by the officer after the search is completed.

L 3816 RETURNING THE WARRANT:

The officer in command of the search will ensure that the warrant is returned to the issuing authority as soon as possible. A copy of the list of all items seized during the search is returned with the warrant.

L 3817 SUPERVISION REQUIRED AT THE SCENE OF A SEARCH WARRANT:

Added 07-21-22

For any search warrant in which San Jose Police Department personnel participate, regardless of the agency in possession of the warrant or the jurisdiction in which the search warrant is served, a Department sergeant or higher will be present and will actively participate.



L 3900 - RETURN OF WANTED PERSONS:

When necessary and practical, the Department will respond to out-of-county jurisdictions and take into custody any person held as a result of criminal conduct originating in the City of San Jose.

PROCEDURE

L 3901 RETURN OF WANTED PERSONS:

Revised 04-06-22

Each investigative unit's Lieutenant or Sergeant is responsible for the day-to-day coordination of the return of all wanted persons for criminal conduct originating in San Jose relating to their respective unit.

L 3902 NOTIFICATION:

Revised 04-06-22

When a Department member receives official notification that an out of county agency is holding an individual wanted by this Department, the Lieutenant or Sergeant supervising the investigative unit responsible for the crime type committed shall be advised as soon as possible by the member receiving the notification. The unit Lieutenant or Sergeant shall be notified as follows:

- NOTIFICATION VIA TELETYPE, FAX TELEPHONE, RADIO OR LETTER: The Department member receiving the notification will forward a copy of the notification to the responsible investigative unit Lieutenant or Sergeant.

The notification should include the following:

- Name of notifying agency and telephone number
- Name of the person in custody and the charge
- Case number or warrant number
- Date of arrest by outside agency
- Last day for pickup
- Other appropriate data as necessary
- Name of person making the notification

L 3903 METHOD OF PRISONER PICK UP:

Wanted persons held by outside agencies are returned to San Jose in accordance with the following procedures.

L 3904 IN STATE:

Revised 04-06-22

When notified of a wanted person in custody at another agency, the Lieutenant or Sergeant supervising the investigative unit responsible for the crime type committed shall determine if the wanted person will be returned to San Jose. If the wanted person shall be returned, the responsible unit shall complete the following: processing the necessary documents, prisoner pick-up, booking the prisoner, and submission of the final extradition papers. The officer(s) conducting the return of the wanted person shall advise the unit Lieutenant or Sergeant when each step of the process is completed per L 3907 COORDINATING THE EXTRADITION PROCESS.

L 3905 OUT-OF-STATE:

Revised 04-06-22

The Lieutenant or Sergeant supervising the investigative unit responsible for the crime type committed is responsible for coordinating the extradition of wanted persons held by out-of-state agencies. When notified that a wanted person is in custody at an out-of-state agency, the Lieutenant or Sergeant will contact the District Attorney to determine if the proposed extradition meets the legal standard to extradite the person back to the State of California. If extradition is appropriate, the unit shall then be responsible for the following: processing the necessary documents, contact the out-of-state agency with extradition approval, prisoner pick up, booking, and submission of the final extradition papers. The officer(s) conducting the extradition shall advise the unit Lieutenant or Sergeant when each step of the process is completed per L 3907 COORDINATING THE EXTRADITION PROCESS.

L 3906 EXTRADITION PROCEDURE:

Revised 04-06-22

Extradition officers are reminded they are representatives of the Department and shall conduct themselves in a professional manner. They shall adhere to the following:

- All extradition officers must have completed the Armed While Flying class and have a copy of their certification card on file with the Chief's Office.
- An officer who is extraditing a prisoner for the first time shall be accompanied by an experienced extradition officer.
- If necessary, extradition officers may contact the San Jose Airport Police Department Lieutenant to coordinate parking and/or transportation to/from the Airport Police Department.
- Extradition officers shall be armed with firearms during the extradition and have the option of also carrying a Taser.
- NOTE: Officers are reminded that prisoner transports are potentially hazardous and shall maintain awareness of officer safety and tactics particularly with regard to

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weapon storage and retention.

- Extradition officers shall ensure they have all necessary extradition equipment, which includes, but is not limited to: handcuffs, handcuff key, waist chains, prisoner cover shirt, and appropriate TSA forms & documents.
- Extradition officers are not allowed to sleep on the plane.
- Extradition officers are not allowed to drink alcohol on the plane.
- Extradition officers are responsible for booking the suspect into Santa Clara County Jail and processing all booking paperwork. In the event there is a threat to officer safety, the extradition officers can request the assistance of a patrol officer to transport the prisoner; however, extradition officers shall follow the patrol officer to the jail and complete the booking process.
- Extradition officers are responsible for ensuring compliance with the City Administrative Policy Manual Travel Policy as stated in section 1.8.2. This includes the proper completion of Travel Statements, Travel Reimbursement Forms, and supporting documentation.
- All extradition overtime must be approved in advance by the officer's chain of command and clearly documented on the timesheet. Per City Administrative Policy Manual Section 1.8.2, "Travel-related overtime in connection with travel on City business requires authorization from the Supervisor for local travel and the Approving Official as part of the approval for the request for travel for in-state, out-of-state, and international travel." Overtime for travel shall only be authorized for the actual time worked.

L 3907

COORDINATING THE EXTRADITION PROCESS:

Revised 04-06-22

One of the officer(s) handling the extradition is responsible for advising their Sergeant or Lieutenant of the following:

- Name and badge number of officer(s) making the pick up
- Date extradition was waived/not waived
- Date the wanted person was available for pick up
- Date conference with District Attorney was completed
- Date Governor's warrant was applied for (if no waiver was obtained)
- Date Governor's Office was notified of response by officer(s) (if waiver was obtained)
- Date pick up was made
- Date final papers were submitted to Governor's Office
- Notification to OSSD that pick up was completed

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When questions arise as to proper procedure, the unit Lieutenant or Sergeant may be contacted, but the officer handling the extradition is responsible for completing each step of the process as soon as possible.

L 3908

PROCESSING STATE REIMBURSEMENT:

Revised 04-06-22

The State of California will reimburse the Department for the cost of extraditing wanted persons from another state. The officer handling the prisoner pickup will submit all necessary paperwork to ensure that the Department is reimbursed. The unit Lieutenant or Sergeant will be notified when the extradition process is completed.

Line Operations/Procedures

L 4000 – L 4900



San Jose Police Department Duty Manual



L 4000 - CRIMINAL SUBPOENA SERVICE:

When an incident or criminal act that has been investigated by the Department is scheduled for adjudication, the Department will subpoena all necessary witnesses and other persons to appear at the scheduled time in the appropriate court. In addition, Department members will be responsive to subpoenas served on the Department and will cooperate with outside agencies or persons initiating criminal subpoenas.

PROCEDURE

L 4001 CRIMINAL SUBPOENA SERVICE - RESPONSIBILITY:

The service of criminal subpoenas and Officer Trial Notices is the responsibility of the investigating officer or unit. Assistance is provided by the Witness Coordination detail of the Court Liaison Unit, which will have the responsibility for coordinating and documenting the service in accordance with the following procedures:

L 4002 CRIMINAL SUBPOENA BY MAIL:

Each investigative unit will mail all criminal subpoenas, with the following exceptions:

- Superior Court cases
- Hostile witnesses
- Cases which require personal service
- Subpoenas which would not reach the citizen in time if mailed (court date within five days)
- Subpoenas which were mailed but returned as undeliverable
- Subpoenas initiated by other jurisdictions
-
- Criminal subpoenas for mail service are prepared in the following manner:
 - The informational cover letter is addressed to the person to be served facilitating the use of a window envelope.
 - For unit convenience, the name of a Department member may be inserted following the telephone number on the cover letter.

When a witness telephones the Department to verify receipt of a subpoena, a notation that the witness called is made on the file copy of the subpoena. The witness's date of birth and driver's license number or California identification card number is obtained and recorded.

L 4003 CRIMINAL SUBPOENA SERVICE IN PERSON:

When a subpoena is personally served, proof of service must be confirmed on the subpoena and the original document returned to the investigating officer assigned to the case. The investigating officer will then notify the appropriate person in the District

Attorney's Office of the service. Such notification may be made via telephone or by delivering the original copy to the District Attorney's Office. When personal service of a subpoena is required, the investigating officer assigned the case has the responsibility to ensure that a timely and proper service is achieved.

L 4004 NOTIFICATION OF NON-SERVICE OF SUBPOENA:

When a Department member is unable to serve a subpoena, the member attempting service will advise the originating agency or person of the non-service. Notification of non-service is made at least one working court day prior to the subpoena appearance date by telephoning the originating agency or person. Unserved subpoenas will then be returned to the agency or person by the unit or bureau.

L 4005 ACCEPTANCE OF SUBPOENAS FOR DEPARTMENT MEMBERS OR RECORDS:

The following procedures will be adhered to when an outside agency, attorney, process server or individual serves a subpoena at a City office requesting the appearance of a Department member or Department records. Uniform guidelines for these procedures are set forth in a "Subpoena Acceptance Manual." A copy of the manual is maintained in the Research and Development Unit, the Bureau of Administration, the Bureau of Field Operations, in each unit within the Bureau of Investigations and in the Operations Support Services Division.

L 4006 CRIMINAL SUBPOENAS - METHOD OF DELIVERY:

Criminal subpoenas for Department members may be served or delivered by mail, messenger or personal service. Once received, they are forwarded to the Witness Coordination detail of the Court Liaison Unit, which will coordinate and document service: one (1) copy to the Department member and one (1) copy to member's immediate supervisor.

In the event a subpoena is received by mail or messenger, that has not been first forwarded to the Court Liaison Unit, service occurs when the recipient telephones the sender and provides their birth date and driver's license number. Department members who receive a subpoena in this manner will have the subpoena received by their immediate supervisor. After a review has determined that the subpoena is properly prepared, the Department member will acknowledge service by telephoning the sender.

If the subpoena is not properly prepared, the supervisor will call the originator to request that it be corrected and reissued.

If service is acknowledged, a copy of the subpoena is forwarded to the Witness Coordination detail of the Court Liaison Unit.

L 4007 CRIMINAL SUBPOENAS - TIME PERIOD FOR SERVICE/REFUSAL OF SERVICE:

If delivered to the supervisor or Court Liaison Unit, a copy of the subpoena is given to the officer as soon as possible and in no event later than such time as will enable the officer to comply with the subpoena.

If the supervisor or Witness Coordination officer knows that service upon the officer cannot be made with sufficient time to allow the officer to comply with the subpoena, the

supervisor or Witness Coordination Officer may refuse to accept the subpoena. Alternatively, the Penal Code allows that subpoenas presented to a supervisor or agent less than five working days prior to the hearing date may be refused if the supervisor or agent is reasonably certain that service cannot be completed before the hearing date.

If a supervisor or Witness Coordination Officer has already accepted the subpoena and determines subsequently that they are unable to serve the subpoena upon the officer within such time as to allow the officer to comply with the subpoena, the supervisor or Witness Coordination Officer will notify the process server or attorney at least 48 hours prior to the hearing date. (Reference Section 1328 P.C.). This should be documented with a letter to the attorney who issued the subpoena.

L 4008

CIVIL SUBPOENAS - GENERAL INFORMATION:

Civil subpoenas for police officers regarding work-related matters may be served on the officer by delivering a copy to the Witness Coordination detail of the Court Liaison Unit.

Civil subpoenas for civilians must be served directly on the person.

There is no five-day rule for civil subpoenas. The subpoena must only be served so as to allow the witness a reasonable time for preparation and travel to the place of attendance. Any person (Code of Civil Procedure Section 1987) may serve civil subpoenas.

The witness fee for officers is \$150.00 and the fee must be paid to the City of San Jose at the same time the subpoena is served.

The witness fee for civilians is \$35.00 for each day's actual attendance and the first day's payment is required to be paid before the subpoena is served. The fee must be paid at the Police Records Counter by check made payable to the "City of San Jose."

Civil subpoenas for any Department member for actions not related to City employment must be served directly on the person. The employee cannot be forced by the Department to accept the subpoena.

Procedures for civil court attendance are found in Section L 7607 (Appearance in Civil Court).

Department members will comply with Section L 4014 (Reporting Receipt of Civil Subpoenas) when served with a work-related civil subpoena.

L 4009

SUBPOENAS FOR RECORDS - GENERAL INFORMATION:

A subpoena for records is called a "subpoena duce tecum." Subpoenas for records are referred to the Operations Support Services Division Commander. Such a subpoena may or may not request the personal appearance of a Department member. If the subpoena is for records and a personal appearance, the Police Department Liaison Attorney in the City Attorney's Office is contacted. Subpoenas for records only are referred to the City Attorney's Office after acceptance if the City is a defendant in the case or if there is any question as to the subpoena being incomplete, too general, vague, overly burdensome or the subpoena seeks confidential information (e.g., disclosure of information revealing an informant's identity, confidential portions of the Duty Manual,

juvenile records, information which if released would endanger a witness or other person or interfere with the completion of an ongoing investigation or Department members records of police officers). Subpoena for Department members' records of sworn officers shall be referred to the City Attorney's Office because such records cannot be disclosed or produced except by following specialized procedures.

The Department has five (5) days to comply with a "subpoenas duce tecum" in a criminal matter. For civil matters, compliance must occur within 15 days. If service is attempted with less than five (5) days for criminal or fifteen (15) days for civil matters, the subpoena should still be accepted with arrangements made with the attorney of record for an extension of time. If the attorney refuses the request of extension, then the matter should immediately be referred to the City Attorney's Office.

L 4010

CIVIL SUMMONS AND COMPLAINT:

A civil summons and complaint is a document which notifies a person or entity that they are being sued. Department members will accept civil summons and complaints naming the City or the Police Department. Department members will accept civil summons for another Department member under the provisions of Section L 4013 (Substitute Service of Legal Documents). Department members will accept summons and complaints in their own name if served personally or by mail.

- Summons and complaints for the City or the Department are referred to the City Clerk.
- Summons and complaints for individual Department members must be served on the member personally or through substitute service.

Department members personally served or receive a summons and complaint in the mail should hand carry the document or a copy to the City Attorney's Office Litigation Attorney without delay.

The City Attorney is required to respond to the summons and complaint within 30 days and often must take statements and do research before responding. Any delay in giving the summons and complaint to the City Attorney may jeopardize the City's or officer's position in the suit. Process servers attempting to serve civil summons and complaints are not sent to the City Attorney's Office to effect service. Procedures for civil court attendance are found in Section L 7607 (Appearance in Civil Court).

L 4011

ACCEPTANCE OF SUBPOENAS - GENERAL:

Process servers are not allowed past the lobby of the Police Administration Building (PAB). PAB Lobby officers will accept subpoenas delivered and route them to the Witness Coordination detail of the Court Liaison Unit. Subpoenas for the Chief of Police and Assistant Chief of Police are served in accordance with Section L 4012 (Acceptance of Subpoenas for the Chief of Police and Assistant Chief of Police).

The Witness Coordination Officer, Court Liaison Unit will review all subpoenas received and evaluate them for validity. Properly prepared subpoenas are logged and forwarded to the named Department member, with a copy also being forwarded to member's immediate supervisor. In the event a subpoena is determined not to be valid/or properly prepared, the sender is immediately advised by telephone or by mail, whichever is most appropriate.

Civil subpoenas for which witness fees have not been paid are not accepted unless it is a subpoena issued by a Federal Court.

Each unit or bureau, as appropriate, will log receipt and service of all subpoenas received. The Witness Coordination detail of the Court Liaison Unit is notified of any subpoenas delivered directly to the unit.

A copy of the subpoena is maintained in the unit/bureau; that copy is the Department's record that the subpoena was served.

If a subpoena is accepted by a unit for one of its members, the person accepting the subpoena will contact the member and serve the subpoena. If necessary, the person accepting the subpoena will make a reasonable effort to contact the Department member at home.

The Department's Attorney in the City Attorney's Office will be notified immediately of any civil subpoena or summons for a court action in which the City is a party or if there is a question about the document.

L 4012 ACCEPTANCE OF SUBPOENAS FOR THE CHIEF OF POLICE AND ASSISTANT CHIEF OF POLICE:

When a subpoena is presented to a PAB Lobby officer for the Chief of Police or Assistant Chief of Police, the Chief's Office is contacted by phone. The date, time and nature of the subpoena is given to the Chief's secretary. At the Chief's discretion, a representative of the Chief's Office will respond to the Information Center to accept service.

L 4013 SUBSTITUTE SERVICE OF LEGAL DOCUMENTS:

Section 415.20 of the Code of Civil Procedure provides for "substitute service" if the person named in the document cannot, with reasonable diligence, be personally served. Under substitute service, a document may be left with PAB Lobby officers. It is received and given or routed to the Court Liaison Unit immediately. Service is complete 10 days after the second copy is mailed by the process server. This applies to both work-related and any non-work-related actions.

Legal documents which may be served through substitute service include:

- Summons and Complaints
 - Civil suits
 - Divorce actions
- All Small Claims Actions

It is the responsibility of the process server or Sheriff's Deputy to use substitute service when it is appropriate. Information Center officers should not question what attempts were made to personally serve the employee. In an effort to minimize problems associated with the service of legal documents, the employee should be called, if at work, and asked if they will come to the Information Center to be personally served. In the event this action is taken, the Witness Coordination detail of Court Liaison is provided a copy of the subpoena.

L 4014 REPORTING RECEIPT OF CIVIL SUBPOENA:

When a Department member is served with a civil subpoena which pertains to actions taken by the City, the member receiving the subpoena will complete a brief City memorandum form detailing the receipt of the subpoena, its nature, the date on which it was received and the name of the agency requesting compliance. A copy of the subpoena will then be attached to the memorandum and the two documents forwarded to the Office of the Chief of Police without delay. A copy of the subpoena and memorandum will also be forwarded to the City Attorney's Office.

L 4015 APPEARANCE AS A DEFENSE WITNESS:

A Department member subpoenaed to appear as a defense witness in any criminal case will provide the Office of the Chief with a copy of the subpoena as soon as possible after the subpoena is received.

L 4016 CRIMINAL AND CIVIL DISCOVERY:

Discovery requests for Department policies, procedures and operational materials are commonly made in criminal prosecutions and civil actions. The most common requests are from the District Attorney's office, Office of the Public Defender and a variety of private attorneys. In the past there has been no standardized procedure with which to process these requests. The following procedures have been devised to better address the needs of the Department and the requesting individuals. This procedure does not affect existing procedures for disclosure of records under the Public Records Act.

Criminal Cases

District Attorney or defense attorney requests are coordinated by the District Attorney's Office. The District Attorney will ensure that the requests comply with established laws and rules of discovery per Penal Code 1054.1 - 1054.5. The request will then be forwarded to the appropriate investigative unit of the San Jose Police Department responsible for the related case. The Unit Commander or his representative will ensure a proper response is prepared.

The Department investigative unit receiving the request will complete the response and forward it to the Office of the Chief, Research and Development, for review.

Research and Development will conduct additional research, if necessary, consult with the City Attorney's Office if these are materials that the Department considers to be confidential or privileged and then forward the completed request to the District Attorney's Office for distribution.

Civil Cases

Requests by plaintiff's attorneys related to any action in which the City of San Jose, or any employee of the Police Department, is a party are referred to the City Attorney's Office.

The City Attorney's Office will contact the appropriate Department unit for assistance in responding to that request.

Note: Requests for confidential or privileged information in either criminal or civil cases should be referred to the City Attorney's Office for review prior to release.



L 4100 - PROTECTIVE ORDERS:

The Department will enforce and document violations of protective orders whenever an investigation discloses sufficient evidence to indicate a violation of such an order.

PROCEDURE

L 4101 COURT PROTECTIVE ORDERS - DEFINITIONS:

There are several types of protective orders which can be issued by a court that are intended to prevent a recurrence of violence and to assure a period of separation of the parties involved. The most common types of orders are:

- "Domestic Violence Order" is a type of restraining order which is issued pursuant to the Domestic Violence Prevention Act (Family Code Sections 6200-6389), or the Uniform Parentage Act (Family Code Sections 7710 and 7720), or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047 and 2049), or in cases of elder or dependent adult abuse (Welfare and Institutions Code Section 15657.03). This includes all local domestic violence related orders from other states, counties, tribal courts and juvenile courts.
- "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. A restraining order will remain in effect for a set period of time which is stated on the face of the order. If no time period is stated on the face of the order, the effective time period is three (3) years.
- "Temporary Restraining Order" is a type of restraining 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. A temporary restraining order will remain in effect until a formal court hearing can be held.
- "Stay Away Order" is a type of restraining order in a criminal, juvenile delinquency (a Juvenile Probation order can be in effect until the offender's 21st birthday) or civil case generally involving domestic violence which is issued by a Court in instances where there is a likelihood of harassment or violence toward the victim by the defendant. A Stay Away Order typically orders a person to stay away from the victim and/or other specified locations. A Stay Away Order may remain in effect as long as the defendant is under a Court's jurisdiction, including any sentence or probationary period. Stay Away Orders are issued pursuant to Penal Code Section 136.2 while the criminal prosecution is pending. Orders may also be issued pursuant to the Civil Harassment Prevention Act (Code of Civil Procedure Section 527.6), Workplace Violence Safety Act (Code of Civil Procedure Section 527.8), Uniform Parentage Act (Family Code Sections 7710 and 7720), Domestic Violence Prevention Act (Family Code Sections

6200-6389), or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047 and 2049). Civil Restraining Orders may be issued for a maximum of three (3) years but may be renewed for the period set forth in the order. Restraining Orders may be issued for a maximum of ten (10) years pursuant to Penal Code Section 646.9(h).

- "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. It is intended to function as a temporary restraining order if a person is in immediate and present danger of domestic violence, elder or dependent adult abuse or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative, or where stalking exists. It can also function as an order (when no custody order is in existence) determining temporary care and control of minor children of the endangered person. The issuance of such an order is not precluded by an arrest.

L 4102 DOMESTIC VIOLENCE PROTECTIVE ORDERS:

When an incident involves an alleged violation of a Restraining Order issued for domestic violence or harassment under the provisions of the Domestic Violence Prevention Act, assigned officers will adhere to the following procedures.

L 4103 APPLICABILITY:

Revised 09-15-07

Officers will enforce all domestic violence restraining orders. Under Penal Code Section 273.6(a), it is a misdemeanor to intentionally and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Code, Domestic Violence Prevention Act, the Workplace Violence Safety Act or the Civil Harassment Prevention Act. Penal Code Section 273.6(d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code Section 273.6 within seven (7) years.

The courts often include child custody and property control orders in domestic violence and harassment restraining orders. Child custody orders may be enforced pursuant to 278.5 PC (Violation of Custody Decree, a Wobbler). Officers should consider the welfare of the child in arriving at an appropriate disposition in these cases. When a child custody issue cannot be resolved to the satisfaction of the involved parties, the incident shall be documented pursuant to Duty Manual section L 4110 - "REPORT ONLY" PROCEDURES. Property control orders shall also be handled pursuant to Duty Manual section L 4110 - "REPORT ONLY" PROCEDURES.

The elements of the crime (Violation of Restraining Order) require a willful disobedience of the terms of the order. Proof of Service demonstrates that the suspect has the requisite knowledge to be in violation of the order. Verbal notice by an officer of the terms of the Order is also sufficient notice for the purpose of arrest under 273.6 PC.

An arrest should be made when there is probable cause to believe that the subject of the restraining order has violated the order and any one of the following conditions regarding proof of service of the order are met:

- A valid order exists and proof of service on the suspect has been verified; OR

- The complainant produces a valid copy of the order bearing a file stamp of a court and a proof of service on the suspect; OR
- The existence of the order has been verified and the order reflects that the suspect was personally present in court when the order was issued; OR
- The existence of the order has been verified, and there is proof that the suspect has previously been advised of the terms of the order by an officer.
- If the victim has proof that a copy of the restraining order was mailed to the respondent and they were present in Court when the initial order was made, this is good service if the only change in the new order is the expiration date.
- Under the authority of 836(c) (1) PC, a misdemeanor warrantless arrest shall be made if an officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, whether or not the violation occurred in the presence of the arresting officer. A "citizen's arrest" is not necessary. As soon as possible after the arrest, the officer should confirm that there is an active Restraining Order or Injunction on file per Duty Manual section L 4104 - RESPONSIBILITY OF ASSIGNED UNIT(S) unless the complainant provides the officer with a copy of the order.

L 4104 RESPONSIBILITY OF ASSIGNED UNIT(S):

Revised 03-23-22

To establish the corpus of the crime, the officer will run a warrant check on the suspect. If a "hit" is identified, officers may contact Communications to request they contact the Records Division of the Sheriff's Department in the County where the "hit" originated to verify that an active Protective Order or Injunction is on file. (Orders issued prior to 8/96 are not in the Registry and will have to be hand-checked by Warrants. Although EPROs are also retrievable from CLETS, "Stay-Away" orders require a hand-check by Warrants.)

If an order is on file but service has not been accomplished and the suspect was not in court when the order was issued, the assigned officer will give notice of the terms of the order to the suspect. Once advised, an arrest may be made if the suspect refuses to comply with the terms of the order. If there is documentation that the defendant was in court when the order was made, no further service is necessary for an arrest to be made.

Once service is completed by an officer, they will advise the Warrants Unit of this fact, along with their name and badge number, and the date and time of service. This verbal notification will provide sufficient proof of service to establish a willful violation in the event that a subsequent police response is required before the "Proof of Service" form can be delivered to Warrants. Pursuant to 6383 of the Family Code, the officer should then complete a Proof of Service form if available from the petitioner, or complete a Verbal Service form (available from the Warrants Unit), and deliver it to the Warrants Unit by the end of their shift.

A General Offense Report (Form 200-2-AFR) with an offense code of either 273.6 (Violation of Domestic Violence Order) or 166 (Violate Court Order) must be completed each time the officer has determined that an order is on file, or alleged to be on file, and

there is a violation, or an alleged violation, even if the suspect is no longer present at the scene. Details should include:

- The specific terms of the Order or Injunction
- The identity of all persons involved in the conflict and how they were identified
- The specific circumstances which will indicate a knowing and willful disregard of the order
- When the Warrants Unit was contacted

L 4104.5 HAND-CHECK WHEN A SUSPECTED PROTECTIVE ORDER OR INJUNCTION IS NOT DISCOVERED THROUGH A RECORDS CHECK:

Added 03-23-22

If there is reason to believe a protective order or injunction may exist, but the protected person cannot produce a copy, and a "hit" is not discovered on a records check, then an inquiry should be made with the agency that would be responsible for placing the order on file. Typically, this would be the Records Division of the Sheriff's Department in the county where the court proceeding took place. That agency should be contacted and a "hand-check" for the order should be requested. The officer may request this be done through Communications or the officer may contact the appropriate agency directly.

L 4105 MUTUAL RESTRAINING ORDERS:

In situations where mutual protective orders have been issued, officers shall make reasonable efforts to identify and arrest the "primary aggressor" involved in the incident. This is the person determined to be the most significant, rather than the first aggressor. In identifying the primary aggressor, the officer should consider the intent of the law to protect victims from continuing abuse, the threats creating the fear of physical injury, the history of domestic violence between the persons involved and whether either person involved acted in self-defense.

L 4106 ENCOURAGED VIOLATIONS:

Occasionally, an officer may encounter a situation where 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 canceled by a competent court and that the restrained party is the only person in violation of the order in such a situation.

L 4107 USE OF CIVIL STANDBY BY RESTRAINED PERSON:

A restraining order does not allow the use of a civil standby by the restrained person for any purpose.

L 4108 EMERGENCY PROTECTIVE ORDERS:

Revised 03-03-04

When responding to any domestic violence incident, an officer shall advise the victim of the availability of an EPRO. In arrest situations, an officer is required to explain the EPRO to the victim and ascertain if the victim desires one if there are reasonable

grounds to believe that the victim is in immediate and present danger of domestic violence which would require restraint if the defendant were to be released from custody (e.g., bail or 849 PC). When the officer fears for the safety of the victim but the victim does not desire an EPRO, the officer may request one on behalf of the victim.

EPRO are not provided at the jail nor is a Stay-Away Order automatically issued. An officer should not request either of these orders on the probable cause affidavit. If it is felt that restraint is required upon the defendant's release, follow the EPRO procedures outlined on the EPRO pocket card available at Central Supply and include information in support of the need for restraint in the probable cause affidavit. The functions of each of these orders do not necessarily overlap. The Stay-Away Order initiated as a condition of Supervised OR provides a mechanism for supervision of a defendant including ensuring court appearances and often includes drug and weapons conditions. The EPRO provides the victim with a way to enter the Civil Justice System with protection already in place.

If an EPRO is issued, legislation requires an officer to make a reasonable attempt to serve the restrained party. If the suspect is present or can be readily contacted, serve the order and complete the Proof of Service on the form. Give the restrained person their copy (canary) and document how the order was served on the crime report. Give the victim the pink copy and, regardless of whether the restrained person was served or not, deliver the remaining copies of the EPRO to the Warrants Unit immediately. If the officer cannot deliver the copies of the EPRO to the Warrants Unit immediately, the officer must telephone the Warrants Unit as soon as possible to advise a specialist of the status of the EPRO service, along with their name and badge number and the time and date of the service, if applicable. Also include the name and badge number of the Warrants specialist in your crime report. The officer must hand deliver the remaining copies of the EPRO to a Warrants Unit specialist as soon as practical and in no case later than the end of shift. EPRO copies are not deposited in the report pickup boxes.

L 4109

OUT-OF-STATE PROTECTIVE OR RESTRAINING ORDERS:

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

- The orders appear valid on their face
- The orders contain both parties' names
- The orders have not yet expired

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 the validity of the order. If validation cannot be substantiated, officers should contact the Duty Judge for an Emergency Protective 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 yet registered in California, the parties should be advised to immediately register the order through the Family Court.

L 4110

"REPORT ONLY" PROCEDURES:

Revised 09-15-07

When an alleged violation of a property control order or child custody order occurs, the officer assigned to such incident will report the facts and circumstances in a General Offense Report (Form 200-2-AFR) and include the following:

- Name and address of all persons present and their involvement.
- Facts and circumstances establishing that the violator was aware of the conditions of the order and willfully disregarded them.
- If available, the names on the order, the issuing judge and the judicial district.

The assigned officer will advise all persons involved that the report will be filed with Records, and they will ensure that the public peace and safety is restored prior to leaving the scene. They should ensure that other violations (Penal, Vehicle, etc.) are not occurring.

L 4111 RESPONSIBILITY OF WARRANTS UNIT:

The Department's Warrants Unit is responsible for maintaining, receiving, filing and purging Emergency Protective Orders and proof of their service, as well as those Restraining Orders issued prior to 8/1/96. It will also ensure that EPROs are filed with Family Court in a timely manner.

When a request for verification of an order is made, Warrants members will perform the following tasks:

- Determine that an active order is on file.
- Verify that the person against whom the order has been issued (respondent) has been served or has knowledge.
- Advise the requesting officer (or Communications) of the status of the order and the conditions granted, as well as the names of the persons listed as the petitioner and respondent.

L 4112 OFFICERS RECEIVING PROTECTIVE ORDERS:

Added 06-20-02

When an officer, who is named as the respondent, has been served with a protective order as defined in Section 136.2 of the Penal Code or Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Sections 527.6 or 527.8 of the Code of Civil Procedure, the member will notify the Office of the Chief of Police via the chain of command as soon as possible. A copy of the order and any associated documentation or case numbers are provided to the member's supervisor and forwarded at the time of notification to the Chief's Office.

L 4113 GUN VIOLENCE RESTRAINING ORDERS:

Added 05-29-20

Domestic Violence GVRO:

In domestic violence situations it is the policy of the Department to use Gun Violence Restraining Orders (GVRO) when appropriate to prevent future violence involving a firearm. Domestic disturbance responses in which an officer should consider the use of a GVRO include:

- Responses that involve the past or present use or threat of use of a firearm.
- Responses to any residence that is associated with a firearm registration or record.
- Responses in which a firearm is present.
- Responses in which one of the involved parties owns or possesses a firearm.

Mental Health GVRO:

Department policy is intended to prevent access to firearms by persons who, due to a mental health issue, pose a danger to themselves or to others by owning or possessing a firearm. During contacts with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, officers should consider the use of a GVRO when:

- The person owns or possesses a firearm.
- There is reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm.

Requesting & Serving a GVRO:

Obtaining a GVRO follows a similar process as is used to obtain an Emergency Protective Order (see Duty Manual section L 4108 - EMERGENCY PROTECTIVE ORDERS). If the GVRO is obtained, officers shall request that all firearms and ammunition be immediately surrendered when the order is served. Documenting and submitting the order to the Warrants Unit will follow the process previously established for EPROs.

Seizing & Booking Firearms Pursuant to a GVRO:

Officers who have obtained a GVRO shall seize and book firearms/ammunition as outlined in Duty Manual section L 5704 - BOOKING FIREARMS FOR SAFEKEEPING - DOMESTIC VIOLENCE INCIDENTS or Duty Manual section L 5705 - BOOKING FIREARMS FOR SAFEKEEPING - MENTAL HEALTH INCIDENTS

- NOTE: Possession of a GVRO does not, by itself, bestow authority to search. Firearms and ammunition may only be seized when in plain sight or discovered pursuant to a consensual search or other lawful search (i.e. search warrant, emergency or exigent circumstance, incident to arrest, probation, parole, or Post Release Community Supervision).
- In situations where a search warrant for firearms and ammunition is required in order to meet the requirements of the Fourth Amendment, officers shall abide by the search warrant standards and procedures commencing with Duty Manual section L 3800 - OBTAINING AND SERVING SEARCH WARRANTS.

GVRO Hearings:

Officers will attend GVRO hearings when requested by the City Attorney's Office or when summoned through the Court Notice or subpoena process.

BOI Responsibilities:

When necessitated by the facts of the case, the following will be the responsibility of the assigned BOI Detective working in concert with the City Attorney's Office.

- Requesting and serving a GVRO after a notice and hearing.
- Requesting and serving an ex parte GVRO.
- Verifying the removal of firearms and ammunition from the subject of a GVRO.
- Requesting renewals of expiring GVROs.



L 4200 – INVESTIGATIONS:

Coordination between uniformed patrol and investigative officers is essential if an investigation is to be successful. A successful investigation is accomplished when the individual responsible for a crime is identified, apprehended and adequate information and evidence is obtained to ensure that prosecution is possible. In this regard, the Department maintains procedures which ensure a coordinated and effective investigative process.

PROCEDURE

L 4201 GENERAL PROVISIONS:

To properly obtain sufficient evidence to justify the arrest and prosecution of a perpetrator, an efficient and effective investigation must be accomplished. An efficient investigation requires that particular tasks be performed by appropriate officers in order to avoid duplication of effort. An effective investigation requires that a systematic approach to the investigation be adhered to in order to ensure all possible actions have been taken and that the expertise of specific officers is utilized when required. Therefore, the following general provisions are adhered to by officers involved in criminal investigations whenever applicable to the specific crime being investigated.

L 4202 COMMAND AT THE CRIME SCENE:

The first officer arriving at the location of the crime is in command until relieved by a superior officer or upon arrival of officers from the appropriate investigative unit.

The officer intending to assume command will inform the officer being relieved that command is being assumed. Investigators and crime scene technicians may assume functional command of the crime scene area. Command and supervision of officers assigned to the perimeter of the crime scene, or officers searching for suspects nearby, remains with the field enforcement commanders.

L 4203 DEFINITION AND SCOPE OF INVESTIGATIVE PROCESSES:

The investigative process consists of the "preliminary investigation" and the "follow-up investigation". The definition and scope of duties and responsibilities for each stage is as follows:

PRELIMINARY INVESTIGATION: The preliminary investigation is directly concerned with the arrest of perpetrators at or fleeing from the scene and the initial crime scene processing and recording of information.

This stage of the investigation includes, but is not limited to, the following tasks:

- Response to the crime scene
- Care of the injured
- Determining the nature and extent of the criminal act or incident
- Obtaining accurate descriptions of perpetrators, vehicle and property taken

- Locating and interviewing witnesses
- Protection of the crime scene
- Collection of evidence
- Preparation and submission of required reports

The preliminary investigation is conducted at the scene of the crime and is generally the responsibility of uniformed patrol officers, unless investigative officers are assigned to perform this function.

FOLLOW-UP INVESTIGATION: The follow-up investigation is a continuation of the preliminary investigation and occurs under any of the following conditions:

- When a complete investigation by officers is not possible or practical.
- When additional evidence or information is required to identify and apprehend the perpetrator and the time required to obtain such evidence or information is extended beyond one tour of duty.
- When complexities of the case require the use of specialized officers. This stage of the investigation includes, but is not limited to, the following tasks:
 - Thorough and complete collection of physical evidence either at the scene or in some other location
 - Continuation of the development of witnesses
 - Necessary re-interviewing of original witnesses
 - Assessment of information and evidence obtained
 - Liaison with the Crime Lab and assessment of Crime Lab analysis
 - Determining and conducting appropriate surveillance, interrogation and identification processes
 - Preparation of wanted notices
 - Coordination of tasks when the investigation extends beyond jurisdictional boundaries
 - Presentation of evidence and statements to the prosecutor for purposes of obtaining arrest or search warrants and/or prosecution of the perpetrator(s)
 - Locating and arresting the perpetrator and accomplices
 - Development of exhibits for presentation in court
 - Preparation and submission of required reports
- The follow-up investigation may be conducted at the crime scene or another location at a later time and is generally the responsibility of officers assigned to an investigative unit of the Department

Though uniformed officers generally perform the tasks required in a preliminary investigation while investigators or specialists generally perform the tasks required in the follow-up investigation, the entire investigation may be performed by any one officer.

L 4204

FOLLOW-UP INVESTIGATION BY UNIFORMED OFFICERS:

Investigations proceeding beyond the preliminary stage may be conducted by uniformed officers upon supervisory approval and when one or more of the following circumstances exist:

- When there is a reasonable chance of apprehending a suspect,
- When there is a need for obtaining additional information for the initial report;
OR
- When other compelling circumstances exists such as the collection of physical evidence that is threatened with immediate destruction or alteration.

When a decision is made to use uniformed officers to continue the investigation beyond the preliminary stage, such further investigation is conducted in conformance with procedures contained in this manual.

L 4205

USE OF SPECIALIZED PERSONNEL:

Officers performing an investigative function have a responsibility to determine when the function required should be performed by a specialist(s). This determination should be based on the seriousness of the crime and ability to accomplish functions which may require special handling. Functions which may require special handling include, but are not limited to, the following:

- The collection of certain fragile evidence
- The sketching and photographing of the crime scene or other areas
- Subsequent investigations away from the crime scene area

In this regard, officers will remain aware of the potential value of evidence or other information and determine if their own training, knowledge, experience and time availability is sufficient to accomplish an effective and efficient collection of such evidence or information.

Specialists may include the following personnel:

- Other uniformed patrol officers with expertise in selected areas
- Investigators from appropriate subdivisions
- Evidence technicians
- Crime Lab personnel, if available
- Crime scene technicians from the Detective Division
- Personnel from other City Departments

When it is determined that the facts and circumstances warrant the use of specialists, it is the responsibility of the officer making such a determination to request those services necessary and to maintain the integrity of the crime scene until the specialists arrives.

L 4206 USE OF CELLULAR COMMUNICATION INTERCEPTION TECHNOLOGY (CCIT):

Added 06-29-16

San Jose Police Department CCIT Usage and Privacy Policy

Definition:

CCIT (cellular communications interception technology) is defined as any device or technology that intercepts mobile telephone calling information, including international mobile subscriber identity catchers or other virtual based transceiver stations that masquerade as a cellular station and logs mobile telephone calling information.

Authorized Purposes:

CCIT provides valuable assistance in support of important public safety objectives. Whether deployed as part of a fugitive apprehension effort (including the use of "ESN" or "IMSI" registration capture), to locate at-risk people or missing children, or to provide search and rescue support in natural disasters and emergencies, CCIT fulfills critical operational needs. All uses of CCIT will be in compliance with state and federal law. CCIT is but one tool among many traditional law enforcement strategies and will only be employed in cases in which the technology is best suited to achieve specific public safety goals. This technology will only be utilized when authorized by a search warrant that has been reviewed through the judicial process and is signed by a judicial officer (Penal Code Section 1546.1(b)(1)), (d)), (18 U.S.C. § 2703, 3122, 3123) or by specific consent of the authorized possessor of the mobile phone or with the specific consent of the owner of the mobile phone, only when the mobile phone has been reported as lost or stolen (Penal Code Section 1546.1(c)(3) and (4)). All search warrants written for the authorized use of CCIT equipment maintained by the Covert Response Unit (CRU) must be reviewed and authorized by the CRU Commander or their designee.

The San Jose Police Department may use CCIT in the wake of a natural disaster or other emergency involving danger of death or serious bodily injury to any person, where the ability to locate a victim's cell phone can assist first responders in narrowing the area of a search, or locate victims and render aid in the shortest possible time frame (Penal Code Section 1546.1(c)(5)). In emergency circumstances involving a danger of death or serious bodily injury where the Department needs access to electronic information without delay, a search warrant shall be obtained within 48 hours of the use of CCIT (Penal Code Section 1546.1(c)(5) and (h)), (18 U.S.C. § 2703, 3122, 3123).

The Department may also use CCIT without a warrant if the Department, in good faith, believes the device to be lost, stolen, or abandoned, provided the Department shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device.

Authorized Employees:

CCIT may only be utilized by personnel who have received CCIT-specific training. All Department personnel who utilize CCIT shall be trained by the manufacturers of the CCIT or an authorized trainer within the Department. Authorized employees must attend refresher training as deemed necessary by the manufacturer. Department personnel, who access, maintain, disseminate, or audit CCIT data and information shall

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be familiar with, and ensure compliance with this policy and the Electronic Communications Privacy Act (ECPA), California Penal Code Sections 1546-1546.4.

Security Procedures:

CCIT is a restricted use asset. Physical safeguards include that when not in use, San Jose Police Department's CCIT devices and technology are secured in a locked facility. Technical safeguards shall include that all CCIT access information is password protected. The password shall be unique to the CCIT and shall not be distributed to unauthorized users. Information gathered by CCIT shall also be password protected and only accessible by Department members trained by the manufacturer in the use of CCIT. Operational safeguards include that the use of any CCIT devices or technology shall require pre-approval by a Command Officer or Covert Response Unit Sergeant and that each request that results in an approved use is supported by a search warrant or an applicable exemption under the ECPA. When making any application for a search warrant, Department members shall disclose appropriately and accurately the underlying purpose and activities for which the order or authorization is sought and shall otherwise comply with the search warrant requirements of the ECPA, (18 U.S.C. § 2703,3122,3123), Penal Code Sections 1546.1and 1546.2, and the search warrant requirements of Part 2, Title 12, Chapter 3, Penal Code Sections 1523-1542.5.

Privacy and Civil Liberties:

The San Jose Police Department is committed to ensuring that law enforcement practices concerning the use of CCIT are lawful, and appropriately respects the important privacy interests of individuals. CCIT may not be used for the sole purpose of monitoring individual activities protected by the First Amendment to the United States Constitution. All use of CCIT shall meet the requirements set forth in California Government Code 53166 and the ECPA. Any public records requests for information obtained by CCIT must be in accordance with California Public Records Act (CPRA), and San Jose Police Department Duty Manual section C 2201 - CITY POLICY AND RESOURCES FOR RESPONDING TO PUBLIC RECORD ACT REQUESTS. Records of police investigations are generally exempt from public disclosure under Government Code Section 6254(f). Moreover, police records of information collected using CCIT will generally be considered official information acquired in confidence by authorized personnel which is privileged from disclosure under California Evidence Code Section 1040 and therefore exempt from public disclosure pursuant to Government Code Section 6254(k). Affidavits and applications in support of search warrants for information collected using CCIT are judicial records and are subject to disclosure by the Superior Court that issues the warrant, California Penal Code Section 1534(a). To the extent that electronic information accessed or obtained through the execution of a search warrant is recorded, the record may be considered to be a judicial record, Penal Code Section 1536. California Rules of Court, Rule 2.400(a) states that unless otherwise provide by court rules or ordered by the court, court records can only be inspected by the public in the office of the court. Judicial records are not subject to the California Public Records Act, Government Code Section 6252(f).

Training and Accountability Provisions:

Accountability is an essential element in maintaining the integrity of the use of CCIT by the San Jose Police Department. Every law enforcement agency and/or officer requesting use of CCIT, shall be provided with a copy of this Policy and specialized training in its use. Such agencies shall also provide copies of this Policy and training,

as appropriate, to all relevant employees who may be involved in the use of this technology. Periodic review of this Policy and training shall be the responsibility of the Deputy Chief of the Bureau of Investigations or their designee with respect to the way the equipment is being used or the data is being collected (e.g., significant advances in technological capabilities, type of data collected, or the manner in which it is collected). Department members will familiarize themselves with this Policy and comply with all orders concerning the use of this technology. Moreover, as the law in this area evolves, this Policy will be amended to reflect the current state of the law. It is vital that all authorized users of CCIT familiarize themselves with the contents of this Policy and the full content of the ECPA (PC 1546-1546.5), (18 U.S.C. § 2703,3122,3123), so that their administration of CCIT, and their court filings and representations are accurate and consistent with both the intent and scope of this Policy.

Monitoring Use:

The monitoring of the use of CCIT devices or technology will be the responsibility of the Deputy Chief of the Bureau of Investigations or their designee. Compliance checks with this usage and policy will be completed every fiscal quarter in conjunction with Program Manager Reports.

Information Sharing:

The San Jose Police Department often works closely with its Federal, State and Local law enforcement partners and provides technological and investigative assistance under a variety of circumstances. This policy applies to all instances in which the San Jose Police Department uses CCIT in support of other Federal, State or Local law enforcement agencies. The San Jose Police Department may share CCIT with other law enforcement agency partners that comply with all applicable state and federal laws, including the Electronic Communications Privacy Act, the California Government Code, and the California Public Records Act, regarding the uses and restrictions from sharing information, including the purposes of, processes for, and limitations from sharing information.

Information Retention and Dissemination:

The San Jose Police Department will operate CCIT in accordance with rules, policies, and laws that control the collection, retention, dissemination, and disposition of records that contain personal identifying information. As with data collected in the course of any investigation, these authorities apply to information collected through the use of a CCIT. The San Jose Police Department will not collect, retain or disseminate any data except as authorized by this Policy and by law. Consistent with applicable existing laws and requirements, including any duty to preserve exculpatory evidence, the San Jose Police Department's use of CCIT shall include the following operational practices:

Any data collected through the use of a CCIT device or technology that is not considered official evidence shall not be recorded or stored.

When the equipment is used following a disaster, or in a search and rescue context, all data must be deleted as soon as the person or persons in need of assistance have been located and in any event no less than once every (10) days.

The San Jose Police Department shall implement an audit program to ensure that the data is deleted in the manner described above. This audit shall take place not less than

once every six (6) months. The audit program will be administered by the Deputy Chief of the Bureau of Investigations or their designee.

In cases where the information gathered by CCIT is considered evidence, the information shall be recorded and retained in the investigative case file and retained in compliance with the City of San Jose Records Retention Schedule located in City Policy Manual Section 6.1.5, which can be viewed at:

<https://www.sanjoseca.gov/residents/site-search?q=City%20of%20San%20Jose%20Records%20Retention%20Schedule>

Any data or information obtained through the use of CCIT shall be considered Sensitive Controlled Information (SCI). Any records of SCI that are created shall only be accessed in conjunction with the need to know and right to know the data or information being sought, in accordance with San Jose Police Department Duty Manual section C 2003.1 - AUTHORIZED RECEIVERS OF SENSITIVE CONTROLLED INFORMATION (SCI) and in accordance with the other requirements of Duty Manual Chapter C 2000, including Duty Manual section 2008.1 - RECORDING RELEASE OF SENSITIVE CONTROLLED INFORMATION (SCI).

L 4207 USE OF AUTOMATED LICENSE PLATE READER (ALPR) TECHNOLOGY:

Added 11-04-16

PURPOSE:

The purpose of this privacy policy is to ensure that all capture, use, retention, and dissemination of information obtained through the San Jose Police Department's use of Automated License Plate Recognition (ALPR) technology complies with all applicable federal, state, and local laws.

ALPR technology is a valuable tool for law enforcement and when used appropriately serves to enhance public safety. As with any law enforcement capability, the technology must be used in a manner that is consistent with the United States Constitution, including the Fourth Amendment, and other applicable statutory authorities.

AUTHORIZED USES:

ALPR technology shall not be used for any purpose other than legitimate law enforcement or public safety purposes. Department members with a need and right to know the information provided by an ALPR may utilize ALPR technology to:

1. Locate stolen or wanted vehicles, and vehicles that are the subject of a legitimate law enforcement investigation;
2. Locate and apprehend suspects that are lawfully sought by law enforcement;
3. Locate witnesses and victims of violent crime;
4. Locate at-risk missing persons (including responding to Amber and Silver Alerts);
5. Support local, state, and federal safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;

6. Protect participants at special events;
7. Protect critical infrastructure sites.

Department members shall attempt to verify data provided by ALPR technology using other law enforcement information sources in order to confirm the vehicle or subject's identity and justification for a contact. To the fullest extent possible, Department members shall visually confirm that the plate characters generated by the ALPR technology correspond with the digital image of the license in question.

RESTRICTED USES:

Automated License Plate Reader technology may only be used to collect data that is within public view. ALPR technology may not be used for the sole purpose of monitoring individual activities protected by the First Amendment to the United States Constitution.

TRAINING:

Only Department personnel trained in the use of ALPR technology, including its privacy and civil liberties protections, shall be allowed access to ALPR data. Training shall consist of:

1. Legal authorities, developments, and issues involving the use of ALPR data and technology;
2. Current Department policy regarding appropriate use of ALPR technology;
3. The evolution of ALPR technology including any new capabilities and associated risks ;
4. Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use;
5. Practical exercises in the use of ALPR technology.

RETENTION OF DATA:

ALPR data shall be retained for 12 months, or the length of time required by the Department for official purposes – whichever is shorter. Once the retention period has expired, the record shall be purged entirely from all active and backup systems unless a reasonable suspicion has been established that the vehicle identified by the ALPR is connected to criminal activity.

If during the specified retention period there is information which supports a legitimate law enforcement purpose as to a license plate or partial license plate which was recorded and is retained in the system, then limited access will be permitted for predicate-based querying for potential matches against parameters specific to the legitimate law enforcement purpose. Such instances shall be recorded in an access log showing the date, time, name and badge of person seeking access, and case number.

STORAGE AND SECURITY:

Data collected by ALPR technology shall be stored in a secured police facility. Physical access shall be limited to law enforcement staff with a legitimate need and right to access the information. The Department will utilize reasonable physical, technological, administrative procedural and personnel security measures to prevent unauthorized

access to ALPR data. Sworn personnel or authorized civilian personnel (such as a crime analyst) shall have general user access to the SJPD ALPR database, as appropriate, to query information.

Sworn personnel or authorized civilian personnel of the Bureau of Field Operations – Administrative Unit shall have administrative user access to the SJPD ALPR database, as appropriate, to control:

1. The information to which a particular group or class of users can have access based on the group or class;
2. The information a class of users can access, and/or data being utilized in specific investigations;
3. Sharing capabilities with other law enforcement agencies;
4. Any administrative or functional access required to maintain, control, administer, audit, or otherwise manage the data or equipment.

The Systems Development Unit may provide ALPR technical support for the BFO Administrative Unit. The BFO Administrative Unit shall ensure compliance with this policy. The custodian of ALPR data for purposes of this policy shall be the Deputy Chief of BFO or their designee.

ACCOUNTABILITY:

All Department members authorized to use or access ALPR technology or data shall be accountable for knowledge of this policy. Department members shall report errors and suspected or confirmed violations of Department policies relating to protected information to their supervisor or manager.

All access to the system shall be logged, and the Department will maintain an audit trail of requested and accessed information, including the purpose of the query. Periodic, random audits shall be conducted by a unit other than BFO Admin at the direction of the BFO Deputy Chief to ensure and evaluate compliance with system requirements and with the provisions of this policy and applicable law. Audit trails shall be maintained by the Department for a minimum of two (2) years.

If a Department member accesses or provides access to ALPR information, the Department member shall do the following:

1. Maintain a record of the access that includes the following information
 - a. Date/Time the Information was accessed
 - b. The license plate number or other data elements used to query the ALPR system
 - c. The name and department of the person who accessed the information
 - d. The purpose for accessing the information
2. ALPR information may only be used for authorized purposes as specified in this policy in accordance with California civil Code Section 1798.90.51(b).

SHARING AND DISCLOSURE:

The San Jose Police Department does not share ALPR data with any contracted, commercial, or private entity. The provision of data hosting or towing services shall not be considered the sale, sharing, or transferring of ALPR information (see CA Civil Code 1798.90.55.(b)).

Information gathered or collected and records retained by the Department will not be:

1. Sold, published, exchanged, or disclosed for commercial purposes;
2. Disclosed or published without authorization;
3. Disseminated to persons not authorized to access or use the information.

The Department shall not confirm the existence or nonexistence of information to any person or agency that would not be eligible to receive the information unless otherwise required by law.

The Department may share ALPR data with other law enforcement agencies upon the execution of an inter-agency agreement by which each agency agrees that all ALPR data will be gathered, accessed, utilized, and disclosed in accordance with applicable law, and further agrees:

1. ALPR data shall be available only to authorized users for legitimate law enforcement purposes;
2. Reasonable efforts will be made to ensure the accuracy of its data;
3. Shared "hotlist" data will not be stored for more than 24 hours without refresh;
4. Internal audits will be conducted periodically to ensure information is up to date and user queries are made for legitimate law enforcement purposes only;
5. Audit trails documenting who accessed the information and why shall be maintained by each agency as defined by their policy.

**L 4300 - INITIAL ACTIONS:**

The actions taken by officers initially responding to the scene of a crime often determines the outcome of the overall investigation. These initial actions include: a proper response; adequate care of the victims of crime; establishing the nature of the incident; protection and collection of evidence and apprehension of perpetrators. In this regard, the Department maintains procedures to ensure a proper initial response. Officers will adhere to these procedures whenever appropriate and, in any case, perform all appropriate tasks possible to ensure that the community's welfare and safety is restored and/or maintained.

PROCEDURE**L 4301 RESPONSE TO REPORTED CRIME:**

When appropriate and possible, the procedures governing response to a reported crime are adhered to by all officers.

L 4302 AUTHORIZED RESPONSES:

Unless performing a supervisory function, officers will respond to the scene of a crime only if specifically dispatched by Communications members, other competent authority or in emergency situations. Once authorization is received, responding officers will adhere to the following procedures.

L 4303 APPROACH:

When approaching the location of a crime, officers will remain alert and, when appropriate, investigate the following:

- Suspicious persons and/or vehicles leaving the crime scene area
- Darkened side yards and/or alleyways
- Occupied parked vehicles
- Any other unusual circumstances which may indicate the presence of the perpetrator or evidence of the crime

In addition, officers will approach the crime scene in a manner that maintains the safety and well-being of uninvolved persons in the area.

L 4304 RENDER ASSISTANCE TO THE VICTIM(S):

Revised 07-28-22

The fundamental responsibility is to the victim. The injured must receive the highest priority even if this permits the suspect to escape. To do so, Department members are expected to secure the scene and render safe any potential ongoing or imminent threat as soon as practicable. The first arriving officer will ensure that the victim receives emergency first aid and further medical care as necessary, when safe to do so. This task may be delegated to other competent persons or officers but the responsibility to ensure that this task is accomplished remains with the first arriving unit.

L 4305 APPREHEND THE OFFENDER(S):

A primary responsibility of all officers is the immediate pursuit and apprehension of criminals. However, the necessity for an immediate pursuit must be weighed against the welfare of the victim(s) and/or the need to conduct a more systematic investigation. Circumstances which will justify an immediate pursuit include, but are not limited to, the following examples:

- **IDENTITY KNOWN**: When the identity of a suspect is known and an immediate pursuit is possible, officers should consider the effect upon the total investigation. An immediate pursuit may not be appropriate if the preliminary interview, crime scene protection or preliminary investigation processes would suffer. When such circumstances are present, officers may delay apprehension until a more appropriate time.
- **IDENTITY UNKNOWN**: When the identity of a suspect is unknown but an officer is aware of the suspect's actual or probable location, an immediate pursuit may be appropriate, consistent with the victim's welfare and/or protection of the crime scene. In addition, officers should evaluate the effect of a pursuit upon the preliminary interview and investigation, especially the process of identifying witnesses to the crime.
- **IMMINENT DANGER TO THE PUBLIC**: An immediate pursuit and apprehension would be appropriate whenever an officer determines that a suspect's behavior, if allowed to continue, would jeopardize the immediate safety of other persons.

Justification for a decision to immediately pursue or not is limited to facts known to the officer or perceived by the officer at the time the pursuit decision is made. Facts unknown at the time cannot be considered in later determining justification for actions taken.

L 4306 DETERMINE THE NATURE AND CIRCUMSTANCES OF THE INCIDENT:

The first officer arriving at a crime scene has the additional responsibility to conduct a preliminary interview of appropriate persons at the scene. The purpose of these preliminary interviews is to obtain as much information as quickly as possible. Persons to be interviewed include the victim, the person reporting the alleged crime and any other witnesses to the incident. When practical, the name, address and telephone number (Both residence and business) of each person interviewed is obtained at the time the interview occurs. When possible, the identification should be confirmed with a California Driver's License or Identification Card.

Officers will, when possible, interview witnesses in sequence of how close they were to the crime. In other words, start with the victim/complainant; next, the eye-witnesses; finally, all others having information. At this initial stage, and if they would be available the next day, it is usually best to record only the names, addresses and telephone numbers of witnesses other than the victim/ complainant and eye-witnesses. Interviews of other witnesses can then be completed at a later time.

Examples of information to obtain or determine include, but are not limited to, the following:

- The existence of the criminal act and circumstances (Elements)

- Assistance required
- The description of perpetrators:
 - Name and address
 - Sex
 - Height
 - Weight
 - Hair color and length
 - Race
 - Facial hair
 - Glasses
 - Type and color of clothing
- The description of vehicle(s), if any, used by perpetrators:
 - Make and model
 - Body style
 - Color
 - Peculiarities (multi-colored, missing parts, etc.)
 - License number
- The direction in which the perpetrator(s) fled
- The weapons used and whether still in possession of perpetrator(s)
- The proceeds of the crime in possession of the perpetrator(s)
- Any other information necessary to assist in the immediate apprehension of the suspect(s)

Officers should not rely on their own memory but should write down all useful information obtained. In addition, officers will remain observant and record other facts obtained through their own senses that assist in establishing the elements and circumstances pertaining to the reported criminal act.

L 4307

NOTIFY COMMUNICATIONS:

As soon as possible after arrival at the scene commensurate with the steps listed in Section L 4306, officers will notify Communications of all appropriate information which may assist in the apprehension of the perpetrator(s).

L 4308

PROTECT THE CRIME SCENE:

The confusion and excitement immediately following the commission of a crime can easily cause the destruction or alteration of evidence necessary for a successful investigation.

To prevent such destruction or alteration, officers will adhere to the following procedures:

- When necessary and practical, officers assigned to the scene of a crime will ensure that the area in which the crime occurred is protected so that physical evidence located in the area remains in the same physical condition as left by the perpetrator. Protection of the scene may require closing of the perimeter of the crime scene area or securing one structure. The extent of the protection necessary will be established by observing the entire scene and determining the extent of the crime scene area where items of evidentiary value may exist.
- All persons, whether citizens or police, whose duties and responsibilities do not require their presence at the crime scene will be excluded from the area being protected.
- Suspects and/or witnesses, once they have been removed or have left, will not be allowed to return to the area being protected.
- When a crime scene has been secured and the incident involves circumstances such as homicide, a possible homicide, suspicious suicide, or other circumstances that might require the response of the Crime Scene Unit, homicide investigator or other BOI officers, the area is not re-entered for purposes such as photographs or other evidence collection. Any evidence collection, photographs, etc., are collected by the Crime Scene Unit to reduce contamination or destruction of the evidence.
- The officer assigned or assuming the duty of protecting the crime scene will maintain a list of all persons entering the area being protected. The badge number of all officers entering the scene will also be obtained.
- In the event of a changing crime scene due to inclement weather, or due to those present conducting official duties (example: paramedics, fire, etc.), photos should be taken to document evidence which may be destroyed.

Protection of the crime scene will continue until photographs, sketches and collection of evidence is completed, or until an assigned investigator indicates that protection is no longer necessary.

L 4309

RECORD ADDITIONAL INFORMATION:

As soon as practical, the following additional information is determined and recorded by the first arriving officer.

- Time of arrival on the scene and how summoned
- Location of scene
- The weather conditions
- The approximate time the crime occurred and was discovered
- If at night, note the lighting conditions and any artificial lights and their location
- The correct identity of the other officers present including badge numbers and their participation in the event
- Any spontaneous or chance remarks relevant to the case
- Location of obvious physical evidence in order to later indicate the presence of such evidence to officers performing further investigative tasks
- Further descriptions of suspect(s) and vehicle(s) involved

Officers will record such information in a notebook or other appropriate record for later inclusion in the General Offense Report (Form 200-2-AFR).

L 4310

INFORM FOLLOW-UP INVESTIGATORS:

Officers initially responding to a crime scene will inform the assigned follow-up investigator of witnesses detained, evidence found and all other information regarding the case which may be helpful in achieving a successful investigation and apprehension of the perpetrator.

L 4311

THREATS AGAINST DEPARTMENT MEMBERS:

Upon receipt of a report of a threat against a Department member, the member threatened will be notified as soon as reasonable by the person receiving the threat. A copy of any memorandum or report generated should be supplied to the victim member in a timely manner. Department members are reminded that threats are addressed in the Penal Code, under Section 71 PC and 422 PC. Department members will document the threat in a General Offense Report (Form 200-2-AFR) when the threat can reasonably be believed to be a violation of the Penal Code. Threats that do not violate the Penal Code and appear to be intentional and viable will be documented in a memorandum directed to the Chief of Police.

L 4312

THREATS INVESTIGATED:

Whenever a threat against a Department member is received by the Bureau of investigations, the assigned case investigator will notify the threatened member of the case disposition.



L 4400 COLLECTION OF PHYSICAL EVIDENCE

Any item at the crime scene that can be used to ascertain what in fact occurred constitutes physical evidence, and all such articles which are, or may be, of value as evidence are collected and/or processed in accordance with established procedures.

PROCEDURE

L 4401 COLLECTION OF PHYSICAL EVIDENCE DEFINITION:

Physical evidence is anything that, when presented in a court of law, will assist in determining the truth about a fact in question. Physical evidence is also anything or fact which may indicate a crime was committed or anything which may connect a particular person to the crime.

The process of collecting physical evidence requires a complete evaluation of the scene and the determination of appropriate measures for the investigation. This may include photography, diagramming, searching for items of evidentiary value, collection of items and preservation for eventual analysis and court presentation. To ensure that this process is conducted in a proper and effective manner, officers and other Department members involved in the collection of evidence will adhere to the following procedures when applicable.

L 4402 PRELIMINARY CRIME SCENE ASSESSMENT:

To ensure that the collection of physical evidence is conducted in an organized and effective manner, a preliminary assessment of the crime scene area will be conducted. Actual collection will occur after completion of this task. The purpose of the preliminary assessment is to discover the existence of items that have evidentiary value and then determine the priority and method of collection. Responsibility for this task is assigned to the officer in command of the area to be searched. The command officer may assign other officers to perform this task, but such officers will report their findings to the command officer prior to collection.

The preliminary assessment involves, but is not limited to, the following tasks:

- **IDENTIFY AREAS TO BE SEARCHED:** Searches are not confined to the immediate area of the crime but also include the approach and exit or flight areas. A fleeing criminal may accidentally drop some item of physical evidence during the attempted escape. The nature of the crime and eyewitnesses' statements should be considered when making this decision.
- **IDENTIFY AREAS TO BE PHOTOGRAPHED AND SKETCHED:** Rules of evidence require that the crime scene be reproduced in court with a reasonable amount of accuracy. Photographs and sketches enhance the credibility of the evidence found and serve to support testimony of witnesses and verbal testimony of others. The photographing and sketching of the crime scene will be performed with the above

objectives in mind.

Photograph those items and situations that are most likely to be damaged or altered FIRST. These include the changes to a crime scene that are caused by Emergency Response Personnel.

- DETERMINE AN APPROPRIATE SEARCH METHOD: Methods of searching vary, but as in all phases of an investigation, some system is required. Prior to conducting a search, the investigator should decide on a plan of searching.
- DETERMINE A LOGICAL STARTING POINT: Usually it is wise to conduct an outside search first because of the difficulty in protecting such an area. Elements to consider are the nature of the crime scene, the type of evidence associated, the search method to be used and the number of officers involved.

L 4403 CRIME SCENE PHOTOGRAPHS:

Revised 03-08-04

Normally, a search is not commenced until the crime scene area is photographed. The purpose of crime scene photography is to provide a photographic record of facts and to allow the viewer to obtain a better understanding of the crime. To adequately determine what specific objects to photograph, a preliminary visual search of the crime scene area may be necessary. When appropriate, the following photographs are taken:

- GENERAL VIEW: These photographs include pictures of the terrain adjoining the crime scene and/or the adjacent neighborhood. It will show the scene of the crime and its surroundings. The general view photograph is used to orient the court or jurors to the locality in question.
- MEDIUM VIEW: These photographs are taken from a distance of 10 to 20 feet from the area being photographed. Medium view photographs should show specific objects and contain sufficient details so as to associate it with "General View" photographs.
- CLOSE-UP VIEW: These photographs of individual items and/or small sections of larger areas. They should be taken from as near as the equipment used will allow, showing details not seen in the more distant photographs. These photographs usually include some identifiable object or characteristics found in the "Medium View" photograph.

Crime scene photography may be performed by any officer assigned by the officer in command. However, the experience necessary and the nature of the area to be photographed is considered when making such an assignment. Officers taking photographs for a case should limit the photographs to that case as the entire roll of film, exposed and unexposed, becomes part of the case file and subject to discovery and court presentations.

Digital photographs may be used to document a crime scene or other evidence. Refer to Section L 4421, Digital Evidence - Acceptable File Types, and Section L 4422, Digital Evidence Capture, for the minimum requirements. If high quality photographs are necessary for the capture of visual detail, contact the Crime Scene Unit for assistance.

L 4404 MEASURING DEVICES:

The use of measuring devices such as rulers, yardsticks and other devices is a common practice in crime scene photography and are used to demonstrate relative size and relationships. Nevertheless, the use of such devices in every photograph may cause admissibility problems. Therefore, a minimum of two photographs of each scene will be taken - the first photograph without measuring devices and the second with measuring devices.

L 4405 DOCUMENTING PHOTOGRAPHS:

Revised 04-20-13

Crime scene photographs, as any evidence, will be correctly and completely identified and documented. The officer performing the photographic function will record the following information

- Case number
- Subject being photographed
- Where photograph taken
- Name of person taking the picture
- Name of witnesses, if any
- Brief statement as to circumstances

The above information will then be reported in a text document in a General Offense Report (Form 200-2-AFR) or Narrative/Supplemental Report (Form 200-3D-AFR) filed by the officer taking the photograph. When the photograph is a "Polaroid" type, this information should be recorded on the finished photograph itself.

L 4406 INITIAL SEARCH:

The purpose of a search at a crime scene is to uncover any physical evidence which will enable the officer to determine the facts of the crime, identify the perpetrator and to aid in the arrest and conviction of the criminal or the exoneration of an innocent person. The initial search is conducted only by those officers assigned by the officer in command of the search area. During this phase of the search, officers will adhere to the following procedures:

- **DETERMINE IF THE SERVICES OF A SPECIALIST ARE REQUIRED:** In order to effectively collect certain evidence, the nature of the evidence to be collected and the gravity of the crime should be considered when making this decision.
- **ASSIGN RECORDING AND COLLECTION OFFICER(S):** The officer in command of the area to be searched will assign one officer, or two officers working together, to perform the actual recording and collection of evidence. These officers are often referred to as the "Finders". This establishes the chain of custody, concentrates the responsibility for evidence in one or two persons, prevents loss of evidence, is more efficient and eliminates the necessity of several officers having to appear in court to testify. The search record will indicate the name of the officer locating the evidence, location, the time of discovery, a description of the item found and the condition that the item was in at the time of discovery.

- **LOCATE EVIDENCE:** Officers will look for, determine and make note of, all items which could be of value as evidence. Officers should search for any evidence which would prove "control and possession." Officers performing this task will notify the Finders as each item of evidence is located. The officers who have located the item will keep it secured and unaltered until the Finder can observe it, then determine the appropriate preservation method.
- **DETERMINE THE ORDER IN WHICH ITEMS WILL BE COLLECTED:** Elements to consider include the fragile nature of particular evidence and/or the possibility of destruction during the collection process. Example of evidence which should be collected first are fingerprints, footprints and tire tracks.

All officers assigned to search will use the same techniques of search unless directed otherwise by the officer in command of the search area.

L 4407

CRIME SCENE SKETCHES:

When appropriate, a sketch will be made to depict the location of all evidence. Sketches will be made prior to actual collection. Officers will use one method for all measurements and decide what is to be sketched before starting. The following sketches should be made:

- **SKETCH OF LOCALITY:** This type of sketch is a general sketch of the entire crime scene area and will show cross streets and/or permanent landmarks within or near to the crime scene.
- **SKETCH OF GROUNDS:** This type of sketch is of the immediate area in which a particular item of evidence is located.
- **SKETCH OF DETAILS:** This type of sketch shows the specific location of a particular item of evidence and its relationship to the closest objects depicted in the "grounds" type of sketch.

Officers performing the sketching process should sketch only the essentials, such as the item of evidence and its relationship to other objects. Sketches will include those items or objects which have been photographed and the locations from which photographs were taken. Sketches and corrections are made at the scene.

L 4408

DOCUMENTING SKETCHES:

The following information will appear on each sketch made:

- Case number
- Scale used
- Compass direction
- Name of streets and/or landmarks
- Title (brief description of area)
- Date and time sketch made
- Sketcher's name

L 4409 RESPONSIBILITY FOR SKETCHES:

The officer in charge of the area being searched is responsible for ensuring that appropriate sketches are made. This task may be delegated to any officer at the crime scene or may be performed by a specialist called to the scene for this purpose.

L 4410 COLLECTING AND MARKING OF EVIDENCE:

Once the preliminary assessment, photographs, initial search and sketches have been completed, the actual recovery and marking of evidence will be conducted in accordance with the following procedures.

L 4411 GENERAL COLLECTION AND MARKING PROCEDURE:

The collection officer will refer to the "Search Record" developed during the initial search and proceed to take physical custody of each item of evidence found. The officer collecting the evidence will do so in a manner that ensures that one item of evidence does not contaminate another item. The time of collection will be recorded on the "Search Record" log. As each item of evidence is collected, the officer collecting it will mark the evidence with some distinguishable symbol. If it is not possible to mark an item of evidence, it will be appropriately packaged and tagged with the officer's mark appearing on the tag. The officer collecting the evidence will ensure that other pieces of evidence clinging or attached to an item of evidence (i.e., blood, paint, fingerprints or fibers) are not disturbed during the marking or packaging of the evidence being seized.

L 4412 DEGREE OF MARKING:

Each article is individually evaluated as to the degree of marking required.

Every identifying mark will be made so that it does not destroy the utility of the item as evidence nor seriously reduce the market value. The mark should not be easily removed or altered.

L 4413 UNIQUE MARKING:

Distinctive marks will be used by officers. As an example, the initial(s) of the officer and the date may be used. Marks easily duplicated or common in usage will not be used. Check marks or crosses are examples of common usage marks.

L 4414 COLLECTING AND MARKING CERTAIN EVIDENCE:

Revised 01-21-20

BULLET/SPENT PROJECTILE: The spent projectile is the expended lead projectile from the gun. Fragments of copper and lead will be included in this category as bullet fragments. The spent projectile will be placed in a sealed envelope and the envelope will be properly marked. Do not mark the projectile itself. If the spent projectile is contained in a plastic vial, separate the vial from the spent projectile for possible DNA examination later.

CARTRIDGE: The cartridge consists of a live round. The cartridge can be processed for fingerprints (if needed) by the crime lab. The cartridges will be placed in a tape sealed envelope and the envelope will be properly marked. Do not mark the cartridge itself.

CARTRIDGE CASING: The cartridge casing is the expended case (usually brass) left from a fired cartridge. The fired cartridge casing will be placed in a tape sealed envelope and the envelope will be properly marked. Do not mark the casing itself. The crime lab will not process for fingerprints or DNA absent extenuating circumstances. All casings will be submitted to the Crime Lab for IBIS analysis.

FIREARMS: Upon retrieving a firearm in the field, officers will document the exact location of the weapon by photographs, sketches or notes. Notes will be taken in detail as to the condition of the weapon, the position of any safety mechanisms, whether the firearm was loaded, hammer cocked, as well as the position of fired and unfired rounds in a revolver's cylinder, the number and type of rounds in the magazines, magazine position, chambered rounds and malfunctions are items that should be noted on auto-loading weapons. When moving the firearm, the officer should touch only the areas of the weapon that are not likely to yield latent print evidence and should wear gloves to avoid DNA transfer. Identification of the weapon should be the make/brand, model, caliber, type, action, serial number and barrel length. Do not etch initials for identification, but use a "firearm" tag for identification even if there is no serial number on the firearm.

- All sealed items may be opened and verified at the discretion of Property Personnel.
- Officers will unload the weapon, engage all safety mechanisms and place the weapon in a tape sealed gun box at Central Supply. A "firearm" tag will be completed and attached to the outside of the gun box. Revolvers will be unloaded by opening the cylinder and documenting the position of fired and unfired rounds in the chambers. Semi-automatic firearms will be unloaded by removing the magazine and clearing the chamber. The slide will then be pulled back and locked in place with a zip tie.
- Central Supply will not receive any loaded firearms as evidence. If a gun is dysfunctional and remains loaded, officers will do the following:
 - During normal Range hours: contact range staff for assistance with the firearm.
 - When the range is closed: contact the on-duty watch commander, who shall contact, or advise the officer to contact, the Range supervisor or the Crime Scene Unit for assistance with the firearm.

The gun shall not be booked at Central Supply until it is deemed unloaded or safe.

- Central Supply has a key to the Range should an officer need to unload a weapon prior to booking as evidence.
- A "firearm" tag will be attached to all firearms booked at Central Supply and a property report also completed. A firearm can be booked in a gun case or other package unless it is to be held for prints.

NOTE: Handling Firearms on Homicides - Firearms located at the scene of a homicide should not be moved or handled unless there is an immediate officer safety concern or a concern regarding the destruction of evidence. If the firearm is removed from the scene, it should be turned over to Crime Scene Investigators when they arrive on scene.

FINGERPRINTS: The lifting of latent fingerprints or other methods of preserving fingerprints shall be the responsibility of the officer assigned to perform this function. The expertise of the officer intending to lift the prints and the complexity of the task will be considered and then a decision to either request a specialist to perform the "lifting," submit the item containing the prints to the Crime Lab, or perform the "lifting" process at the scene shall be made. Items containing suspected fingerprints, which are not processed at the scene, shall be packaged to protect against friction and the package marked appropriately.

- Due to the fragile nature of this type of evidence, in any case where an item of evidence is booked with a request for special processing, the Officer must indicate this information in the General Offense Report (Form 200-2-AFR) to ensure the investigative unit responsible for the case is aware of the request as soon as possible.

DOCUMENTS: Documents will not be marked in any way by anyone other than the specialist conducting the scientific examination. Marking by the specialist shall be done in the presence of the officer submitting such documents, whenever practical. Documents will be placed in paper bags or envelopes, tagged, and the tag appropriately marked.

FOOTPRINTS, TIRE TRACTS OR TOOL MARKS: These items will be covered and preserved in such a manner so as not to destroy them, until they have been properly preserved or collected.

LIQUOR AND FLUIDS: Liquor and other fluids which are to be submitted to the laboratory for chemical analysis will be poured into a clean bottle and stopped with a cork or a cap or the procedures contained in the section entitled "Alcoholic Beverage Evidence" will be followed. If the liquor is over 12% alcohol, then a one dram vial will be completely filled and secured, otherwise the liquor may chemically decompose by the time it is presented in court for evidence.

DRUGS OF ABUSE: Drugs of abuse will be contained, separated from other evidence, packaged, and sealed. Seized drugs of abuse will be transported to and booked at Central Supply as soon as possible in most cases.

ODORS AND VOLATILE FLUIDS: When preserving an odor or volatile fluid, articles impregnated with the substance will be placed in a clean airtight container, preferably glass, as soon as possible. The container will be marked and tagged. When appropriate, the tag will indicate that the package contains material impregnated with a volatile fluid.

POISONS: Poisons will be placed in non-metallic containers, preferably glass, and marked or tagged.

REMOVABLE ARTICLES: Whenever possible, in the case of trace evidence that is deposited on an object or surface, the evidence should be collected by submitting the entire object or removing that portion that contains the evidence.

SCRAPINGS AND STAINS: Biological evidence items such as blood, semen and saliva will be removed from the object concerned only by a specialist, unless an officer has been assigned to collect the scrapings. Officers assigned to collect scrapings or stains will wear the protective gloves provided. This will protect the officer from possible contamination by the sample and protect the sample from contamination in light of new genetic typing techniques. The scrapings, especially blood, will not be placed in plastic containers or decomposition will take place.

- 85% of the population secrete their blood group factors through other physiological fluids, including perspiration, saliva, semen and urine. If the officer touches the stain or scraping, he will probably contaminate the stain.
- Sample size is of great importance. As much of the scraping as possible will be taken.
- A background control standard of the object upon which the stain has been found must be taken. As an example, a small portion of the upholstery of a chair or a piece of the woodwork will suffice. The standard should be marked and sent to the laboratory with the section bearing the stain. Care will be taken to ensure that the stained section is not contaminated by the standard sample.
- Semen stains should be handled the same as blood. If semen is not to be taken directly to the laboratory, then it will be allowed to dry at room temperature. Semen exhibits a bright white-blue color when subjected to ultraviolet radiation. Suspected semen stains will, when possible, be packaged in a flat, unfolded position.

GLASS: Bits of glass will be gathered and placed securely in a non-plastic container to help preserve fingerprints. Glass should be picked up around the outer edges with tweezers. It is extremely important to obtain all pieces of glass, especially at the scene of an automobile felony. Bits of glass may be embedded in the victim's body or clothing, which may later lead to connecting an automobile to the scene of the crime.

TRACE ITEMS: Trace evidence is any item which will require a laboratory comparison. It can often be microscopic in size.

- Hair. Samples of hair should be taken at the scene of a major crime when appropriate. Comparison hairs from the head, body, beard, moustache or genital areas should be taken from the victim and suspect and placed in a clean paper container and marked. Loose hairs can be collected by running a clean comb through the patch of hair. Plucked hairs are required in order to obtain the root, necessary for any DNA comparison. These should be taken from various regions of the body. Approximately 6 to 50 whole hairs are needed, depending on the crime. Clipped hair is unacceptable. Female hair samples will be taken either by a female officer or at the hospital by medical personnel.
- Paint. Paint chips should be collected and placed in a clean paper container and marked. Collection chips rather than powder is preferred; as much paint as possible should be taken from the bumper of an automobile in major crimes. Comparison paint should be taken.
- Fibers. Fibers should be photographed prior to collection. They may be collected with tweezers, forceps or a dabbing block and then placed in a paper envelope or glass vial. Plastic is not advised, since static electricity will cause fibers to adhere to the surface of the bag or vial. Since fibers are easily airborne, it is a poor procedure to take clothing of the victim and the suspect while they are in the same room. All fibers taken will be appropriately packaged and the package marked.

SAND AND SOIL: Sand and soil samples will be taken from the clothing or the body of the victim if possible. Comparison samples of all nearby soil will be taken. All soil or sand will be placed in clean glass vials and marked. Samples of soil around a footprint or track should be taken at ordinal compass positions several inches from the footprint.

L 4415 EVIDENCE TAGGING:

Tagging of evidence is distinguished from marking by being of a less permanent nature and does not harm the commercial value of property. Tagging is also a convenient method of identification for large items and very small items which have been placed into containers, for this reason it is acceptable to mark the tag and not mark the item in most cases.

L 4416 TAGGING FOR FINGERPRINTS:

Evidence which is not fingerprinted at the scene will be placed into an appropriate container and the container will be tagged. The tag will then be marked "PRINTS" large enough to be easily noticed.

L 4417 TRANSPORTATION OF EVIDENCE:

All evidence will have to be transported at least one or more times. Evidence will be packaged so that it will not be harmed or destroyed in transit.

L 4418 CHAIN OF POSSESSION:

A formal chain of possession will be established and recorded. To ensure property is not lost, damaged, stolen and is admissible in court, the chain of possession should be kept as short as possible.

L 4419 SHIPMENT OF EVIDENCE:

When shipment of evidence becomes necessary, a cover letter will be sent giving full information about the case examinations required and facts concerning the evidence which may have a bearing on the examination results. Mode of shipment may vary according to size, type and when perishable.

L 4420 DIGITAL EVIDENCE DEFINITIONS:

Revised 08-03-20

The following terms will be used in describing digital evidence:

- Original Digital Evidence: Physical items and the data objects associated with such items at the time of acquisition or seizure, e.g. 1) An original audio file recorded to a memory storage device or 2) A seized computer system with a hard drive containing its original information or 3) any image, video, audio or document digitally captured using the Department issued smartphone and uploaded to the digital Database or 4) any third-party vendor digital information acquired using their digital format/program (i.e., cell phone recovery programs).
- Duplicate Digital Evidence: An accurate digital reproduction of all data objects contained on an original physical item, e.g., an exact duplicate of the original data but now stored on a separate piece of media or uploaded to the digital database via the Department issued smartphone or computer.
- Copy: An accurate reproduction of information contained on an original physical item, independent of the original physical item, e.g., an audio / image / video file that has been changed into a different file format but reproduces the same audio / image / video when played or displayed. This copy is to be properly documented as a converted file of the original digital evidence source.

- Image / Audio Enhancement: Any process intended to improve the visual appearance of any image or video or the sound quality of an audio file and properly documented as an enhancement of the original digital evidence source

L 4421 DIGITAL EVIDENCE - ACCEPTABLE FILE TYPES:

Revised 08-03-20

It is necessary to store digital evidence that can be used effectively by other law enforcement agencies and the District Attorney's Office. To do so, the following file types are used to store all digital evidence.

- STILL PICTURES
 - JPEG/JPG – (Joint Photographic Experts Group). A compressed file format supported by Web browsers. The compressed file results in reduced image quality. This is the still photograph file type to be used under normal circumstances for general photographs such as people, general scene overviews, etc. (Naming scheme: filename.jpg)
- AUDIO FILES
 - MP3 files are audio files that are the most widely used file to run audio. (Naming scheme: filename.MP3)
- VIDEO FILES
 - MPEG (Moving Picture Experts Group) has a high output quality. It was developed as an international standard for use on CD-ROMs and other media that require quality digital video. (Naming scheme: filename.mpg)
 - AVI is a Microsoft Windows-oriented video format and is the preferred format for video files. (Naming scheme: filename.avi)

L 4422 DIGITAL EVIDENCE CAPTURE:

Revised 08-03-20

Department issued smartphones using the vendor capture application, digital video recorders, including Department-issued body-worn cameras, still cameras, and audio recorders should be used, when appropriate, to capture evidence. Some digital evidence may be captured onto external memory devices or DVDs. Such evidence (e.g., digital video) will be considered to be both the primary and original evidence, as defined in Duty Manual section L 4420 - DIGITAL EVIDENCE DEFINITIONS. These external memory devices or DVDs will be handled in the same manner as other physical evidence.

Other digital equipment captures information onto "flash" memory. Flash memory may be stored on the digital device, or it may be stored on a removable memory card. The evidence on the flash memory is considered the Original Digital Evidence as defined in Duty Manual section L 4420 - DIGITAL EVIDENCE DEFINITIONS. All digital evidence uploaded into the digital storage database is considered Original Digital Evidence.

Digital equipment that is personally owned by an officer, should not be used except in cases where Department issued equipment is not functioning or available, to collect evidence.

- All digital audio files must be able to be converted to a MP3 file.
- Digital still pictures must be in JPG format.
- Digital video must be able to be saved in AVI or MP4 format.

Vendor-provided cloud storage will be used to store body-worn camera data and all other digitally captured evidence.

L 4422.1 CHILD SEXUAL ABUSE MATERIAL DIGITAL EVIDENCE CAPTURE:

Added 03-21-22

Department members have options available to them when capturing digital evidence in events involving child sexual abuse material (CSAM).

Suspect Evidence: Any device in a suspect's possession that is believed to contain CSAM shall be collected and booked as evidence pursuant to established procedures.

Victim or Witness Evidence: Any device in a victim or witness' possession that is believed to contain CSAM shall be processed pursuant one to the following procedures:

- When the device is a mobile phone, and with the consent of the victim or witness, the phone shall be either:
 - a. Collected and booked as evidence
 - b. Transported to a Cellular Download Kiosk, processed, and returned to its owner
- When the device is not a mobile phone, and with the consent of the victim or witness, the device shall be collected and booked as evidence.
- When seizing the device or processing it in the field is impractical, Department members shall request a Patrol Investigated Crime Scene (PICS/Evidence Car) officer to respond. The PICS officer will capture the CSAM with a Department-issued digital camera that stores photos to a removable memory card, not to internal memory or a cloud-based storage. The PICS officer will book the removeable memory card as evidence at Central Supply.

Department members shall not use their Department-issued or personal smartphones or body worn cameras, to capture CSAM evidence. Additionally, Department members shall not ask for the CSAM to be emailed to the Department member or sent electronically to the Department's digital evidence capture application.

L 4423 DIGITAL EVIDENCE STORAGE:

Revised 08-03-20

1. AUDIO

- BUREAU OF FIELD OPERATIONS:

An officer who has recorded any audio using a Department issued smartphone will upload the audio file in accordance with established procedures.

- BUREAU OF INVESTIGATIONS:

An officer who has recorded any audio using Department issued smartphone will upload the audio file in accordance with established procedures.

Each Unit assigned within the Bureau of Investigations may have access to different methods or applications to record audio. Those digital files should be uploaded as evidence through the vendor application to the department's digital database unless designated by the unit to be stored elsewhere.

- Voice recordings captured in the field will be booked as evidence using the Department issued smartphone or in the manner described above using the vendor applications on the Department issued smartphone or computers.
- OTHER BUREAUS:
All other Bureau members will adhere to the above listed procedures for capture and storage of digital audio evidence.

2. DIGITAL PHOTOGRAPHS AND VIDEO (SMARTPHONES)

- BUREAU OF FIELD OPERATIONS:

Digital photographs and video collected on Department issued smartphones will be uploaded to the Department's digital storage database.

- An officer who has recorded digital photographs via a Department issued smartphone will upload the captured files prior to the conclusion of their shift.
- Officers will use the installed software on the Department issued smartphones to upload the captured digital files into the Department's digital storage database for evidence.
- Officers using their own smartphone, external memory device or digital cameras are responsible for uploading the captured digital files into the Department's digital storage database for evidence.

- BUREAU OF INVESTIGATIONS:

Each Unit assigned within the Bureau of Investigations will have access to their own media folder containing all digital photographs captured and booked pertinent to the Unit's mission for review. If an investigator wants to burn a copy of digital photographs from the media folder onto a CD for the case file or for court purposes, they will request a copy be made at the Photo Lab. Upon filing a case, Investigators should remove digital evidence from their media folder.

- Digital photographs captured in the field are booked in the same manner described in section L 4422 Digital Evidence Capture.
- Efforts should be made to limit the number of photographs attached to a General Offense Report (Form 200-2-AFR) in Versadex. Images over 10 MB will not be attached.

- OTHER BUREAUS:

All other Bureau members will adhere to the above listed procedures for capture and storage of digital evidence.

DIGITAL EVIDENCE RETENTION POLICY

All digital evidence will be subject to the retention policy set forth in The City of San Jose Retention Schedule. The current software program will automatically purge digital evidence stored within its database per The City's retention schedule. Digital evidence may be stored past the retention schedule through the current software program.

L 4424 LABELING AND PACKAGING DIGITAL EVIDENCE:

Revised 03-01-07

The Photo Lab is responsible for making copies of digital photo evidence for case files or court purposes. It shall be the responsibility of the Photo Lab members to label all CDs and DVDs clearly indicating the case number, date the copy was made, as well as the name and badge number of the person making the copy.

The Photo Lab members will provide the CD/DVD, which should be kept in the issuing paper sleeve to protect the item from loss or damage.

Department members creating copies of digital evidence are responsible for labeling all CDs and DVDs clearly indicating the case number, date the copy was made, as well as the name and badge number of the person making the copy.

L 4425 DIGITAL EVIDENCE ENHANCEMENT:

Added 03-17-04

- The first Duplicate Digital Evidence will never be used for enhancement purposes. A duplicate is made for enhancement purposes.
- Only those persons who have received specific training in image or file enhancement and documentation for court purposes will undertake the enhancement process.
- Investigators needing images or files enhanced may contact the Crime Scene Unit (CSU). CSU members will determine whether to enhance the file or to send the file to another location such as the Crime Lab or an outside vendor.
- Any resulting enhanced image or file is labeled and named as an enhancement of the original.
- Enhancement capabilities exist for videos, still photographs, audio files and multiplex camera system files.

L 4426 USE OF DIGITAL PHOTO STATIONS:

Revised 03-01-07

- Digital photo stations have the capability of reading from CDs, DVDs, digital video cameras via Firewire, USB devices and several removable media cards.
- Digital photo stations are used for the transfer and temporary storage of digital media files.
- Digital photo stations have both CD and DVD writing capabilities for the archiving of

evidence files from their temporary storage location to CD or DVD.

- Digital photo stations may be accessed by authorized Department members for the processing or viewing of digital evidence. Authorized Department members include members of the Crime Scene Unit, PICS officers, members of the investigating unit associated with the evidence to be processed, or other Department members acting in an official scope of their duty.

L 4427 PROVIDING COPIES OF DIGITAL EVIDENCE FOR COURT PURPOSES:

Added 03-17-04

- Unless there is a specific need and request, printed copies of digital media photos will not be made.
- The District Attorney's Office is able to accept digital media evidence files in the formats listed in L 4421 - Digital Evidence Acceptable File Types. Under normal circumstances, attorneys will use laptop computers and LCD projectors in court to show digital evidence files.
- Department members will continue to honor the current system of accepting one piece of like media (CD or DVD) for each copy of evidence supplied to the District Attorney's Office on this media.
- Care should be taken in supplying files that may need redaction before they are supplied for court purposes. If there is any question regarding this issue, contact the Deputy District Attorney assigned to the case.
- Unless otherwise requested, all files, including audio files, are written on a CD or DVD in "data" format rather than in a music format.

L 4428 DATA USAGE PROTOCOL FOR PUBLIC SECURITY CAMERAS:

Added 07-21-23

Department members who use or access information from public security cameras shall adhere to the Department's Data Usage Protocol (DUP) for Public Security Cameras.

Periodic, random audits may be conducted at the direction of the Chief of Police or their designee to ensure and evaluate compliance with system requirements and with the provisions of the DUP and applicable law. Audit trails shall be maintained by the Department for the time period consistent with the City's retention policy. Additional audits or reviews may be triggered at the direction of the Office of the City Manager or Digital Privacy Officer (DPO), consistent with state law and authorized access to information.

The results of the audits are subject to the law and potential California Public Records Act requests. Some information may be redacted prior to public disclosure pursuant to state and federal regulations.

Before a Department member accesses or provides access (e.g., to another law enforcement agency) to a public security camera, the Department member shall create a record on the DUP Reporting for Public Cameras Form that includes the following information:

1. Date/Time the camera was accessed
2. The event or relevant case number of the investigation
3. The name, department, and badge or employee number of the person who acquired or returned the camera

L 4428.5 DATA USAGE PROTOCOL FOR COVERT SECURITY CAMERAS:

Added 07-21-23

Department members who use or access information from covert security cameras shall adhere to the Department's Data Usage Protocol (DUP) for Covert Security Cameras.

Periodic, random audits may be conducted at the direction of the Chief of Police or their designee to ensure and evaluate compliance with system requirements and with the provisions of the DUP and applicable law. Audit trails shall be maintained by the Department for the time period consistent with the City's retention policy. Additional audits or reviews may be triggered at the direction of the Office of the City Manager or Digital Privacy Officer (DPO), consistent with state law and authorized access to information.

The results of the audits are subject to the law and potential California Public Records Act requests. Some information may be redacted prior to public disclosure pursuant to state and federal regulations.

Before a Department member accesses or provides access (e.g., to another law enforcement agency) to a covert security camera, the Department member shall create a record on the DUP Reporting for Covert Cameras Form that includes the following information:

9. Date/Time the camera was accessed
10. The event or relevant case number of the investigation
11. The name, department, and badge or employee number of the person who acquired or returned the camera

L 4429 SAVED FOR FUTURE USE

L 4430 BODY WORN CAMERAS- DEFINED:

Added 05-25-16

A Body Worn Camera (BWC) is a camera worn on an individual officer's person that records and stores audio and video. The use of the body worn camera system provides documentary evidence for criminal investigations, internal or administrative investigations, and civil litigation.

L 4431 BODY WORN CAMERAS-GENERAL PROVISIONS:

The Department adopts the use of BWC's to record specific categories of interactions between officers and the public. Officers shall utilize body worn cameras in accordance

with the provisions of this policy (Duty Manual section L 4430 - BODY WORN CAMERAS- DEFINED through Duty Manual section L 4446 - OFFICER INVOLVED INCIDENTS).

L 4432 USER TRAINING:

Added 05-25-16

The Department shall ensure that each officer is trained in the use of the body worn camera prior to issuance and deployment. The training shall include:

1. Training on operation (including when to activate and deactivate), maintenance and care;
2. Training on mandatory, discretionary and non-permissible uses of body worn cameras;
3. Periodic training on significant changes in the law pertaining to body worn cameras;
4. Additional training at periodic intervals to ensure continued effective use of the body worn camera equipment, performance, and to incorporate changes, updates or other revisions in policies and equipment.

L 4433 OFFICER RESPONSIBILITIES:

Revised 09-02-22

Every officer assigned a body worn camera working a uniformed or plain-clothes assignment in the City of San Jose, to include secondary employment and the Main Lobby, is responsible for ensuring that they are equipped with a Department-issued body worn camera and that the camera is fully charged and in good working order at the beginning of their shift. If a device is in need of repair, members will notify their supervisor and turn the body worn camera into Central Supply for repair or replacement. Actual time spent testing or reporting damage to a body worn camera shall be regarded as time worked.

Note: This section is inclusive of all uniform types (i.e., school resource officer, bicycle patrol, secondary employment, etc.), but is not meant to include Bureau of Investigation detectives, other Bureaus, or secondary employment where officers are not in uniform, unless otherwise engaged in the service of a search or arrest warrant (see Duty Manual section L 4435 - WHEN TO ACTIVATE, item #6.)

Uniformed officers will wear the body worn camera on their uniform at a location that will facilitate an optimum recording field of view. This location may vary from officer to officer based upon their specific uniform and body composition.

Exception: When the optimum recording field of view might be better facilitated by removing the camera from the uniform and mounting the camera to a stable object or platform to better capture the event, officers may attempt do so at their discretion.

Officers will 'power on' the body worn camera before going into service and keep it powered on for the remainder of their shift, with the exception of bathroom breaks or those times when an officer is entering a Department locker room. The officer will only 'power off' their body worn camera at the conclusion of their shift prior to placing it in a camera dock to upload.

Note: An exception to this rule is an Officer-Involved Incident, as outlined in Duty Manual section L 4446 - OFFICER INVOLVED INCIDENTS.

Officers shall not deliberately remove, dismantle, or tamper with any hardware, video evidence, and/or the evidence management software component of the body worn camera.

Each officer is responsible for ensuring that their assigned body worn camera is uploaded during their shift as needed or at the completion of their shift, or at any time the device's memory is deemed to be full. Actual time spent uploading the body worn camera files at the completion of an officer's shift shall be considered booking evidence and regarded as time worked.

Exception: If an officer is working a uniformed secondary employment (i.e., school pay job, airport pay job, traffic control, etc.) on a regularly scheduled day off, they will upload the video evidence at the earliest opportunity on their first day back to work. In the interim, the officer will ensure the safety of the camera and its contents until such time it can be uploaded. A supervisor may direct an officer to upload sooner should the event or investigation require the video evidence sooner. In these situations, the officer will ensure their video evidence is uploaded in accordance with the supervisor's instruction.

Media captured via the body worn camera shall only be uploaded to Department-approved secure storage. Since the content of the recording may be considered evidence, and are considered Department records of investigation, officers will comply with all sections in the Duty Manual regarding the handling of evidence and official Department records.

L 4434 SUPERVISOR RESPONSIBILITIES:

Revised 06-25-20

Supervisors shall utilize their body worn camera and ensure that officers utilize their body worn cameras according to these policy guidelines. Refer to Section L 4444 - ADMINISTRATIVE REVIEW OF BODY WORN CAMERA FILES.

Supervisors shall ensure videos related to Officer-Involved Incidents, as defined in Duty Manual section L 4446 - OFFICER INVOLVED INCIDENTS, are uploaded as soon as possible following the event or as requested by a supervisor.

Supervisors completing a Use of Force investigation where a body worn camera was used should review the video and follow procedures set forth in Duty Manual section L 2605 - SUPERVISOR & COMMAND OFFICER RESPONSIBILITY.

Supervisors may have the ability to immediately address citizen concerns by viewing video captured by the officer's body worn camera prior to contacting the citizen. At no

time, except at the direction of the Chief or designee, shall the supervisor allow the citizen to view the file footage.

In those circumstances where a concern is addressed with no further action required, supervisors shall make notes in the CAD event. This allowance is independent of the complaint process, and supervisors are reminded to abide by Duty Manual section C 1700 - ALLEGATIONS, COMPLAINTS AND NON-MISCONDUCT CONCERNS INTERNAL AFFAIRS UNIT – GENERAL PROVISIONS.

Supervisors should also utilize body worn camera files when handling a Supervisory Referral as outlined in Duty Manual section C 1707.5 - SUPERVISORY REFERRAL COMPLAINT DEFINED.

L 4435 **WHEN TO ACTIVATE:**

Revised 06-25-20

There are many situations when to activate the body worn camera, however, this policy is not intended to describe every possible circumstance.

The safety of officers and members of the public is the highest priority, and the Department acknowledges there may be situations in which operation of the device is impractical or may be an impediment to public and officer safety. Additionally, the Department recognizes human performance limitations during particularly stressful, critical situations. As such, officers shall activate their body worn camera while enroute, and prior to arrival, to a call for service. This will ensure the entire event is captured on the body worn camera.

Officers shall make every effort to record non-enforcement contacts should they become confrontational, assaultive or enforcement-oriented. In addition to the required conditions, personnel may activate the system any time they feel its use would be appropriate and/or valuable to document an incident. Also, officers shall not be required to activate or deactivate their body worn camera based solely on the requests or demands of a citizen, but rather rely on their training and this policy to direct their use of the body worn camera.

During their shift, officers shall activate the body worn camera prior to initiating, or due to officer safety reasons, as soon as practical after initiating, the following police actions:

1. 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 is not limited to:
 - a) Detentions, vehicle stops, pedestrian stops and consensual encounters
 - b) Probation, parole, post-release community supervision, mandatory supervision or consent searches.
2. Taking or attempting to take a person into custody (e.g., arrests, foot pursuits, protective custody of mentally disturbed person, etc.).
3. Enforcement encounters where there is reason to believe that the individual is committing a violation for which a citation may be issued.

4. All incidents involving a use of force.
5. All public interaction, regardless of context, that escalates and becomes adversarial.
6. Service of search or arrest warrants (regardless of assignment).
7. Suspect statements.
8. Witness/Victim statements (refer to L 4439 Victim and Witness Statements).
9. Code 3 driving and vehicle pursuits.
10. Response to calls for service (regardless if the suspect, victim, or witness is present at the scene).
11. Assist visitors and members of the public while assigned to the Main Lobby (regardless if the contact occurs inside or outside the Lobby).

L 4436 WHEN TO DEACTIVATE:

Revised 06-25-20

Body worn camera recordings shall not be intentionally terminated until the conclusion of the encounter.

Exception: Officers may deactivate while still assigned to a call or investigation as long as they have cleared the scene; is no longer involved in the care and/or custody of a prisoner or another person; or no longer actively involved in an investigation, including collecting physical evidence.

Anytime the recording is terminated prior to the end of the encounter, the reason(s) shall be documented on the body worn camera recording before deactivation or in the subsequent police report. If the reasons are not documented on the BWC and no police report is filed for the recorded encounter, then the reason(s) for the early termination shall be recorded on the citation, CAD event or Street Check.

L 4437 ADVISEMENTS AND CONSENT:

Revised 06-25-20

Generally, officers are not required to advise or obtain consent to utilize the body worn camera from a private person when:

1. In a public place; or
2. In a location where there is an expectation of privacy (e.g., inside a building or dwelling) but the officer is lawfully present.

However, when initiating a police action as described in Duty Manual section L 4435 - WHEN TO ACTIVATE, officers shall make a reasonable effort to advise persons they are being recorded with the body worn camera, unless the officer has reason to believe that doing so will endanger the safety of the officer, another officer, a member of the public, or will interfere with the conduct of an investigation.

When an officer's legal grounds for a search of a residence is based solely on consent, they are required to both advise and obtain consent to record with a body worn camera from the person, with legal standing, who is being recorded and/or searched. This

does not apply to crimes in progress or other circumstances that would allow the officer to be lawfully present without a warrant.

L 4438**WHEN NOT TO ACTIVATE:**

Revised 06-25-20

Personnel are not required to activate the camera system during routine, incidental contact with a citizen, (i.e., giving directions or lunch breaks).

Officers will not knowingly activate the body worn camera in the following circumstances:

1. A potential witness who requests to speak to an officer confidentially or desires anonymity (See Duty Manual section L 4439, Victim and Witness Statements).
2. A victim or witness who requests that they not be recorded and the situation is not confrontational (See Duty Manual section L 4439, Victim and Witness Statements).
3. A victim who requests that they not be recorded as a condition of cooperation and the interests of justice require such cooperation (See Duty Manual section L 4439, Victim and Witness Statements).
4. During tactical briefings, or the discussion of safety and security procedures that occur away from the scene of an investigation or enforcement encounter (e.g., a nearby staging location or Command Post).
5. Undercover or plain clothes officers, except while serving arrest or search warrant(s), Duty Manual section L 4435 Subsection 6.
6. Strip Searches.
7. Public or private locker rooms, changing rooms, restrooms, unless taking the police actions stated in Duty Manual section L 4435 (When to Activate), Subsections 1-6, and 9.
8. Doctor's or lawyer's offices, unless taking the police actions stated in Duty Manual section L 4435 (When to Activate), Subsections 1-6, and 9.
9. Medical or hospital facilities, unless taking the police actions stated in Duty Manual section L 4435 (When to Activate), Subsections 1-6, and 9.
10. Other places where individuals unrelated to the investigation are present and would have a reasonable expectation of privacy, unless taking the police actions stated in Duty Manual section L 4435 (When to Activate), Subsections 1-6, and 9.
11. To surreptitiously record any Department member without their consent, a court order, or unless lawfully authorized by the Chief of Police or designee for the purposes of a criminal investigation. (Duty Manual section L 4513, Recording of Statements).
12. The monitoring of persons based solely upon the person's political or religious beliefs or upon the exercise of the person's constitutional rights to freedom of speech and religious expression, petition and assembly under the United States and California Constitutions, or because of the content or viewpoint of the person's protected speech is prohibited.
13. While officers are engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, minister, etc.).
 Note: A privileged conversation does not include a conversation with another officer or supervisor while still actively engaged in a call for service, investigation, or enforcement encounter.
14. When entering the Santa Clara County Main Jail's main facility.

15. Surveillance operations until the point where enforcement will be taken (i.e., covert surveillance of suspect prior to arrest.)

L 4438.1 WHEN NOT TO ACTIVATE AT A BOMB-RELATED INCIDENT:

Added 03-07-21

Bomb Detail Personnel are not required to activate their body worn camera during the performance of render safe procedures.

Other officers at the scene, who are not directly involved in performing render safe procedures, will avoid knowingly recording Bomb Detail personnel who are performing render safe procedures. This exception shall not apply when officers are engaged in interactions with the public, or as otherwise required to record events with their body worn camera, under the enumerated police actions set out in paragraphs 1 through 7 of section L 4435.

L 4439 VICTIM AND WITNESS STATEMENTS:

Revised 06-25-20

When conducting an investigation, the officer shall attempt to record the crime victim or witness' statement with the body worn camera. The recording may be valuable evidence that contributes to or compliments an investigation. While evidence collection is important, the Department also recognizes it is important for officers to maintain credibility with people wanting to share information with law enforcement.

On occasion, an officer may encounter a reluctant crime victim or witness who does not wish to make a statement on camera. In these situations, the officer should continue to develop rapport with the individual while balancing the need for evidence collection with the individual's request for privacy.

Should the officer use discretion and not record the crime victim or witness statement with the body worn camera, the officer shall document the reason for not fully recording the statement with the body worn camera. In these instances, officers shall record with an audio recorder as outlined in Duty Manual section L 4513 (Recording of Statements).

L 4440 UNAUTHORIZED ACCESS AND USE:

Revised 06-25-20

All body worn camera recordings shall remain the property of the Department and constitute official records of investigation of the Department.

Unauthorized access to, use, duplication, and/or distribution of body worn camera files is prohibited. Personnel shall not make copies of any Body Worn Camera file for their personal use and are prohibited from using a recording device such as a phone camera or secondary video camera to record body worn camera files.

The body worn camera shall not be used to record:

1. Encounters not directly related to official activities in the proper performance of police duties.

2. Performance of non-enforcement functions or administrative duties within a Department facility.

Personally owned body worn cameras shall not be used while on duty.

Note: All activity related to body worn camera video files are automatically tracked in the evidence management system's audit trail. This information includes: the person accessing the file(s), the date and time of access, the activity that was performed, and the specific IP address from which the file(s) were accessed.

L 4441

ACCIDENTAL RECORDINGS:

Revised 06-25-20

In the event of an accidental activation of the body worn camera, the recording officer may request that the video file be deleted. The officer will submit a request for deletion via email, with sufficient information to locate the body worn camera file, to their direct supervisor.

The email will be forwarded through the officer's chain of command to their Lieutenant. The receiving Lieutenant shall review the file and approve or deny the request. The Lieutenant will ensure the file is not associated with a police contact or CAD event. No files associated with an official police contact, CAD event, or any pending litigation or complaint is eligible for deletion. Should the Lieutenant approve the request, they will send an email to the Body Worn Camera Admin Unit with enough information to locate the file(s). Only members of the Body Worn Camera Admin Unit with Administrative privileges shall delete the file(s). The reason for the deletion, including the authorizing authority, will be documented in the notes of the videos. These notes are retained by the evidence management system's audit trail. Deletions and requests for deletion are tracked by the Body Worn Camera Administrative Unit.

Officers will not request deletion of body worn camera files that are not the result of an accident. Should the officer knowingly or unknowingly record something of a confidential nature (i.e., conversation with a confidential informant, critical intelligence, specific tactics, etc.), the officer will do the following:

- Place an electronic Marker within the video (via the body worn camera's Function Button) or within Evidence.com after uploading the video, AND
- Change the Title of the video file(s) to "SENSITIVE/CONFIDENTIAL." This will indicate to the Body Worn Camera Admin Unit, the Santa Clara County

District Attorney's Office, and/or the City Attorney's Office that the file(s) contains something of a sensitive nature that may need to be redacted prior to disclosure should release occur. In these situations, further discussion between the officer and the Body Worn Camera Admin Unit may be required for coordination.

- Officers are also encouraged to provide additional information in Evidence.com as to the sensitive or confidential nature of the video by adding notes within the video file. This will assist the Body Worn Camera Admin Unit with proper identification of the sensitive/confidential evidence.

L 4442 DOCUMENTING USE OF THE BODY WORN CAMERA:

Revised 06-25-20

Personnel should not substitute a body worn camera recording for a detailed and thorough report. Personnel should continue to prepare reports as outlined in the Duty Manual. Body worn camera video cannot substitute the collection of physical evidence such as fingerprints, documents, photographs, or other important evidentiary items that are considered part of the criminal investigation. These items must be properly collected and booked into evidence.

If an officer is required to write a report or citation, the officer will also document in the report or citation the fact that a BWC was used to record the incident. If the BWC was not activated as per policy, the officer shall document in the report or citation the reason and/or justification for not activating their camera.

Exception: Officers involved in an Officer-involved incident. Refer to Duty Manual section L 4446 (Officer-Involved Incidents).

L 4443 REVIEW OF BODY WORN CAMERA FILES:

Revised 06-25-20

All file viewing and sharing is for law enforcement use only and subject to a right to know and need to know basis (Refer to Duty Manual Chapter C 2000 (Obtaining Criminal Records/Information), and Chapter C 2100 (Juvenile Records)).

Department personnel may review body worn camera files according to the provisions of this policy and Duty Manual requirements and are reminded that all activity related to body worn camera video files are automatically tracked in the evidence management system's audit trail. This information includes: the person accessing the file(s), the date and time of access, the activity that was performed, and the specific IP address from which the file(s) were accessed.

An officer should review body worn camera files, including those of other officers, in the following instances:

1. For the purposes of completing criminal investigations and preparing accurate official reports with the exception of Officer-Involved Incidents. Refer to Duty Manual section L 4446 (Officer-Involved Incidents) and R 1108 (Accuracy and Brevity).

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2. Prior to courtroom testimony or for courtroom presentations, or as part of preparation by the San Jose City Attorney's Office for litigation in which a police officer is a party or a witness and the City Attorney's Office is representing the City and/or officers who are parties to the litigation.
3. For potential training purposes refer to Duty Manual section L 4445 (Training with Body Worn Camera Files).
4. For preparation of an Internal Affairs interview, including review with officer representative, outside the presence of any investigator or supervisor.
5. For other reasons as specified with the permission of the Chief of Police.

Exception: Department members identified as Administrative Users may access body worn camera files from a computer or device outside of the Department for the purpose of completing administrative tasks, such as locking or unlocking users, etc.

L 4444 ADMINISTRATIVE REVIEW OF BODY WORN CAMERA FILES:

Revised 03-15-24

It is not the intent of the Department to review body worn camera files, without cause, for the purpose of general performance review of individual officers or to proactively discover policy violations.

Supervisors and Internal Affairs personnel may, however, access body worn camera files for administrative investigations limited to the specific complaint against the officer.

Supervisors should, on a reasonable basis, review body worn camera files to ensure that body worn camera equipment is functioning properly and officers are adhering to the requirements of this policy. Inadvertent discovery of evidence of policy violations during this review shall require the supervisor or Internal Affairs personnel to articulate the reason for expanding the scope of the original audit or investigation.

Supervisors who inadvertently discover policy violations will continue to have discretion to resolve the violation with training or informal counseling. Should the policy violation rise to the level of more formal discipline, the supervisor will adhere to policies set forth in the Duty Manual section C 1700 - ALLEGATIONS, COMPLAINTS, NON-MISCONDUCT CONCERNS AND SUPERVISORY REFERRALS INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS.

Exception: Field Training Officers, Sergeants and the FTO Commander may view body worn camera files to evaluate the performance of recruit officer in the Field Training Program.

Compliance Auditing, as defined in Duty Manual section L 4444.1 - BODY WORN CAMERA AUDITING DEFINED, is a form of administrative review of body worn camera files and shall be conducted in accordance with Duty Manual section L 4444.2 - COMPLIANCE AUDITING.

L 4444.1 BODY WORN CAMERA AUDITING DEFINED:

Added 03-15-24

There are two types of auditing body worn camera footage: compliance and performance.

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Compliance auditing determines whether the body worn cameras are being activated in accordance with policy, whether the files are associated with the correct event numbers, and whether the files are tagged with the correct event type.

Performance auditing involves an evaluation of what is shown on the body worn camera footage. The Department does not have a required performance auditing program.

L 4444.2 COMPLIANCE AUDITING:

Added 03-15-24

It is not the intent of the Department to review body worn camera compliance to discover policy violations. Rather, the purpose is to provide training where appropriate and ensure the highest levels of evidence tracking and file association. Only egregious and/or repetitive violations should be handled in accordance with Duty Manual chapter C 1700 INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS.

The Body Worn Camera Unit will produce a compliance reports of metrics on body worn camera usage for supervisor review. These reports will include, at minimum, the following metrics:

- Activations / deactivations
- Event number association
- Event type tagging

All supervisors shall review the compliance reports of their subordinates and ensure the body worn cameras are being used in accordance with policy.

Any files with no or incorrect event numbers shall be corrected by the Department member who made the recording within seven (7) days of notification of the error. Any files with no or incorrect event type tagging shall be corrected by the Department member who made the recording within seven (7) days of notification of the error.

L 4445 TRAINING WITH BODY WORN CAMERA FILES:

Revised 06-25-20

A body worn camera file may be utilized as a training tool for individuals, specific units, and the Department as a whole with the involved officers' permission. Department members recommending utilization of a body worn camera file for training purposes will submit the recommendation to their supervisor for approval and contact the Body Worn Camera Admin Unit for assistance as needed.

Exception: Field Training Officers may use body worn camera files to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

L 4446 OFFICER INVOLVED INCIDENTS:

Revised 06-25-20

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The Department recognizes that the video images recorded on the body worn camera files are two-dimensional and cannot always capture the entire scene, as seen or heard by the officer, due to a number of limiting factors. However, the body worn camera file(s) are still considered important evidence collected from an Officer-Involved Incident.

An Officer Involved Incident includes:

1. Officer-involved shootings,
2. In-custody deaths, and
3. Any act by an officer, including but not limited to any use of any deadly or dangerous weapon by an officer, which proximately causes injury likely to produce death to another.

Following an Officer-Involved Incident involved officers, herein defined as both involved officers and witness officers to the incident, personnel and their representative(s) shall not view their video, or any video capturing their image or the incident on any device.

In most circumstances, officers shall keep their body worn camera on their uniform following an Officer-Involved Incident. The supervisor assigned to the involved officer will "power off" the involved-officers' body worn camera to safeguard the evidence after the officer has provided the public safety statement at the scene. If the involved officer does not have a supervisor assigned to them, the officer will "power off" their body worn camera to safeguard the evidence. Prior to deactivation of the body worn camera, the officer shall verbally indicate the reason why they are deactivating the camera.

Once the involved officer has been photographed by the Crime Scene Unit, a member of the Crime Scene Unit will collect the officers' body worn camera and upload the video evidence to the Department's secure storage.

The initial interview of an officer involved in an Officer-Involved Incident should occur before the officer has reviewed body worn camera recordings of the incident. Once an involved officer has provided an initial statement to detectives, which should not be confused with a public safety statement at the scene, they will have an opportunity to review body worn camera recordings with their representative. The officer shall then be afforded an opportunity to provide a follow-up statement after having reviewed the recording(s).

Note: The Chief or designee shall have the discretion to permit officers to review video files prior to the initial interview. In the extraordinary circumstance an officer is allowed to view their video file(s) prior to the initial interview, the authorizing authority will first consult with the Santa Clara County District Attorney's Office and document the reason(s) in a police report.

Investigators will be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by the involved officer. When the investigator shows any audio/video recordings to an involved officer after the initial interview, the investigator will first admonish the 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 that is shown to the involved officer after they have provided an initial statement. In these situations, the showing of a body worn camera file to an officer will be documented in the investigator's report:

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 of 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 recollection.



L 4500 INTERVIEWS / INTERROGATIONS:

Officers will remain alert to gather information from witnesses, suspects or arrestees which will help in the solution of crime. However, it is necessary to be equally alert to ensure that interviews and interrogations conform to legal standards. Carelessness can very easily result in otherwise good testimonial evidence being declared inadmissible. Therefore, officers will interview, interrogate or otherwise question persons in accordance with the law and established procedures of the Department.

PROCEDURE

L 4501 INTERVIEWS / INTERROGATIONS - DEFINITIONS AND PURPOSES:

The task of gathering information from individuals involves the use of two general techniques: interviews and/or interrogations. For purposes of this manual, the definition for each technique is as follows:

- **INTERVIEWS:** The process by which an officer obtains information from a cooperative individual who is not responsible for the incident under investigation but who has personal knowledge of circumstances or facts that are of interest to the Department.
- **INTERROGATIONS:** The process by which an officer obtains information from an uncooperative individual who is a suspect, witness or victim of the incident under investigation.

An interview is conducted in order to collect any facts relating to an incident to substantiate information obtained from other sources or to provide additional information pertaining to the incident under investigation. An interrogation is conducted in order to establish the extent of involvement of a particular person suspected of committing a crime and/or to obtain information from uncooperative individuals who have knowledge of the incident under investigation.

L 4502 INTERVIEWS - LEGAL RESTRICTIONS:

When an officer has not arrested an individual or otherwise taken the individual into "custody" in a manner which restricts the individual's freedom or ability to discontinue the conversation, then the officer may ask whatever questions are necessary and pertinent. The key in this circumstance is custody.

Where there is no "custody," the law places no restrictions on questioning. An example of an unrestricted situation is when an officer talks to an individual in a voluntary, non-custodial setting about crime conditions or leads.

L 4503 INTERVIEWS - AUTHORITY AND METHOD:

Officers will, when possible, interview any person who may have the potential to supply information that relates to an incident under investigation. Interviews should be conducted at a place that is convenient and familiar to the person being interviewed as soon after the incident as is possible and practical. Officers will strive to conduct interviews in a manner which is low pressure, informal and causes the least amount of inconvenience to the person being interviewed.

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L 4504 FACTORS AFFECTING WITNESSES:

Officers will determine that each witness, or other person interviewed, possesses the following essential elements:

- **PRESENCE AT THE SCENE**: Was the person to be interviewed present during the event, or portion of the event, under investigation?
- **AWARENESS**: Was the person to be interviewed conscious of the event, or a portion of the event, which prompted the investigation?
- **OBSERVANT**: Was the person to be interviewed attentive to the details of the incident?
- **NARRATIVE ABILITY**: Is the person capable of discussing the observed event in a manner that is understandable and complete?

Officers will note the condition of witnesses, their relationship to the incident under investigation and any other information that would establish the credibility of the person being interviewed.

L 4505 INTERROGATIONS - LEGAL RESTRICTIONS:

When an officer acts to exert authority and/or control over a person in a manner which restricts the person's freedom to act, then a custody situation exists and legal restraints on questioning arise to protect the person's rights in regards to self-incrimination and assistance of counsel. The point where custody occurs is determined by the circumstances surrounding the interrogation as interpreted by a "reasonably objective person". The beliefs or intent of the officer and/or the suspect are not considered. Factors that are considered when applying the "reasonably objective person" test are as follows:

- **PLACE OF QUESTIONING**: When conducted at a police station, in police vehicles, at jail or in a prosecutor's office, may lead to a conclusion that "custody" has occurred.
- **TIME OF QUESTIONING**: When conducted during odd hours.
- **PERSONS PRESENT**: The removal of a person from the presence of family, friends, or the presence of several officers, may indicate a "custody" interrogation.
- **PHYSICAL RESTRAINT USED**: Any type of physical restraint invariably leads to finding of "custody".
- **ORDERS TO PERFORM TASKS NOT REQUIRED**: Any orders by the officer to do something that the law does not require is indicative of custody. **EXAMPLE**: Ordering a person not to leave a room
- **LENGTH AND FORM OF QUESTIONING**: Lengthy questioning consisting of accusatory statements, confrontation with witnesses or evidence and leading questions may lead to a finding of "custody".
- **DEMEANOR OF OFFICER**: When an officer is accusatory and confronts a person with alleged guilt, the "custody" finding may occur.

Custody situations that involve some restraints on questioning include, but are not limited to, the following.

L 4506 INVESTIGATIVE QUESTIONING:

An officer may question persons for purposes of obtaining information such as name, address, telephone numbers, occupation and other identifying data without advising such persons of their constitutional rights. In addition, suspicious persons may also be asked to explain their presence and conduct without an officer having to advise them of their rights.

However, whenever probable cause to arrest develops and the officer intends to restrict the freedom of the suspect while continuing to ask questions, or the questioning has become sustained and coercive rather than brief and casual, advisement of rights is conducted in accordance with Section L 4510 "Warnings Prior to Interrogation". The point where questioning becomes "sustained and coercive" is difficult to establish. However, when the questions begin to relate to a specific crime and the questioning has become accusatory and continuous, then a "sustained and coercive" condition probably exists.

L 4507 "CUSTODY" OF JUVENILES:

Juveniles will be advised, as soon as possible and when practical, of their constitutional rights when taken into custody for any one of the following:

- A violation of 601 or 602 Welfare and Institutions Code
- A violation of a court order
- Escape from a court-ordered detention facility or place of commitment

The juvenile will be admonished in accordance with Section L 4510 "Warnings Prior to Interrogation"

L 4508 "CUSTODY" OF ADULTS:

Whenever an officer arrests or otherwise takes "custody" of an adult person, and the officer intends to question such person about incidents, actions or conduct which is criminal in nature, then the officer will advise the person arrested of their constitutional rights in accordance with Section L 4510 "Warnings Prior to Interrogation".

L 4509 "CUSTODY" OF INTOXICATED DRIVERS:

The tasks involved in processing intoxicated drivers require not only a "Miranda" warning prior to questioning but also an admonishment pertaining to the chemical test to determine the degree of intoxication. These two admonishments, when conducted at a processing area, often confuse the arrestee as to when the presence of an attorney is allowed. To avoid confusion, officers will, when practical, conduct a "Miranda Warning" in accordance with Section L 4510 "Warnings Prior to Interrogation" before transporting the arrestee from the scene of the arrest.

L 4510 WARNING PRIOR TO INTERROGATION:

Revised 11-20-20

Each officer will always carry the Department issued Miranda Warning Card Form 200-56. When necessary, required, or appropriate, the arresting officer will notify the person to be questioned of such person's constitutional rights by reading out loud from the Miranda Warning Card. Officers will be prepared to testify in court.

NOTE: Per Duty Manual section L 3012.5 INTERROGATION OF LAW VIOLATORS ARE 17 AND YOUNGER, officers shall ensure juveniles 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any Miranda rights; the consultation may not be waived. Officers may obtain a custodial statement from a youth 17 years of age or younger without legal counsel only if both of the following criteria are met:

- (1) The officer reasonably believes the information they are seeking is necessary to protect life or property from an imminent threat.
- (2) The officer's questions are limited to those reasonably necessary to obtain the information.

L 4511**WAIVER OF CONSTITUTIONAL RIGHTS:**

Before statements made by suspects become admissible in court, the prosecution must offer evidence to prove the suspects were not only advised of their rights as outlined above but also that they understood the advisement and, having been so advised, knowingly and intelligently waived those rights. This can be an "implied" or "express" waiver based upon the response of the suspect.

An "implied waiver" is obtained once a suspect has been informed of their rights, demonstrates that they understand those rights and then answers your questions. In this case, no question is asked regarding the suspect's desire to waive their rights or to answer questions. The questions are asked and once they begin to answer, an implied waiver has been obtained. The California and United States Supreme courts have ruled that implied waivers are valid and meet Miranda requirements.

An "express waiver" is obtained once a suspect has been informed of their rights, demonstrates that they understand those rights, and then the suspect states that they wish to waive their rights and answer questions. To obtain an express waiver one of the following questions is asked:

- Do you want to talk about what happened?
- Do you want to tell your side of the story?
- Do you want to go ahead and talk to me?

In the past, all Miranda waivers were express waivers. They are less problematic in court as there are fewer issues to litigate, and express waivers are more familiar to judges, defense attorneys and prosecutors. Knowing this, officers should seek express waivers whenever possible.

OTHER TYPES OF WAIVERS: The following are some examples of other types of acceptable waivers:

- WAIVER FOLLOWED BY STATEMENT: An acknowledgement by a suspect that such suspect understands, followed closely by a statement, is held to be a waiver.
- NON-VERBAL WAIVERS: Nods and shrugs seem to be sufficient, absent coercion. Officers should, however, strive for a verbal response. Gestures are subject to different interpretations and leave too much room for interpretation.

- WRITTEN WAIVERS: The signing of a written waiver is a good waiver if the suspect is literate.
- REQUEST TO TALK TO ATTORNEY LATER: A desire to talk to an attorney in the future, while manifesting a willingness to answer questions now, without counsel, is a waiver.

When a suspect has indicated a desire to remain silent and/or see a lawyer before answering any questions, interrogation should cease. Under current case law, once a suspect expresses his desire to remain silent, questioning must stop. Any evidence or statements obtained after that point are inadmissible in court.

L 4512 REFUSAL FOLLOWED BY CHANGE OF MIND:

Officers may question a suspect who originally refused to "waive" whenever the suspect initiates a request to talk. Officers will re-advise such suspects of their constitutional rights and obtain a waiver in accordance with Section L 4510 and L 4511 prior to commencing a suspect-initiated interrogation.

L 4513 RECORDING OF STATEMENTS IN CRIMINAL MATTERS:

Revised 08-03-20

Sworn personnel will digitally record all statements taken in the course of a criminal investigation from suspects, victims and witnesses (regardless of age). This requirement applies during regular on-duty assignments and during uniformed secondary employment alike. Recordings will be made using a Department issued device. The recording(s) will be retained as part of the case and uploaded as evidence regardless of its evidentiary value.

If the department member is preparing a crime report, supplemental report or equivalent report in connection with the investigation, the following details of the recording will be included in that report:

- An indication that a recording was made.
- The date and time of the recording.
- The person(s) recorded.
- The reason for the recording.

In order to assist investigators in the preparation of cases, officers should include a preamble to their audio-only recorded statements. The use of a brief introductory statement aids in the identification of recorded statements and allows for the efficient assembly of a criminal case. If the recording is made with a Body-Worn Camera, the preamble is recommended if context is needed for clarification, but not required, or notes may be attached to the evidence file. The statement will include the case number, date, time and location and the names of the officers and subjects that are present during the interview. For example:

"Case number 15-001-0123, the date is January 1, 2015 and the time is 1315 hours. This is Officer Smith, and I am interviewing witness Jones in front of 123 Main St. in the City of San Jose."

L 4514 RECORDING OF STATEMENTS IN NON-CRIMINAL MATTERS:

Added 08-03-20

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Recordings made in non-criminal matters will be made using a Department issued device. When a contact is of a non-criminal nature and circumstances indicate that a “confidential communication” is or is about to take place, the officer intending on recording it will notify the person(s) being contacted of their intention to record the conversation. If the person(s) being contacted objects to being recorded, the officers will not record or will immediately stop recording the contact.

This section does not prohibit the recording of an administrative interrogation of a peace officer as provided in The Peace Officer’s Bill of Rights, Government Code Section 3303(g).

L 4515 SURREPTITIOUS RECORDING OF STATEMENTS:

Added 08-03-20

Surreptitious recordings will be made using Department issued devices. Officers may make surreptitious recordings of conversations when the conversation is part of a criminal investigation or part of a non-criminal public contact in which there is no expectation of a “confidential communication” as defined in Penal Code 632(c).

Department members will not make surreptitious recordings of other department members except when necessary, in a criminal investigation.

L 4600 - IDENTIFICATIONS:

Revised 01-08-03

All Department members have a responsibility to identify individuals responsible for criminal acts. Such identifications are accomplished in a manner which ensures due process of the law, eliminates suggestiveness and documents the process for use in courts.

PROCEDURE

L 4601 IDENTIFICATIONS - GENERAL PROVISIONS:

Revised 01-08-03

The following general provisions are applicable whenever an officer intends to have a victim or witness attempt to identify the perpetrator of a criminal act:

- **INTEGRITY OF IDENTIFICATION**: Officers conducting identification processes will do so in a manner which ensures that individual witnesses are not influenced by any other witnesses or incident. The following guidelines should be employed whenever applicable.
 - Each witness will view the suspect out of the presence and hearing distance of other witnesses
 - Witnesses will not be allowed to discuss their observations with other persons who are to participate in a future identification process
- **MAINTENANCE OF NEUTRALITY**: When presenting a suspect to an eyewitness for identification, officers will remain as neutral as possible, consistent with the continued secure custody of the suspect. Officers will not suggest the correct identity of the suspect or make any suggestion, either verbal, through gesturing or any other means which would influence a witness to identify a particular suspect.

L 4602 INFORMAL IDENTIFICATION PROCEDURES:

Revised 11-14-16

In-field identification occurs whenever an officer arranges for a witness to view a suspect at the scene of a detention. Prior to conducting an in-field identification, the investigating officer will ensure that the following elements are present:

- **TIME AND LOCATION**: The identification takes place in the field and generally within one hour of the criminal act. Identifications may be conducted later than one hour but must be documented so as to convince the courts that circumstances justified the delayed identification.
- **WITNESS DESCRIPTION**: The witness has described as completely as possible the appearance and clothing of the perpetrator.
- **JUSTIFICATION**: The person to be viewed reasonably matches the witness's description; and/or the circumstances surrounding the presence of such a person in the area are such that a field identification process is justified. Such justification is based on a "reasonable suspicion" as described in Section L 3303 of this manual.

All Department members will adhere to these additional procedures:

- **PROBABLE CAUSE**: If probable cause to arrest is not present but the officer has a "reasonable suspicion" (see Section L 3303) that the person may be the perpetrator, then a temporary detention is justified. The identification process will be conducted at the scene of the temporary detention.
- **EMERGENCY IDENTIFICATION**: As a general rule, an in-field identification must occur at the site of the detention. Transporting a detainee to another location will likely transform the detention into a *de facto* arrest, which would be unlawful unless probable cause to arrest exists. A detainee may be transported to a crime scene or hospital if one of these two conditions is met; the detainee gives consent and/or good cause exists: e.g., the victim is being treated at the crime scene or hospital and cannot be moved.
- **DURATION**: The duration of the temporary detention is in conformance with Section L 3309 of this manual which, under normal conditions, limits such detentions to 20 minutes.
- **ADMONITION PRIOR TO IDENTIFICATION**: Officers conducting an in-field identification process will read the admonishment from a Department-issued card (Form 200-56, revised 11/16) to any witness about to view a potential suspect. The admonishment is made in an attempt to ensure the objectivity of the identification. The admonition for photographic identifications procedures can be found on the SJPD Line-Up Identification Form (Form 200-12). The admonition for an in-field identification is as follows:

"You are about to view a person who may or may not have been involved in this incident. Do not infer or assume that they were involved from the fact that they are being detained or that they may be in handcuffs.

It is just as important to eliminate a person as it is to identify anyone involved. We will continue to investigate this incident regardless of whether you make an identification now. Take a good look at the person and tell me if they were involved in the incident we are investigating."

- **METHOD OF IDENTIFICATION**: The witness must be afforded an ample opportunity to view the suspect. This means that the suspect should be removed from a police car or the place of custody prior to viewing, but only in a way that assures no physical evidence is contaminated and there is no danger to suspect or witness.
 - The suspect may be asked to utter certain words, make certain gestures or assume particular poses that the witness might recognize.
 - No physical evidence taken from the suspect may be presented to the witness until after the witness has completed the field identification procedure.
 - Field identifications are not conducted at any custodial or police facility.
- **RIGHT TO LAWYER**: No person has a right to have a lawyer present at any field identification procedure.
- **RECORDING CIRCUMSTANCES**: The officer will record the following circumstances when conducting an in-field identification:
 - Time and location
 - Persons present

- How conducted
- Document the admonition given to the witness(es)
- Duration
- Distance from which the identification was made
- Statements of witnesses attempting the identification
- Photograph or describe the physical appearance of the person being identified
- Other circumstances which may assist in determining the validity of the identification
- A Narrative/Supplemental Report (Form 200-3A-AFR) is used to document the process

L 4603**PHOTOGRAPHIC IDENTIFICATIONS:***Revised 01-08-03*

A photographic identification occurs whenever an officer arranges for a witness to view a series of photographs in an attempt to identify the perpetrator of a criminal act. A photographic identification may be conducted when a physical lineup is impractical or impossible, usually because the suspect is not in custody.

When a decision is made to conduct a photographic identification process, all Department members will adhere to the following procedures:

- **REQUIRED NUMBER:** When conducting a photographic identification include the suspect's photo or facsimile and at least five fillers.
- **LINE-UP PROTOCOL:** The pictures will be presented sequentially (one at a time), in random order and in a manner that does not attract undue attention to any one picture in the series. Whenever possible, the line-up will be presented by an officer who does not know the identity of the suspect. The following procedure will be utilized when presenting photographic line-ups:
 - Obtain photographs from an approved source, (i.e., SJPD Investigative Search, DMV or Santa Clara County photo databases, etc.)
 - Arrange photographs in random order and record the order on San Jose Police Line-Up Identification form (Form 200-12)
 - A separate Line-Up Identification form (Form 200-12) must be completed for each person viewing the photographic line up
 - Read the admonition printed on form (Form 200-12) prior to displaying the line-up and confirm that the witness understands the nature of the sequential procedure
 - Present each photo to the witness separately in a previously determined and random order
 - Remove each photo before presenting the next one
 - Record both positive and negative identifications in writing, including the witness's own words regarding the certainty of the identification on Line-Up Identification form

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(Form 200-12)

- Complete the approved Line-Up Identification Form (Form 200-12) and maintain it as evidence.
- Ask the witness to sign and date the results
- The officer showing the line-up will complete a Narrative/Supplemental Report (Form 200-3A-AFR) in addition to the Line-Up Identification form (Form 200-12)
- **MUG BOOK/YEARBOOK**: A mug book, yearbook or similar compilation of photos may be used when there is no particular suspect. However, witnesses must be shown a reasonable number of photographs, even if the suspect is selected almost immediately. A reasonable number will be determined by assessing the physical characteristics of the mug shot identified as compared to the number of photos viewed which resemble the mug shot.
- **RIGHT TO LAWYER**: No person has a right to have a lawyer present at any photographic identification procedure.
- **PROCEDURE AFTER POSITIVE IDENTIFICATION**: If one witness makes a positive identification based upon a photographic identification procedure which produces probable cause for arrest, other witnesses are not asked to attempt a similar identification. Witnesses not participating may, however, be asked to view the suspect during a formal line-up. Witnesses will not be told if they identified the correct suspect as this could frustrate future identification procedures.
- **DISPOSITION OF LINE-UP**: When an officer completes a line-up identification process, they will preserve the photographic display, as viewed by the witness, for presentation in court at a later time. After completing the line-up procedure, return the photographs and the line-up identification form to the appropriate investigative unit. If this is not possible, the photographic display will be booked into evidence. The investigating officer will later remove the display from evidence and combine it with the investigative case file.

L 4604 FORMAL IDENTIFICATION PROCEDURES:

Revised 01-08-03

A formal identification (line-up) occurs whenever a suspect is placed in a live group of individuals and then the entire group presented to witnesses for viewing. Formal identification procedures will be conducted as soon after the criminal act as is possible.

L 4605 RESPONSIBILITY FOR PROCEDURE:

Revised 01-08-03

Due to the complex nature of the formal identification process, officers intending to conduct formal identification processes will do so through the investigative unit assigned to the case. When no investigative unit has been assigned, the initiating officer will contact the commanding officer of the Detective Division to arrange for the procedure. The Formal Identification process will follow the Line-up protocol outlined in L 4603.

- **RECORDING CIRCUMSTANCES**: The officer will record the following circumstances when conducting a Formal Identification:

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- Record the admonition given to the witness(es)
- Duration
- Persons present
- Distance from which the identification was made
- Statements of witnesses attempting the identification
- Photograph or describe the physical appearance of the person being identified
- Other circumstances which may assist in determining the validity of the identification
- A Narrative/Supplemental Report (Form 200-3A-AFR)) is used to document the process



L 4700 - OFFICER INVOLVED SHOOTINGS:

Revised 02-15-17

The Department maintains procedures to ensure that a neutral, impartial and thorough investigation of an officer-involved shooting is conducted whenever such a shooting occurs. The purpose of such an investigation is to reconstruct and determine the circumstances surrounding the incident. The San Jose Police Department will investigate shootings involving other law enforcement agencies that occur inside the city limits of San Jose regarding any enforcement action. Officer-Involved Incident investigations shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines.

PROCEDURE

L 4701 OFFICER INVOLVED SHOOTINGS - INITIAL RESPONSIBILITY:

Revised 11-22-10

When an officer involved shooting occurs, Department members as indicated will adhere to the following appropriate procedures:

- PROVIDING FIRST AID: The officer(s) assigned to the scene is responsible for ensuring that medical treatment is provided when necessary and possible.
- PROTECTION AND SECURITY OF SCENE: Officers initially assigned to respond will secure the scene and protect evidence. Once the incident has stabilized and the safety of persons is assured, the securing and preservation of the scene and all associated evidence is the primary duty of the initially assigned Department members.
- PROCESSING INVOLVED WEAPON(S): In order to maintain the integrity of the investigation and the dignity of the involved officer(s), the officer(s) weapon, holster, gun belt and spare ammunition is obtained and processed only by Homicide, Crime Scene Unit members at a Department approved facility away from the initial scene. The involved weapon will not be opened, unloaded or tampered with in any manner except to render the weapon safe for transportation by lowering the hammer and/or engaging safety mechanisms. Crime Scene Unit members are responsible for processing the involved equipment through the Santa Clara County Crime Laboratory.
- DIRECTING INVOLVED OFFICER: The assigned officer is responsible for ensuring that the officer(s) involved is transported to the Police Administration Building as soon as practical. Upon arrival, the involved officer(s) will report to the Detective Division.

L 4702 OBTAINING PHOTOGRAPHS AND EVIDENCE:

Investigative Department members assigned to the Crime Scene Unit will photograph and gather all physical evidence. In cases where the deceased or wounded person has to be moved prior to an investigator's arrival, the initially assigned officer will ensure that photographs are obtained prior to disturbing the area and then preserve the remaining scene.

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L 4703**NOTIFICATION:**

The following Department members are responsible for performing notifications as indicated:

- SUPERVISOR OR INITIAL OFFICER AT THE SCENE: The field supervisor or initial officer assigned to the scene will request that Communications notify the involved area lieutenant and the Detective Division. The Detective Division is responsible for notifying the Crime Scene Unit.
- ASSIGNED AREA LIEUTENANT: The assigned area lieutenant is responsible for the following notifications:
 - Chief of Police: The Chief of Police or the Assistant Chief when the Chief is absent is notified immediately.
 - Bureau Chief: The Deputy Chief, or an on-duty designee, from the involved officer's assigned bureau is notified.
 - District Attorney Investigator: During normal business hours (0800-1700, Monday to Friday) the Chief Investigator, or a designee, in the District Attorney's Office is contacted directly. During non-business hours, Communications is contacted and requested to notify the supervising District Attorney Investigator on-call who will then assign an investigator.
 - Internal Affairs Unit: During normal business hours (0800-1700, Monday to Friday) IA Unit members are contacted and advised. In the event initial contact cannot be made, Communications is contacted to obtain the name and telephone number of the officer on-call. The area lieutenant will then contact the on-call officer directly.
 - Press Information Officer: The Department's Press Information Officer is notified.
- CORONER: Upon arrival at the scene of a fatality, the Crime Scene Unit investigator assigned will ensure that the Santa Clara County Coroner's Office is notified.

L 4704**RESPONSIBILITY AND AUTHORITY OF DETECTIVE DIVISION INVESTIGATORS:**

Upon arrival, the Detective Division investigator will assume command of the scene and conduct an investigation consistent with Department investigative procedures and laws.

L 4705**DISTRICT ATTORNEY INVOLVEMENT:**

Properly prepared case reports will be submitted to the District Attorney's Office and may subsequently be submitted to the Grand Jury.

In addition, the District Attorney's investigator is authorized to monitor the investigative process employed by the Department, including monitoring at the scene of the shooting.

L 4706**REPORTS BY DEPARTMENT MEMBERS:**

Revised 02-15-17

Any member involved in, or performing any function pertaining to, an officer involved shooting will submit reports detailing such involvement. Reports will be completed and submitted prior to securing from the tour of duty during which the incident occurred.

Exception: When an Officer-Involved Incident occurs, the investigation shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement, as well as the automated use of force template, will be completed by the Homicide Detective who conducted the interview.

L 4707

PLACEMENT ON ADMINISTRATIVE LEAVE:

The officer or officers directly involved in the shooting will be placed on Administrative Leave after the completion of their reports. Administrative Leave is for an undetermined period of time and is authorized at the direction of the Chief of Police. The officer placed on Administrative Leave is responsible for advising the respective bureau command of the officer's whereabouts in order that contact may be made when necessary.

L 4708

CRITICAL INCIDENT STRESS DEBRIEFING:

Revised 12-12-16

Critical Incident Stress Debriefing is available to all personnel directly involved in an officer-involved shooting incident in accordance with Duty Manual sections L 7501 and L 7501.5.

**L 4800 - SEARCH AND SEIZURE:**

Officers will conduct searches and seizures in a manner which is consistent with existing law.

PROCEDURE**L 4801 GENERAL PROVISIONS - DEFINITIONS:**

A search is defined as any intrusion by an officer into a legally protected area of a citizen's privacy for the purpose of recovering contraband and/or gathering of evidence. A seizure is the taking into custody of a person's property or other things possessed by such person. Officers will normally conduct searches and seizures under the authority of a search warrant unless one or more of the following circumstances exist:

- INCIDENT TO AN ARREST: (See Duty Manual section L 4901 - WARRANTLESS SEARCHES - LIMITS AT TIME OF ARREST for limitations)
- INCIDENT INVOLVES A MOTOR VEHICLE: (See Duty Manual section L 5001 - PLAIN-VIEW SEIZURES - DEFINITION, and Duty Manual section L 5201 - WARRANTLESS SEARCHES - INCIDENTS INVOLVING TRAFFIC CITATIONS for limitations)
- THREATS TO LIFE, PROPERTY OR EVIDENCE: (See Duty Manual section L 4905 - SCOPE OF EMERGENCY SEARCH, Duty Manual section L 4908 - CONSENT SEARCHES and Duty Manual section L 5101- CURSORY SEARCHES – DEFINITION for limitations)
- WHEN CONSENT IS GIVEN: (See Duty Manual section L 4910 - CONSENT BY JOINT OCCUPANT(S) for limitations)
- WHEN IN PLAIN VIEW: (See Duty Manual section L 5001 - PLAIN-VIEW SEIZURES - DEFINITION for limitations)

When the circumstances require that the search and seizure be accomplished under the authority of a search warrant, the warrant will be obtained and served in accordance with Duty Manual section L 3800 - OBTAINING AND SERVING SEARCH WARRANTS through Duty Manual section L 3816 - RETURNING THE WARRANT.

L 4802 CONDUCT OF THE SEARCH:

The entrance and search will be conducted in an orderly manner. If the search team has a warrant, a copy will be given to the occupants of the premises or a copy left in an appropriate place if the premises are vacant. The searching will be courteous and accomplished with a minimum of disarray.

L 4803 ANNOUNCEMENT REQUIRED:*Revised 09-16-20*

Prior to entering a residence or other premises by warrant, probation or parole search, or exigency, officers will comply with the following requirements (except when exempted under section L 4805):

- Knock.
- Identify oneself as a peace officer.
- Describe the purpose or authority to enter.
- Demand entry.
- Wait a reasonable amount of time before entering to allow the occupants to either voluntarily admit the officer or refuse to admit the officer.

Such announcement will be conducted in a manner which is reasonably audible to persons on or within the premises to be searched.

L 4804 DELAY FOLLOWING ANNOUNCEMENT:

Officers will delay their entry following the required announcement unless one of the following circumstances is present:

- Persons in the house to be entered refuse to allow an officer to enter or otherwise indicated they are not going to allow entry
- There is substantial indication following the announcement that person(s) occupying the premises to be searched are willfully delaying a response to the officers' demand for entry and/or such persons are destroying, hiding, removing or altering evidence
- The occupants admit the officers to the premises

NOTE: The amount of delay required is not easily determined but an accepted and reasonable guideline would be as follows:

- 20 seconds delay if the items sought are easily disposed of or destroyed
- 60 seconds delay if the items sought are not easily disposed of or destroyed

L 4805 WHEN LESS THAN FULL COMPLIANCE WITH THE ANNOUNCEMENT REQUIREMENTS IS JUSTIFIED BY EXIGENT CIRCUMSTANCES:*Revised 12-10-21*

Officers may make entry without full compliance with the announcement requirements listed in Section L 4803—ANNOUNCEMENT REQUIRED when an exigency arises prior to or during the execution of a search or seizure. An exigency arises when an officer can articulate specific facts which exist at the time of entry which would lead a person of ordinary care and prudence to entertain a reasonable belief that compliance with the announcement requirements would:

- Result in imminent danger to the life of the officer or innocent residents or other innocent persons on or about the premises; or
- Unreasonably frustrate the arrest.

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NOTE:

- In order to reduce the risk of violent resistance, officers should at a minimum, announce themselves as being law enforcement officers while making entry. However, in rare circumstances such as hostage rescues or active shooter scenarios, it may be more tactically sound, and therefore acceptable, not to announce an officer's entry.
- There is no blanket rule exempting all narcotic cases from the requirements to give Knock & Notice announcements. Instead, a specific showing must be made to justify less than full compliance with the announcement requirements of Duty Manual section L 4803—ANNOUNCEMENT REQUIRED.

L 4806 SCOPE OF THE SEARCH PURSUANT TO A WARRANT:

The warrant limits the area of the premises which is to be searched. The scope of the search within that area is limited by the type of item(s) listed in the warrant. Officers should not search areas or containers which could not hold the items listed on the warrant.

L 4807 DISCOVERY OF ADDITIONAL ITEMS RECOGNIZED AS EVIDENCE:

Recognizable contraband and/or evidence of the crime under investigation which is not listed on the search warrant will be seized whenever the officer is legally searching in the area of discovery. Evidence of other crimes may be seized as long as the officer can show that a reasonable belief existed at the time of the seizure that such items were recognizable as evidence of a known criminal act. Seizure of items based on hunches or later determination of ownership should be avoided.

L 4808 RECEIPT FOR PROPERTY TAKEN:

The officer in command of the search will complete a detailed receipt of all property seized. The receipt will then be given to the person(s) from whose possession the property was taken. In the absence of any person(s), such officer must leave the receipt in the place where the property was found. The Department's "Property Report" (Form 200-13) will be used for this purpose and a note made on the original form that a copy was left at the scene of the seizure.

L 4809 TERMINATION OF SEARCH:

When all items listed in the warrant have been found, or when it is determined that the items are not on the premises, the search will be terminated.

L 4810 DISPOSITION OF SEIZED PROPERTY:

All seized property will be held in custody by the officer in command of the search. The officer in command of the search is responsible for ensuring that the chain of evidence is maintained and all items seized are properly booked into evidence. Property seized pursuant to a search warrant will not be released except by order of the court.

L 4811 REPORTING THE SEARCH PROCESS:

Revised 04-17-13

The officer in command of the search is responsible for recording the processes and circumstances involved in the search and seizure. Circumstances to be recorded include, but are not limited to, the following:

- Date, time and place the warrant was obtained
- When served
- Manner of entry
- Identities of the officers involved in the search
- Persons occupying the searched premises
- Photos of the areas searched before and after, when practical
- Items, evidence or contraband seized and the chain of evidence

These circumstances will be recorded in a General Offense Report (Form 200-2-AFR) unless a General Offense Report (Form 200-2-AFR) was previously completed in which case a Narrative/Supplemental Report (Form 200-3A-AFR) will be completed.



L 4900 - WARRANTLESS SEARCHES:

Consistent with existing law, officers may conduct limited warrantless searches at the location of an arrest to preserve evidence or contraband or to ensure the safety of officers or other persons.

PROCEDURE

L 4901 WARRANTLESS SEARCHES - LIMITS AT TIME OF ARREST:

Revised 05-25-22

When an arrest occurs, the officers making the arrest may perform a limited search within the area under control of the arrestee. This includes the arrestee's person and an area within which the arrestee could obtain a weapon or gain possession of evidence. Lacking the presence of emergency circumstances, further warrantless searches will not be conducted.

A transgender or intersex arrestee may request a search of their person incident to arrest be conducted by an officer of a preferred sex or gender. If circumstances permit, officers should abide by this request. However, searches incident to arrest of transgender or intersex individuals may be conducted by an officer of any sex or gender.

EXCEPTION: There are exceptions when searching the interior of a vehicle. See Duty Manual section L 5200 titled "Warrantless Searches and Seizures of Vehicles" for pertinent procedures.

L 4902 TIME OF SEARCH:

Whether the arrest is for probable cause or pursuant to an arrest warrant, the general rule is that the search will be contemporaneous or substantially contemporaneous with the arrest.

The requirement that the search be contemporaneous is crucial. A delay of even a few minutes, during which time an arrestee is restrained, handcuffed and placed in a police vehicle, may invalidate a search of the arrestee's previous surroundings since, once removed, the accused no longer has physical control of the immediate area. Therefore, arresting officers will conduct warrantless searches immediately following an arrest but consistent with the security and safety of involved persons.

L 4903 DETERMINING PRESENCE OF OTHER PERSONS:

It is permissible to enter other areas within the premises to determine if persons who might destroy evidence are present and/or to ensure the safety of officers or other persons. When entering other areas, officers may only look into areas large enough to contain a person. If the officer wishes to search in smaller areas, the area should be secured and a search warrant obtained.

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L 4904 EMERGENCY SEARCHES:

When an officer reasonably believes there is an imminent and substantial threat to life, health or property, such officer may conduct a search and seizure for the purpose of controlling or eliminating the imminent threat.

L 4905 SCOPE OF EMERGENCY SEARCH:

Revised 05-25-22

Officers involved in emergency searches will assess whether the manner and extent of the search is reasonably justified and related to the emergency prompting the search.

EXAMPLE: Entry into a dwelling place to seek a fleeing felon would not authorize rummaging through a dresser drawer.

Officers may conduct a search of any sex or gender incident to an arrest. When an officer has reason to believe a subject should be searched for evidence or weapons, the officer should handcuff the subject's hands behind their back.

A transgender or intersex individual may request that a search of their person incident to arrest or emergency be conducted by an officer of a preferred sex or gender. If circumstances permit, officers should abide by this request. However, searches incident to arrest or emergency of transgender or intersex individuals may be conducted by an officer of any sex or gender.

Officers may search any subject if they have articulable facts to believe the subject has a weapon that can be used, or the subject has concealed evidence or contraband and there is a possibility they may be able to dispose of it before a same-sex, preferred sex, or preferred gender officer may respond to the scene.

When justification for an emergency search is lacking, officers will discontinue the search until a search warrant is obtained.

L 4906 SEIZURES DURING EMERGENCY SEARCHES:

Officers will seize items of evidence, recognizable contraband or other items reasonably indicating criminal activity which were discovered during an emergency search.

L 4907 SEARCHES DURING HOT PURSUITS:

Officers who are in hot pursuit of a suspect may conduct the following warrantless searches

- SEARCH OF SUSPECTS: Officers may search any area that is large enough to contain the individual being pursued.
- SEARCH FOR INFORMATION: Officers may search an area into which the suspect fled for purposes of discovering the identity of an unknown suspect.
- SEARCH FOR DISCARDED EVIDENCE/CONTRABAND: Officers may search areas in which a suspect has entered whenever such officers reasonably believe the suspect has hidden or discarded evidence, weapons or contraband which is related to the criminal act prompting the pursuit.

- **SEARCH TO ENSURE SAFETY**: Officers may search through an area or dwelling to locate the suspect or other involved persons whenever it is reasonable to believe that the safety of the officers or other persons is threatened.

The circumstances surrounding the pursuit and reasons for searching will be reported completely by the officer conducting the search whether or not any items were seized.

L 4908

CONSENT SEARCHES:

Officers may conduct a warrantless search of a person, vehicle or dwelling whenever such officers have legally detained the person or vehicle or have legally entered a dwelling and obtained consent to search from a person having authority to give such consent.

Whenever in the judgment of the officer it is possible and practical, the officer may obtain and document consent through optional, but not mandatory, compliance with the written Consent to Search (Form 202-54), audio recording, video recording and independent witnesses. Details of the consent obtained, consent search conducted, and whether or not any items of contraband were found and seized will be documented in the General Offense Report (Form 200-2-AFR).

L 4909

REQUIRED ELEMENTS OF CONSENT:

In order for a consent to be legal, the following elements must be present:

- **VOLUNTARINESS**: Officers will ensure that the consent is given under circumstances that avoid any implied or overt coercion. If the consent is a submission to an assertion of authority, threats or fear, then the consent is deemed not to have been voluntary and any evidence or contraband seized will be inadmissible in court.
- **SPECIFIED AREA**: The consent must be to search a defined area. Officers will ensure that the person giving consent is aware of the areas to be searched and has given consent to search such areas. The search should not exceed the limits of the consent.
- **COMPETENCY**: The person granting consent must have the authority to do so in order for the search to be legal. Authority is established when the person consenting has exclusive or joint control over the area or dwelling to be searched. Officers will determine that the person giving consent has such control prior to conducting a search based upon consent.

L 4910

CONSENT BY JOINT OCCUPANT(S):

Officers may obtain consent to search from a joint occupant even though the other occupants object or are absent. However, when obtaining such consent, the following requirements will be adhered to:

- **CONSENT GIVEN BY ABSENT JOINT OCCUPANT**: Officers will not conduct a warrantless search if the consenting occupant is away from the premises at the time consent is given and a joint occupant on the premises refuses to consent.
- **SCOPE OF SEARCH**: Joint occupants may only consent to a search of their own exclusive areas and areas which are used in common by other tenants. A joint tenant cannot consent to a search of areas or items used exclusively by another tenant. Officers will refrain from searching such areas or items without a warrant or consent of the person having exclusive possession.

L 4911 WITHDRAWAL OF CONSENT:

The consent may be withdrawn at any time after it is granted. When consent is withdrawn, officers will immediately discontinue searching.

L 4912 CONSENT BY SUSPECT'S ATTORNEY:

Once a suspect retains an attorney, consent will be obtained from such attorney prior to searching even though consent has been given by the suspect. Consents given by joint tenants remain valid unless they have also obtained an attorney.

Line Operations/Procedures

L 5000 – L 5900



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L 5000 - PLAIN-VIEW SEIZURES:

When an officer has lawfully entered an area or dwelling and such officer observes in plain view articles which the officer has reasonable cause to believe are stolen, contraband, instrumentalities or fruits of a crime, evidence of a known crime or abandoned property, the articles can and will be seized in accordance with the law and established procedures.

PROCEDURE

L 5001 PLAIN-VIEW SEIZURES - DEFINITION:

A "plain-view seizure" occurs whenever an officer is legally in an area or dwelling and observes an object which is sufficiently disclosed so that all the characteristics of evidence, contraband or instrument of crime are in plain sight, and the officer seizes such items without the authority of a warrant.

L 5002 REQUIRED ELEMENTS:

Officers will determine that the following elements are present prior to initiating a "plain-view seizure":

- Probable cause exists to believe that a particular crime has been committed
- The item to be seized is sufficiently disclosed to sight so as to establish a reasonable belief that the item is evidence, contraband or instruments of a crime
- The intrusion or entry into the area or dwelling where the item to be seized is accomplished in a lawful manner
- The seizure is necessary to preserve potential evidence.

If any of the above elements are lacking, the officer intending to seize the item(s) will obtain a search warrant prior to seizure

L 5003 SEIZURE OF VEHICLES IN PLAIN VIEW:

Officers may seize automobiles in plain view so long as the vehicle constitutes an instrument of the crime as distinguished from a carrier of contraband.

L 5004 SEIZURE OF PROPERTY FROM SECONDHAND DEALERS:

For the purpose of this section, pawnbrokers are to be considered state licensed secondhand dealers. Only certain secondhand dealers in San Jose are subject to the provisions of this section.

In the absence of exigent circumstances or a search warrant, officers from the Burglary Unit are the authorized representatives of the Police Department in all matters pertaining to pawnshops and secondhand dealers. Because of their expertise, training, and knowledge relating to laws governing secondhand dealers, these officers are the only officers authorized to seize property

from secondhand dealers without a search warrant or in the absence of exigent circumstances. When officers in the field are confronted with a situation where they feel the need to seize property from a secondhand dealer; they shall contact the Burglary Unit to determine whether to proceed. Officers will adhere to the following:

- When officers from the Burglary Unit are on duty, all seizures of property from secondhand dealers will be coordinated through the Burglary Unit
- When officers from the Burglary Unit are not on duty, officers are authorized to place a 90-day hold on the property in accordance with Section L 5005

L 5005

NINETY-DAY HOLD:

Officers will determine that the following criteria are present prior to placing a 90-day hold:

- Officers from the Burglary Unit are not on duty.
- The secondhand dealer has a City Pawnbroker Permit (90-day holds pertain to pawnbrokers only).
- The pawnbroker's mandatory 30-day holding period for property is about to expire. Officers will adhere to the following procedures:
 - The 90-day hold must be placed in person.
 - A "Property Report" must be completed.
 - Have the Pawnshop representative acknowledge the hold by signing in the Form 200-13. Describe property being held.
 - Complete a detailed General Offense Report (Form 200-2-AFR) indicating why a 90-day hold was placed on the property.
- The completed reports must be routed to the Burglary Unit.



L 5100 - CURSORY SEARCHES:

A cursory search of a detained person is allowed when an officer can establish facts which indicate a reasonable suspicion that the suspect to be searched is armed and/or dangerous. It must be understood that officers and the Department may be subject to criticism for performing a cursory search or "frisk" of a suspect of the opposite sex. Common sense and professional ethics demand that this procedure be justified and reasonable without compromising the safety of officers and the public.

PROCEDURE

L 5101 CURSORY SEARCHES - DEFINITION:

A cursory search is a limited "frisk" of the outer clothing of a person being detained for the purpose of maintaining the safety of the officer or others.

L 5102 REQUIRED ELEMENTS:

For a "frisk" to be lawful there must be present some facts which can be clearly articulated which lead to a "reasonable suspicion" that the person being detained and "frisked" is a threat to the safety of the officer or other persons. ("Reasonable suspicion" is more than a vague hunch but less than reasonable cause.)

The following are factors which, alone or in combination, may be sufficient to establish "reasonable suspicion."

- **THE PERSON'S APPEARANCE:** Does the person's clothes bulge in a manner suggesting the presence of any object capable of inflicting injury?
- **THE PERSON'S ACTIONS:** Did the person make a furtive movement, as if to hide a weapon, when approached by the officers? Does the person appear nervous during the course of detention? Are the person's words or actions threatening?
- **PRIOR KNOWLEDGE:** Does the officer know if the person has a police record for weapon offenses or for assaults (on police officers or others)? Does the officer know if the person has a reputation for carrying weapons or for violent behavior?
- **LOCATION:** Is the area known for criminal activity (a "high crime" area)? Is the area sufficiently isolated so that a law enforcement officer is unlikely to receive aid if attacked?
- **TIME OF DAY:** Is the confrontation taking place at night? Does this contribute to the likelihood that the officer will be attacked?
- **POLICE PURPOSE:** Does the officer's suspicion of the suspect involve a serious and violent offense? An armed offense? (If so, the same factors justifying the detention also justify the frisk.)
- **COMPANIONS:** Has the officer detained a number of people at the same time? Has a frisk of a companion of the suspect revealed a weapon? Does the officer have assistance immediately available to handle the number of persons being detained?

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The frisk may be conducted immediately upon making the stop or at any time during the stop whenever a "reasonable suspicion" develops.

L 5103 SCOPE OF THE "FRISK":

A "frisk" should not exceed the patting down of the outer clothing unless developing circumstances authorize a further search.

L 5104 SEIZURE OF ITEMS FOUND:

If, when conducting a frisk, an officer feels an object which is reasonably believed to be a weapon or dangerous instrument or may contain such an item, such officer may reach into the area of the person's clothing where the object is located, e.g., a pocket, waistband or sleeve and remove the object.

L 5105 SEIZURE OF SEPARATE POSSESSIONS:

If the person being "frisked" is carrying an object (a purse, shopping bag or briefcase), it should be taken from the person and placed in a secure location that is out of the person's reach for the duration of the detention.

L 5106 INCIDENTS INVOLVING TRAFFIC VIOLATIONS:

Whenever an officer makes a full custody arrest for a traffic violation or another citable offense, whether on-view or pursuant to a warrant, such officer may frisk the arrestee before placing the arrested person in the officer's vehicle. An officer may remove separate belongings in conformance with Section L 5103.

L 5107 INCIDENTS INVOLVING COURTESY SERVICES:

When an officer intends to provide a courtesy service which involves the transportation of a person in a police vehicle, the officer may perform a "frisk" of such person's outer clothing and possessions only after first obtaining such person's consent to "frisk." When such person refuses consent, the officer need not provide the courtesy service.

L 5108 DOCUMENTING DETENTIONS DURING SELF-INITIATED PEDESTRIAN AND/OR VEHICLE STOPS :

Added 12-15-13

Officers shall utilize the seven (7) authorized disposition codes to document self-initiated vehicle & pedestrian stops (excluding contacts related to a call for service). If a vehicle or pedestrian stop is made related to an in progress call for service, the officer shall cross-reference the event to the original call for reporting purposes. In circumstances where more than one limited detention is used, officers will clear the call using one of the following appropriate detention codes: "C", "H" or "V."

In circumstances where more than one limited detention is used in conjunction with curbsitting, officers will use the curbsitting code (C) as the primary code and document any other limited detention in the CAD comment section (MI). When more than one limited detention is used not involving curbsitting, officers will use the most appropriate limited detention code (H or V) and document the other limited detention (H or V) in the CAD comment section (MI).

Pedestrian Stops - Self-Initiated:

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Whenever an officer makes a self-initiated pedestrian stop on a subject(s), the officer will clear the call with the seven (7) authorized disposition codes and follow with the final disposition code to close the event. This also pertains to those self-initiated pedestrian stops that ultimately result in an arrest.

Vehicle Stops – Self-Initiated:

Whenever an officer makes a self-initiated vehicle stop, the officer will clear the call with the seven (7) authorized disposition codes relating to the driver of the vehicle and follow with the final disposition code to close the event. Any additional passengers that are sat on the curb, temporarily handcuffed, or temporarily placed in the back of a police vehicle will require separate disposition codes. This also pertains to those self-initiated vehicle stops that result in an arrest.

The following will reflect the authorized disposition codes:

1. Disposition (disposition of the call – 15 dispositions from arrest to unfounded)
2. Reason for the stop (5 reason types)
3. Race
4. Search – Vehicle or Person (searched, not searched, searched no evidence found)
5. Number of stops/subjects
6. Type of Detention (Curb, Handcuffed, Police Vehicle, None of preceding)
7. Limited Detention Reason (multiple reason types)
8. Final disposition to close event (same as #1 Disposition – choose highest level of disposition amongst the subject(s) contacted)

Laminated cards containing the latest version of disposition codes will be distributed in patrol briefings and/or obtained through BFO Admin.

L 5109

DOCUMENTING DETENTIONS PURSUANT TO THE RACIAL AND IDENTITY PROFILING ACT OF 2015 (AB 953)

Added 12-5-18

AB 953 requires ALL California law enforcement agencies to collect and report to the California Attorney General detailed data regarding all stops, which AB 953 defines as a detention or search, including a consensual search.

A “Stop” under AB 953 is a detention, by a peace officer, of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control. In addition to vehicle and pedestrian stops, this includes all calls for service resulting in a detention.

A “detention” under AB 953 means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands or words, or conduct by an officer that would result in a reasonable person believing they are not free to leave or otherwise disregard the officer.

The information required to be collected on each stop and reported to the Department of Justice (DOJ) includes information about the stop itself, the person stopped, and the officer making the stop. Specifically, the officer must report the following:

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1. Date, time, and duration of stop
2. Location of stop
3. Reason for stop
4. Whether the stop was in response to a call for service (yes/no answer)
5. Actions taken by officer during the stop (e.g., curbside detention, handcuffed or flex cuffed, firearm pointed at person, firearm discharged or used, searched, etc. For searches, the officer must report whether the officer asked for consent to search the person or person's property, and whether consent was given).
6. Contraband or evidence discovered, if any
7. Property seized, if any
8. Result of stop (e.g., warning, citation for infraction, custodial arrest, etc.)

With respect to the person stopped, the officer must report their own perception, based upon personal observation only (and not through any other means, such as asking the person or referring to identification), regarding the following:

1. Perceived race or ethnicity of the person stopped
2. Perceived age of the person stopped
3. Perceived gender of the person stopped
4. Whether the person stopped is perceived to be lesbian, gay, bisexual or transgender
5. Whether the person stopped is perceived to have limited or no English fluency
6. Whether the person stopped is perceived or known to have a disability

With respect to the officer making the stop, the officer must report:

1. Years of experience
2. Type of assignment during the stop (e.g., patrol, traffic enforcement, field operations, narcotics/vice, investigative/detective, etc.)
3. An identification number assigned by DOJ to each officer which enables the State to analyze the stops made by the officer while protecting their identity. The Department is required to maintain a log of each officer and their identification number.

Access to the DOJ PORTAL for Stop Data Collection System:

1. A secured internet connection is required to access the DOJ PORTAL. Therefore, only Department MDT's or Department computer desktop shall be used to access this application.
 - a. A link to the DOJ PORTAL is located on the HOME page of the Intranet as well as the MDT.
2. The officer must log-in to the DOJ PORTAL using their assigned DOJ log-in name and personal password.

Completing the Stop Data Collection System:

1. The officer will select from an extensive list of responses for each of the categories of information, using check boxes to ensure the data collected is uniform for all agencies.
2. When providing the reason for the stop and basis for the search (if one is conducted), the officer will be required to complete an explanatory field of no more than 250

characters to explain the reason for the stop. The regulations require the explanation include additional detail beyond the general check boxes selected. No personal identifying information for any parties should be included in this narrative.

All reporting to DOJ on the DOJ PORTAL shall be completed by officers before the end of shift.

Special Circumstances and Settings:

AB 953 specifies various settings in which, for practical or public safety reasons, officers will not be required to report stops, or will only be required to report stops if the officer takes certain additional actions after stopping the person.

1. Not reportable: Stops made during public safety mass evacuations, active shooter events, and as the result of routine security screenings required of all people to enter a building or special event, do not need to be reported. Stops made of a person at their residence who is the subject of a warrant, search condition, home detention, or house arrest are not required to be reported.
2. Reporting for stops of passengers in a vehicle: Stops of passengers in a vehicle are only required to be reported if the officer engages in any of the actions with the passenger that are identified in the stop data category "Actions Taken," except for "vehicle impounds" and "none." For example, if an officer stops a vehicle with a passenger in the car, the officer is required to report a stop on a passenger if the officer does the following: handcuffed or flex cuffed the passenger, asked for consent to search the passenger, curbed the passenger, removed the passenger from the vehicle by order, etc.
3. Reportable if officer takes any action under "Actions taken" during stop: Stops that take place in the following settings are only reportable if an officer takes any of the actions, excluding "none," provided under the category of information entitled "Actions taken" and the person is detained based upon individualized suspicion or personal characteristics: (1) traffic control; (2) crowd control; (3) interactions in which people are detained at a residence so an officer can verify proof of age for purposes of underage drinking; and (4) checkpoints or road blocks in which all people are being detained or people are being detained based on a neutral formula (e.g., a DUI sobriety checkpoint, where all vehicles are stopped or stops randomly selected vehicles using a neutral formula and not based on individualized suspicion or personal characteristics).
4. Reportable if officer takes specific actions under "Actions taken" during stop: When officers are executing warrants or search conditions, or are on home detention or house arrest assignments, they shall only report stops of people in the home who are not the subject of the warrant, etc., whom the officer takes action against. The following are examples of actions taken by the officer that require reporting: handcuffing or flex cuffing, making an arrest, pointing a firearm at the person, discharging or using a firearm, using an electronic control device, using an impact projectile, using a baton or other impact weapon, using chemical spray on the person, using a canine to bite/hold the person, etc.

5. Stops of students in a K-12 public school are subject to different reporting requirements: In a K-12 public school, only the following interactions with students are subject to stop data reporting requirements: (1) an interaction resulting in temporary custody, citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity; (2) an interaction in which a student is questioned to investigate whether they committed any violation of law, including offenses listed under Education Code sections 48900, 4800.2, 4800.3, 4800.4, and 4800.7, or to determine whether the student is a truant; and (3) any interaction in which an officer takes any of the actions provided under the category of information entitled "Actions taken," excluding "none" and searches applied using a neutral formula.

L 5110 **CURSORY SEARCHES OF TRANSGENDER OR INTERSEX INDIVIDUALS:**
Revised 05-25-22

Officers shall not search an individual for the purpose of viewing or assigning gender based on the person's anatomy or genitalia. Searches of transgender or intersex individuals shall not be more or less invasive than those of other individuals, nor shall they be conducted for any demeaning or harassing purpose.

A transgender or intersex individual may request to be searched by an officer of a preferred sex or gender. If circumstances permit, officers should abide by this request. However, cursory searches of transgender or intersex individuals may be conducted by an officer of any gender.



L 5200 - WARRANTLESS SEARCHES AND SEIZURES OF VEHICLES:

Revised 11-16-17

Officers may conduct limited searches of vehicles without a warrant whenever the vehicle is in use, subject to immediate use or abandoned, and the officer reasonably believes that the vehicle contains contraband, evidence, weapon, or other evidence relating to a criminal act. Officers may seize a vehicle when the vehicle itself is evidence, a hazard, or when the vehicle is abandoned. CSOs may seize a vehicle when the vehicle is abandoned or if it is an unattended recovered stolen vehicle. Such searches and seizures are conducted in accordance with the law and established procedures.

PROCEDURE

L 5201 WARRANTLESS SEARCHES - INCIDENTS INVOLVING TRAFFIC CITATIONS:

Consistent with officer safety and the safety of others, a person who is stopped by an officer and is then given a warning or issued a citation - but who is not placed under full custody arrest - should not be searched, nor should any vehicle used by such person be searched, unless additional facts or circumstances develop which would establish "reasonable cause" to believe that the vehicle or person "stopped" contains or possesses weapons, contraband or evidence.

L 5202 INCIDENTS INVOLVING ARRESTS:

Whenever an officer makes a full custody arrest of a person sitting in or driving a motor vehicle, such officer may conduct a full warrantless search of the arrested person's garments and body in a manner designed to reveal the presence of evidence, contraband and/or weapons. The officer may also conduct a warrantless search of those areas of the vehicle within which the arrested person might readily reach for a weapon or other evidentiary items. When the arresting officer has reasonable cause to believe that the vehicle contains evidence, contraband or instruments of the crime, the vehicle may be searched without a warrant for those items. The search must be conducted at the time and place of arrest in the immediate presence of the arrested person. A "full custody arrest" occurs whenever a person is taken into physical custody for purposes of transporting the person to a magistrate or to a police facility in connection with the arrest.

L 5203 INCIDENTS NOT CONNECTED WITH AN ARREST:

When an officer has probable cause to believe that a vehicle, either locked or unlocked, contains evidence, contraband, instruments of a crime or weapons, all those areas of the vehicle which could contain such items may be searched without a search warrant whenever the following circumstances exist:

- When there is reasonable belief that the vehicle can be easily driven or removed from the area, and a delay to obtain a search warrant would result in the destruction or loss of evidence
- When there is reasonable belief the nature of the circumstances or evidence does not allow for sufficient time to obtain a search warrant before the evidence is destroyed,

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deteriorates or is otherwise lost

If the officer intending to search cannot establish the existence of one of the above circumstances, obtain a search warrant prior to searching.

L 5204 VEHICLE SEARCHES BY CONSENT:

Whenever an officer desires to make a warrantless vehicle search, request consent to search from the person or persons in control of the vehicle by adhering to the Duty Manual section L 4900 titled (Warrantless Searches).

L 5205 SCOPE OF SEARCH:

An officer making a warrantless vehicle search may search only those areas of the vehicle which could physically contain the evidence sought.

L 5206 ENTERING LOCKED AREAS:

Whenever possible, an officer will open a locked trunk or glove compartment by means of a key rather than by force.

L 5207 SEARCH OF VEHICLE PASSENGERS:

When following a search of a motor vehicle the officer has not found the item sought, such officer may search the occupants of the vehicle whenever the following circumstances exist:

- The item sought could be concealed on the person
- The officer has reason to suspect that a passenger has the item

This search may be made even though the officer does not have the probable cause to arrest the passenger.

L 5208 DELAYED SEARCHES:

In those cases when a search is justified but it is not feasible to conduct a search of the vehicle at the scene of the arrest (hostile crowd, bad weather, heavy traffic, absence of needed equipment or unavailability of keys), the vehicle will be taken into police custody until it is searched. and the search will be conducted as soon as practicable.

L 5209 SEIZURE OF ITEMS IN PLAIN VIEW:

An officer who is lawfully in any place may, without obtaining a search warrant, seize from a motor vehicle any item which is observed in plain view (including items observed through the use of flashlight), and the officer has reasonable cause to believe that the item is contraband, a weapon, anything used in committing a crime, loot or other evidence of crime.

L 5210 SEIZURES OF VEHICLES:

Revised 08-10-22

Officers, and CSOs when noted in the sections below, may seize a vehicle when one of the following circumstances occurs:

WHEN SEIZED AS EVIDENCE: An officer may seize a vehicle when the officer has reasonable cause to believe that a vehicle is itself evidence of a crime (e.g., stolen), or

contains evidence that cannot readily be removed at the scene (e.g., has irregularities in the engine/VIN number), or was the means to commit a crime.

Minor Traffic Offenses: A vehicle involved in a non-felony violation of the Vehicle Code, other than a “hit and run” violation under Vehicle Code Section 20002, shall not be seized as evidence merely because it was used to commit the violation.

WHEN DRIVER ARRESTED: When a person is arrested and taken into custody while driving in control of the vehicle and the vehicle is not stolen or otherwise evidence of a crime, does not contain evidence of a crime which can readily be removed at the scene, and is not the means used to commit a crime, officers have the following options available for the disposition of the vehicle, in order of preference:

1. Surrender the vehicle to the registered owner if the arrestee is not the registered owner.
2. Surrender the vehicle to a licensed driver with the consent of the registered owner or, if the registered owner is not available, with the consent of the arrestee.
3. Lawfully and safely (securing the doors and windows) park the vehicle with the consent of the registered owner or, if the registered owner is not available, with the consent of the arrestee.
4. Tow the vehicle to a secure facility for safe storage pursuant to Vehicle Code section 22651(h)(1).

If the arrestee is not the registered owner, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.

If the arrestee is the registered owner or if the registered owner is unable to be reached, officers should determine the disposition based on the arrestee’s preference. In any case, officers should, if time and circumstances permit, provide the above disposition options and abide by the selection of the registered owner or arrestee.

If the registered owner or arrestee refuse to leave the vehicle at the scene or refuse to cooperate in lawfully disposing of the vehicle to ensure its safety, the arresting officer shall impound the vehicle.

WHEN IN VIOLATION OF CERTAIN PARKING OR TRAFFIC REGULATIONS: When a vehicle is in a violation of a traffic or parking regulation ordinance or law and, as a result, is causing a hazard or substantial interference with the safe flow of traffic, pedestrians or emergency vehicles, officers may then impound such a vehicle. However, officers may move the vehicle to a safe location in lieu of towing as long as such action does not endanger the officer, cause additional danger to others or require additional assistance than that which is immediately available.

WHEN ABANDONED: When an officer or CSO has reasonable cause to believe that a vehicle has been “obviously” abandoned on a public street or highway or on public or private property, or one that has been properly marked or determined to have been abandoned or

stored on a city street in excess of 72 hours, such vehicle may be towed and stored at a police tow contractor's facility (Vehicle Code Sections 22523, 22524 and 22669). Vehicle Code Section 22524 creates a prima facie presumption that the last registered owner of the vehicle is responsible for the abandonment of the vehicle on a highway or on public or private property in a manner as provided in Section 22523 and is liable for the cost of removal and disposition of the vehicle. When a vehicle is abandoned on public or private property, the public or private property owner or person having legal control of the property is not responsible for removal. Please note that stolen vehicles very often shall also fit into the category of abandoned vehicles since stolen vehicles are frequently found abandoned on the street or on public or private property.

HAZARDOUS VEHICLES: Pursuant to Vehicle Code Section 22669(d), motor vehicles which are parked, resting or otherwise immobilized on a highway or public right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highways are declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the City.

AGREEMENT TO VOLUNTARILY REMOVE ABANDONED and/or STOLEN VEHICLES: When an officer or CSO determines that a vehicle has been "obviously" abandoned on a public street, highway, or public or private property, has been properly marked or determined to have been abandoned or stored on a city street in excess of 72 hours, or the vehicle has been stolen, the officer or CSO shall either a) personally attempt to contact the last registered owner of the vehicle and secure the owner's agreement to voluntarily remove the vehicle or (b) the officer or CSO shall request that the Auto Desk or Communications attempt to contact the last registered owner and secure the owner's agreement to voluntarily remove the vehicle. If unable to obtain voluntary removal of the vehicle by the last registered owner, an officer or CSO shall have the vehicle towed and stored by a police tow contractor. If contact is made with the registered owner, whenever circumstances allow, the officer shall wait at the scene for a reasonable period of time in order to allow the registered owner or a tow company contacted by the registered owner to arrive at the scene and remove the vehicle. If the registered owner is able to retrieve the vehicle in the field, no tow or storage fees shall be charged to the registered owner. If the officer, CSO, Auto Desk, or Communications is unsuccessful in contacting the registered owner, or the registered owner is unable to retrieve the vehicle in the field within a reasonable time after being contacted and the vehicle cannot be adequately secured and legally parked, the officer or CSO shall have the vehicle towed and stored at the tow contractor's facility. The officer or CSO shall document the attempt to contact the registered owner (e.g., Form CHP 180 or CAD event).

If the stolen vehicle has to be towed by the police tow contractor, the Vehicle Records Unit shall be notified and shall attempt to contact the registered owner of the vehicle by telephone within 24 hours of the tow to provide the registered owner with the location and condition of the vehicle and other information the registered owner needs in order to recover the vehicle from the contractor. The Vehicle Records Unit shall also notify the registered owner by First Class Mail, within 48 hours of the tow (excluding weekends and holidays). If the vehicle was stolen, and the Vehicle Records Unit or the police tow contractor fails to attempt to make contact with the registered owner within 48 hours of the tow (excluding weekends and holidays), the Department, at the discretion of the tow hearing officer, shall pay the tow and

storage fees up to the day that written notice is mailed to the registered owner or the registered owner receives telephonic or verbal notice.

UNLICENSED DRIVER OR SUSPENDED DRIVER'S LICENSE: When an unlicensed driver or an individual with a suspended driver's license is contacted while operating a vehicle, officers have the following options available for the disposition of the vehicle:

1. Surrender the vehicle to the registered owner if the driver is not the registered owner.
2. Surrender the vehicle to a licensed driver with the consent of the registered owner or, if the registered owner is not available, with the consent of the driver.
3. Lawfully and safely (securing the doors and windows) park the vehicle with the consent of the registered owner or, if the registered owner is not available, with the consent of the driver.
4. Tow the vehicle to a secure facility for safe storage pursuant to Vehicle Code section 22651(p).

If the driver is not the registered owner, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.

If the driver is the registered owner or if the registered owner is unable to be reached, officers should determine the disposition based on the driver's preference. In any case, officers should, if time and circumstances permit, provide the above disposition options and abide by the selection of the registered owner or driver.

If the registered owner or driver refuse to leave the vehicle at the scene or refuse to cooperate in lawfully disposing of the vehicle to ensure its safety, the citing or arresting officer shall impound the vehicle.

Once a vehicle is impounded, an inventory is conducted, and the vehicle towed to an authorized storage facility in accordance with the Duty Manual Chapter L 5400 titled "Vehicles."



L 5300 – PROPERTY AND EVIDENCE CONTROL

A goal of the Department is the safeguarding and proper disposal of all property coming into its custody. The Department strives to maintain property in the same condition as received, and to preserve the evidentiary integrity of property that is contraband or held for presentation in court. Every reasonable effort is made to return the property to its rightful owner.

PROCEDURE

L 5301 ORIGINAL RESPONSIBILITY - POLICE PROPERTY MANAGER:

The Police Property Manager is responsible for all evidence and property taken into custody by Department members. The Police Property Manager may delegate tasks and duties to a subordinate but retains responsibility for all property and evidence received.

L 5302 RESPONSIBILITY OF OFFICERS:

Revised 03-03-23

Property and evidence taken into custody by officers are processed through the Police Property Room. Except in cases involving the Homicide Unit, officers will complete an itemized list of the property or evidence using Versadex Property Maintenance feature. Evidence Continuity will be completed to document chain of custody.

Once officers complete the appropriate property information in the Versadex Property Maintenance section, and the evidence continuity section, officers will utilize any available locker in the evidence processing room to book their property. Officers will book the following evidence directly to property personnel at Central Supply:

- Narcotics
- Firearms
- Currency over ten dollars
- Consumer fireworks or incendiary devices that have been rendered safe by the Bomb Squad (See Duty Manual Section L 5516 - EXPLOSIVES, FIREWORKS, AND FLAMMABLES)
- Biological evidence (ex: blood, DNA, SART kit)
- Any item(s) which exceeds locker space

On cases involving the Homicide Unit, the recovering officer will deliver evidence or property from cases involving the Homicide Unit to Homicide Unit members. Homicide Unit members will then be responsible for booking the evidence or property.

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All "Property Reports" are explained or otherwise documented by completing the appropriate primary or supplementary report. Primary reports include the General Offense Report (Form 200-2-AFR), "Vehicle Report" (Form 200-4), "Drunk in Public Report" (Form 200-12A), "Traffic Collision Report" (Form CHP 555-MRE), "Juvenile Contact Report" (County Form 2259) and "Driver Under the Influence Arrest - Investigation Report" (Form 909-A).

L 5303 RESPONSIBILITY OF PROPERTY SPECIALISTS:

Property and evidence are received by Property Specialists 24 hours a day, 365 days a year. The Property Specialist receiving items will verify the information and description on the "Property Report." The Property Specialist will retain all copies of the "Property Report" for routing to the Records Unit. Officers may request a photocopy of the "Property Report" for report writing purposes. Bureau of Investigation members may receive the BOI copy for the case file upon booking property.

L 5304 ACCESS TO PROPERTY STORAGE AREAS:

Entry into the police property storage areas located at 1588 B Monterey Road, the Commercial St. warehouse and the Police Administration Building is restricted to Property Unit members only. The Police Property Manager must specifically authorize any exception in writing. Department members other than on-duty Property Unit members are required to enter their names, purpose and time of entry and exit in the log provided for this purpose.

L 5305 TAGGING OF PROPERTY AND EVIDENCE:

Officers will complete a "Property Tag" when booking any evidence, contraband, found property or property booked for safekeeping. The tag will be fastened by the officer to the property or package containing the item.

EXCEPTION: Narcotic evidence will be booked using a heat sealable "Evidence Envelope" (Form 204-22A). Narcotic evidence will be booked in accordance with Duty Manual section L 5506 (Narcotics Evidence).

L 5306 PRESERVATION OF EVIDENCE:

When practical, each article of evidence should be placed in a separate container, with the exception of closely related substances found at the same place. Articles which are too large to package should be protected so as to prevent loss or contamination of marks, stains or other evidentiary qualities. Protection may be achieved by covering the area containing the evidence and removing the item to the Property Room or other approved storage area as soon as possible.

L 5307 MARKING OF EVIDENCE:

Officers will mark evidence so as to identify particular items as being the actual articles found at the scene of an arrest or crime. The nature of the article dictates the method of marking. Officers will avoid defacing an article by scratching or gouging its surface (such as scratching the side of a handgun or carving the date and initials on a gun stock or stereo set). An article with a brand name, serial number or model number usually requires only that a Police Property Tag listing the appropriate information is attached. Items without serial numbers or other identifying qualities, such as shell cases and bullets, will be marked in a manner that does not destroy the evidentiary value.

When marking property or evidence, the location of the marking and/or other distinctive marks or numbers will be recorded in the report.

Specific evidentiary items will be marked in accordance with Duty Manual section L 4400 (Collection of Physical Evidence).



L 5400 - VEHICLES:

A goal of the Department is the safeguarding and proper disposal of all property coming into its custody. The Department strives to maintain property in the same condition as received and to preserve the evidentiary integrity of property that is contraband or held for presentation in court. Every reasonable effort is made to return property to its rightful owner. Whenever part of this responsibility is contracted out to private enterprise, the Department, or in the case of contract tow companies the appropriate City of San Jose department, shall inspect those private operations in order to ensure that they maintain the expected level of property and evidence control.

PROCEDURE

L 5401 ESTABLISHMENT OF RESPONSIBILITY:

Revised 08-22-17

Whenever the Department removes a motor vehicle from the possession or control of its owner or owner's agent, it assumes the responsibility for protection of that vehicle until it is returned to its owner or disposed of through lawful process.

Vehicles impounded for Vehicle Code violations or parking infractions are to be considered as automatically cleared for release without further investigation. Vehicles with registration or identification in an unclear condition need to be held for proof of ownership. In these cases, the Vehicle Records Unit shall release the vehicle once ownership has been established, and the vehicle has been properly registered with the Department of Motor Vehicles. A vehicle release fee is charged to the vehicle owner.

- Vehicles held for investigation need a release from the assigned investigative unit. It is the investigator's responsibility to notify the Vehicle Records Unit when a vehicle is cleared to be released back to the owner. Vehicle Records Unit members shall notify the vehicle owner after the hold has been released.
- Vehicles seized on authority of a search warrant require an order of the Court to the investigative unit prior to release
- Complications arising from any vehicle storage or impound should be resolved by the investigative unit. See also Duty Manual section L 5411 (Vehicles Involving Altered or Missing Identification)
- The Tow Hearing Officer or authorized representative is designated as the Department Tow Hearing Officer per CVC 22852 and may order the release of any vehicle being held in police custody without proper authority.

L 5402 REPORTING VEHICLE TOWS:

All incidents requiring the storage or impound of vehicles under the authority of this section will be reported on Form CHP 180, and the Auto Desk will be notified as soon as possible after the tow. The justification for the tow will be recorded under the narrative section. Any police "hold" will be explained at that time. Exceptions to this requirement are:

- Tows summoned to an accident scene when the driver is capable of negotiating the vehicle's disposition

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- Tows called as a courtesy service for motorists
- Tows called for police vehicles or other City vehicles
- At the direction of the Vehicle Records Unit

L 5403

PROCEDURES TO FOLLOW IN ORDER TO STORE/IMPOUND A VEHICLE:

Revised 08-10-22

- Determine that L 5402 applies to the vehicle in question.
- Determine whether the vehicle will be towed pursuant to Duty Manual section L 5210.
- If the vehicle is unattended and subject to tow or impound, officers should, if time and circumstances permit, make a reasonable attempt to contact the registered owner to determine the disposition of the vehicle.
- Notify Communications of the number and type of vehicles to be towed. Advise them of unusual circumstances such as flat or missing tires, exceptionally large vehicles or vehicles that might be damaged unless special equipment is dispatched.
- When removing the vehicle because of a law violation, cite the vehicle at the time of tow.
- Notify Vehicle Records Unit of tow.
- Complete the Form CHP 180 prior to consigning the vehicle to the contract tow company. Submit the completed form as soon as practical but in no case later than the end of shift.
- Prepare an inventory of vehicle accessories and its accessible contents. Request the tow driver to verify the written inventory before acceptance.
- Verify the Vehicle Identification Number by comparing the actual numbers on the vehicle to the supporting documents to make sure the vehicle matches with the license plates on the vehicle.
- On recovered stolen vehicles, list the specific items taken from the vehicle in the narrative. Check the box on the inventory section showing the engine and transmission have been stripped only if one or both has been taken. Do not check this box if only engine parts have been stripped. Complete a narrative explaining the circumstances surrounding the recovery. Complete the inventory section even though the vehicle has been released to the vehicle owner in the field.

L 5404

CLASSIFYING TYPE OF VEHICLE STORAGE/IMPOUND:

Vehicle towing shall be classified on the Form CHP 180 in one of the following ways. Each has its own requirement for release.

- **STORED:** The vehicle has been temporarily removed to a place of safety, usually a contract tow company; requires no investigative time and is automatically cleared for release. This covers courtesy tows and tows made at the request of the owner (fatalities

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and hit-and-run accidents not included). The vehicle owner is directed to pick up the vehicle at the tow company. The Vehicle Records Unit is not involved.

- **IMPOUNDED:**
 - Includes all vehicles towed for statute violations (i.e., Penal Code, Vehicle Code, Health and Safety Code, etc.).
 - Impound tows require a release from the Department. The Vehicle Records Unit is authorized to issue releases based upon presentation of proper registration or ownership paperwork. Vehicles are released to residents who have a valid driver's license only. The Vehicle Records Unit will release the vehicle to a person designated in writing by the vehicle owner if the person possesses a valid driver's license. A vehicle release fee is charged.
 - Seized by court order or search warrant and can only be released by a court order. A vehicle release fee is charged by the Vehicle Records Unit unless waived by the investigative unit and all other vehicle release requirements are in force.
 - •A recovered stolen vehicle does not require a release unless it is held for investigations. No vehicle release fee is charged by the Vehicle Records Unit. The owner responds directly to the tow company.
 - •The vehicle has been seized as evidence or contains fruits of a crime. A "hold" is placed on the vehicle for an investigative unit to examine the vehicle prior to release.
- **VEHICLE HOLDS:** Vehicles may be impounded by officers when additional follow-up is needed by an investigative unit. A vehicle "hold" may be placed on a vehicle stored at a private tow company or at the police storage warehouse.

The Vehicle Records Unit will notify the tow company of any vehicle in their custody with an investigative hold placed on it and further advise them not to lien sale the vehicle until after the hold has been released.

In order to reduce storage fees, the Vehicle Records Unit will advise investigators of vehicles held at private tow yards and advise the tow company when the hold has been released.

- **RELEASE OF VEHICLE "HOLDS" BY INVESTIGATORS:** Investigators assigned cases involving impounded vehicles are responsible for authorizing the final release. When an assigned investigator is not available, authorization may be obtained from the Unit Commander.

Once ownership has been established by the investigator and the vehicle has been properly registered, the vehicle may be cleared for release by the Vehicle Records Unit. A release fee is charged unless the investigative unit or the Tow Hearing Officer authorizes the release without the fee being paid.

When the vehicle's registered owner is in-custody, the vehicle is released to a person designated by the vehicle owner on the "Prisoner Property Release" form, providing the above conditions are met.

The Unit Commander may authorize reimbursements to owners and tow companies for any pending charges. Investigators will complete the Authorization for Hold Release and/or

Payment of Tow and Storage form stating the reason why the City of San Jose is assuming all or part of the tow fees. The investigator's supervisor approves and dates the form. The Vehicle Records Unit will contact the tow company for the bill and prepare the necessary paperwork to be submitted to the appropriate Unit Commander for signature prior to forwarding to the Fiscal Unit.

Complications arising from any vehicle storage or impound is resolved by the investigative unit.

L 5405

STORAGE FACILITIES:

Revised 09-08-03

Most vehicles are stored at a contract storage facility.

The Vehicle Warehouse must be maintained as a secure evidence facility. A Bureau of Field Operations command officer or the appropriate investigative unit must give authorization for storage of any vehicle at the Warehouse, located at 1588 A Monterey Road.

Vehicles may be booked under the following circumstances:

- Involvement in a major crime such as a homicide
- Involvement in a traffic fatality or serious traffic accident AND its future examination is considered essential to a prosecution
- The vehicle is being stored as part of an "administrative seizure"

In order to gain access to the new facility, authorized Department members must use the P.A.B key to unlock the gate to the premises. The Vehicle Warehouse is located on the north end of the property. Officers will gain access through the door marked "No Public Access" which is located within one of the four large roll-up doors that face west.

All Department members who require access to the Vehicle Warehouse will sign out keys from Central Supply (24 hours) or from the Vehicular Crimes Unit during normal business hours (Monday through Friday 0800-1700). Instruction for alarm deactivation/activation is attached to the Warehouse keys. The keys are returned immediately upon conclusion of business at the Vehicle Warehouse. The keys are not duplicated under any circumstance.

Officers will ensure that all individuals having an official business need to enter the Warehouse (tow drivers, attorneys, insurance investigators, etc.) will sign in on the access log noting name, badge number (officers), case number, time in and reason for visit. Officers who are storing or removing a vehicle will note the description and license plate number of the vehicle being stored or removed on the sign-in log. There is an AIS computer terminal in the check-in area. Officers MUST log on and send an email to the appropriate investigative unit contact person (a list of contact Department members is attached to the AIS computer). Three items must be included in the email:

- Case number
- Person who authorized vehicle storage at the Warehouse
- Reason for storage, follow-up or processing needed on the vehicle

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Only the center roll-up door may be used for vehicle entry/exit. This door is marked with "Authorized Vehicles Only." The control for this door is located adjacent to this roll-up door and is marked.

- All Department members must use the appropriate placard to identify the vehicle(s) with case number, date, unit, license number, etc. Placards are available at the front entrance to the Warehouse.
- Vehicles are to be left unlocked and the keys are to remain with the vehicle
- Vehicles stored for evidence processing are placed in one of five cages located in the processing area. After placing the ID placard on the windshield, the cage is secured using the lock attached to the gate. The vehicle is inventoried only after consulting with the assigned investigator
- BOI investigators who have vehicles stored for processing have three business days to process the vehicle. After three business days the vehicle is moved from the processing area to either a contract tow yard or the secured long-term storage area of the Warehouse
- This area is restricted to Vehicular Crimes Unit members only. All officers requiring access to vehicles held in the secured storage area MUST contact the Vehicular Crimes Unit
- Non-evidentiary vehicles (seizure vehicles) are not placed in the evidence cages. These vehicles are to be temporarily stored against the fence opposite the evidence cages
- All vehicles must have a Form CHP 180 completed and on file at the Auto Desk.
- Access beyond the designated processing area is not allowed unless authorized by the Vehicular Crimes Unit. The processing area is just inside the front entrance and is surrounded by chain link fencing.
- The alarm must be reactivated upon departure.
- Use of the Warehouse is limited to vehicle evidence processing and storage only. Any other use must be authorized by the Commander of the Vehicular Crimes Unit.
- Vehicles are not released to the public directly from the Warehouse. When a vehicle is cleared for release, it is transferred to a private storage facility.

L 5406

INVENTORY OF STORED/IMPOUNDED VEHICLES:

The Police Department and the contract tow company share a responsibility to protect the vehicle and its contents while in police custody. The towing officer has an obligation to make an inventory that is as complete as possible, given the limitations established by search and seizure case law and inaccessibility to certain areas of the vehicle. Therefore, the inventory section of Form CHP 180 should contain as much detail as possible before the officer releases the vehicle to the contract tow company.

- Tow Requests: Department members will adhere to the following procedures when storing vehicles for police purposes or as an assist to motorists:
- Preference Tows. When motorists request the services of a specific tow company, such as AAA, National Auto Club or any local tow company by name, officers will advise Communications of the name of the tow company requested.

- Non-preference Tows. Tows summoned as a police-generated tow or those for motorists who expressed no preference, are identified as a "Zone Tow." The tow company is one of the six (6) contract tow companies serving the City of San Jose.
- City Vehicles. Tow requests for City vehicles will carry that identifier and will result in a specific tow company's response.

L 5407

DURATION OF STORAGE AT POLICE IMPOUND AREA:

Revised 04-01-19

Vehicles stored at the police warehouse are subject to removal to a contract storage facility when the investigation is completed. The procedure for removal is as follows:

- The Vehicular Crimes Unit will survey vehicles stored in the warehouse and identify those vehicles stored over three days.
- The Vehicular Crimes Unit investigator will contact the investigative unit involved and determine if such vehicles should be returned to the contract tow company.
- The investigator will make arrangements to have the vehicle towed back to the contract tow company which originally towed the vehicle to the police warehouse and notify the Vehicle Records Unit after the vehicle has been returned to the tow company.
- The investigator will complete the Request for Reimbursement form if the City of San Jose is to assume the reimbursement of fees. The form is maintained by the Vehicle Records Unit, and upon completion should be turned in to the Vehicle Records Unit supervisor.
- Due to the confidentiality of the location of the police warehouse and the vehicles stored therein, no vehicle is released to the owner directly from the warehouse.
- If the hold has been released, the investigator will sign off the Form CHP 180. The Vehicle Records Unit will send a Hold-Off letter to the vehicle owner.
- The Vehicle Records Unit will clear the vehicle for release once ownership has been established and the vehicle has been properly registered with the California Department of Motor Vehicles. A vehicle release fee is charged to the vehicle owner unless waived by the investigator or the tow hearing officer. The vehicle release fee can be waived if the vehicle was reported stolen at the time it was removed (Vehicle Code Section 22850.5(a)).
- The Vehicular Crimes Unit will inventory the police warehouse monthly and give a list of the inventory to the Vehicle Records Unit. The Vehicle Records Unit will compare its reports of vehicles stored in the warehouse against the list.

NOTE: The current practice of taking vehicles associated to or involved in homicides will not change. These vehicles will be processed by Crime Scene officers and upon completion of processing, the following will be used to determine if the vehicle will be stored or released:

- Consult with assigned case detective(s).
- If the vehicle was used as an instrument of the crime (e.g., Vehicular Homicide / Manslaughter), it may be stored.
- If the vehicle can lead to the identity of suspect, the vehicle may be stored.
- The Chief Trial Deputy for the District Attorney's Office shall be consulted prior to any vehicle being released from the warehouse to a contract storage facility.

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- If vehicle is seized via a search warrant, the procedures for releasing property seized via a search warrant shall be followed.

L 5408 CUSTODY AND CONTROL OF VEHICLES:

Revised 08-22-17

The overall responsibility for custody and control of vehicles is assigned as follows:

Licenses/Permits Detail:

- Inspection and licensing of non-contract tow companies for compliance with
- license requirements
- Investigation of citizen complaints about private property tows
- Code Enforcement Detail (City of San Jose - Neighborhood Preservation):
- Coordinating flow of incoming complaints about vehicles towed by Code Enforcement
- Inspection of contract tow lots and tow operations
- Coordinate and manage the zone tow contracts

Streets and Parks Department (City of San Jose):

- Coordinating flow of incoming complaints about vehicles towed by Streets and Traffic

Vehicular Crimes Unit:

- Inspection of vehicles held in secured evidence facilities
- Assistance to investigators needing to move evidence vehicles between storage facilities.

Department Tow Hearing Officer:

- Investigation of citizen and officer complaints about Police Department initiated tows
- Conduct post-storage hearings (refer to Duty Manual section L 5410)

L 5409 VEHICLE RECORDS UNIT - OSSD:

The Vehicle Records Unit will maintain the originals of all Form CHP 180 reports filed by Police Department officers and other City of San Jose departments.

- Enter necessary data into appropriate automated systems
- Interview owners and agents and release vehicles upon receipt of proper registration with the California Department of Motor Vehicles
- Coordinate the release of impounded vehicles with the investigative units
- Collect vehicle release fees for all impounded vehicles unless the fee has been waived by the investigator or the Department Hearing Officer
- Prepare paperwork and collect all necessary documents in preparation for reimbursement of tow/storage fees to tow companies and owners

L 5410 POST-STORAGE DUE PROCESS HEARINGS:

These are conducted by the Tow Hearing Officer following the request of an owner of a police-initiated towed vehicle. The hearings are pursuant to CVC 22852 and are to determine if the tow was authorized by law. The burden of proof is upon the Department but need only to be

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reasonable under the given circumstances. These hearings may be formal or informal as determined by the Tow Hearing officer. If summoned, officers have the same responsibility to attend and give testimony as if they were directed to appear in court.

- Hearings for vehicles towed by a City of San Jose department are conducted by that department.

L 5411 VEHICLES INVOLVING ALTERED OR MISSING IDENTIFICATION NUMBERS:

Officers may impound vehicles whose VIN plates have been removed, defaced, altered or destroyed (CVC 10751). The recommended procedure is to first attempt to communicate with Auto Theft investigators who are knowledgeable in these matters. If an impound is then necessary, use the above-quoted authority and fully describe all the circumstances justifying the impound. The responsibility for post-impound investigation is assigned to the Auto Theft Unit (Refer CVC 10751).

L 5412 VEHICLES LACKING REGISTRATION FOR MORE THAN SIX MONTHS:

Revised 07-22-24

A vehicle with a registration expiration date in excess of six months, when found parked upon a highway, public land, or an offstreet parking facility, may be towed under authority of CVC 22651(o)(1).

“Offstreet parking facility” refers to any offstreet facility open for use by the public to park vehicles and includes any publicly owned facilities for offstreet parking and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common use of retail customers.

Prior to impounding a parked vehicle under this authority, officers should make a reasonable effort to allow the owner to move it off the highway, public land, or offstreet parking facility to any location where the owner has consent to park it to avoid impound. If the vehicle is unoccupied, reasonable effort should be made to contact the owner to allow them to move it.

Officers will determine from CLETS that the last date of valid registration exceeds one-half year (six months and one day) per 22652(o)(1) CVC and that no temporary operating permit is displayed upon or within the vehicle. The vehicle storage report should state that a visual search was made and disclosed no interim registration. (A TIP entry on the CLETS entry indicates the vehicle is currently registered but DMV has not updated its automated files. These vehicles should not be towed due to expired registration.)

Department members assigned below will have specific duties when investigating, reporting and releasing a vehicle held under CVC 22651(o)(1).

- FIELD OFFICER stowing any motor vehicle whose registration has been expired for more than six months and one day will note Section 22651 (o)(1) as the authority for the tow on the Form CHP 180 and may impound the vehicle.
- VEHICLE RECORDS UNIT will maintain the hold on the vehicle until such time as its proper owner has produced a receipt from DMV clearing registration and outstanding citations. The owner is required to show identification, either a California Driver's License

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or DMV Identification Card or other legitimate identification. However, if the vehicle owner does not have a valid driver's license, the vehicle will be released to a person with a valid driver's license designated by the vehicle owner by notarized letter. A vehicle release fee is collected by the Vehicle Records Unit.

- OPERATIONS SUPPORT SERVICES DIVISION Tow Hearing Officer may be summoned to resolve any complications that result from the withholding of the vehicle release.

L 5413 UNATTENDED VEHICLE COMPLAINTS:

Revised 11-16-17

Storage of vehicles on city streets more than 72 hours is prohibited by Municipal Ordinance and given towing authority under California Vehicle Code Section 22651(k) or 22669(d). Such vehicles are the cause of many citizen complaints and frequently are determined to be stolen.

- Obviously Abandoned Vehicles: Officers and CSOs have the option of towing "obviously" abandoned vehicles themselves using the Form CHP 180 or filling out an "Unattended Vehicle Worksheet" and turning it into the Operations Support Services Division for forwarding to the appropriate City of San Jose department for the actual towing of the vehicle.
- Other Abandoned Vehicles: Officers and CSOs have the option of towing vehicles that have been properly marked or determined to have been abandoned or stored on city streets in excess of 72 hours, or may fill out an "Unattended Vehicle Worksheet" and forward it to the Operations Support Services Division for forwarding to the appropriate City of San Jose department for marking and towing of the vehicle.

L 5414 SECURING VEHICLE LEFT AT SCENE:

When an officer determines that a vehicle involved in an incident is to be left at the scene, the officer will secure the vehicle by rolling up the windows, locking the doors and assuring it is legally parked.

L 5415 PRIVATE PROPERTY VEHICLE TOWS:

Added 11-07-05

The following guidelines have been established to provide direction for officers who respond to calls for service to resolve disputes between vehicle owners and tow truck drivers attempting to conduct nonconsensual tows that originate from private property locations.

An officer may lawfully order the tow driver to return a vehicle to the registered owner only if (1) the registered owner demands the return of the vehicle before it is removed from the private property and (2) the registered owner pays a lawful drop fee charged by the tow truck company.

A tow driver can charge a lawful drop fee only when the vehicle requested to be towed is attached to the tow truck and lifted, i.e., the front of the vehicle or the entire vehicle is lifted off the ground.

If the tow truck driver has left the private property and is on a public street, the tow driver has possession of the vehicle and the tow driver is not obligated to stop and drop the vehicle prior to reaching the storage yard.

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These procedures do not apply to vehicle repossessions.



L 5500 - PROPERTY REQUIRING SPECIAL PROCESSING:

Revised 06-19-23

The Department is responsible for the safeguarding and proper disposal of all property coming into its custody. The Department strives to maintain property in the same condition as received, and when appropriate, to preserve the evidentiary integrity of property that is contraband or that is being held for presentation in court or for destruction. Every reasonable effort is made to return property to its rightful owner, when applicable.

PROCEDURE

L 5501 PROPERTY REQUIRING SPECIAL PROCESSING:

Certain categories of property evidence must be processed in a special manner so as to ensure that its evidentiary value is not jeopardized. Officers or other Department members will adhere to the following appropriate procedures when taking possession of such property or evidence.

L 5502 PROPERTY WITH POSSIBLE LATENT FINGERPRINTS:

Property held for fingerprints is clearly marked "HOLD FOR PRINTS" by using a "Property Tag" so stamped. The General Offense Report (Form 200-2-AFR) and "Property Report" will indicate that property has been booked, which should be checked for latent prints.

L 5503 WET PROPERTY:

Property that is wet at the time of booking will be tagged with a "Property Tag" that has been marked "wet" (obtainable at Records or Property Room). Property Specialists will then dry the property before storing it.

L 5504 PHOTOGRAPHIC EVIDENCE:

A "Photo Envelope" (Form 202-24) should be completed and attached to the film holder when the latter is submitted for developing and printing. The form is self-explanatory, but it should always be filled in as completely as possible. Patrol officers will submit exposed film for processing through the Central Supply Unit. Officers assigned to an investigative unit will submit the exposed film to the Photo Unit.

L 5505 ALCOHOLIC BEVERAGE EVIDENCE:

Officers investigating incidents which require the processing of alcoholic beverages will book such evidence by adhering to one of the following appropriate procedures:

- OPEN CONTAINER INVOLVING A VEHICLE: Adults involved in "open container" cases will be instructed to place the container in the trunk of their vehicle and then issue a citation.
- POSSESSION BY MINORS (18 TO 21 YEARS OLD) OR JUVENILES: Opened containers in possession of individuals between the ages of 18 to 21 years are booked into an appropriate police property storage area.
- DRUNK DRIVING CASES: Open containers found within the vehicle which have

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some residue of alcoholic beverage present will be sealed with plastic material and tape and booked into an appropriate police property storage area. Unopened containers and empty containers found within the vehicle will not be booked but left in the vehicle. However, the number, brand and condition of such containers will be referred to in the report pertaining to the incident.

Officers will complete a "Property Report" and other reports as necessary when booking alcoholic beverage evidence.

L 5506 NARCOTICS EVIDENCE:

All narcotics and/or controlled substances will be booked into Central Supply on a twenty-four (24) hour basis. Narcotics evidence will not be listed on a "Property Report." Narcotics "Evidence Envelope (heat sealable)" (Form 204-22a) will be utilized.

L 5507 NARCOTICS PARAPHERNALIA:

Revised 06-19-23

Items which have been used in the taking or preparation of narcotics (e.g., narcotics pipe) are paraphernalia.

If paraphernalia is collected and any of the following elements are present, the paraphernalia shall be booked as evidence and held for presentation in court:

- Any felony
- Any driving under the influence charge
- Incident involves an overdose

Narcotic envelopes will not be used for booking paraphernalia.

In most cases, when paraphernalia is collected and none of the above elements are present, the paraphernalia should be photographed and then submitted to Central Supply for destruction without being booked as evidence. Central Supply staff will provide direction on current procedures for submitting property for destruction. However, officers may still book paraphernalia as evidence in any misdemeanor case when they deem it appropriate to do so (e.g., to collect trace evidence from a glass pipe for identification purposes).

L 5508 IDENTIFICATION AND TESTING:

Revised 01-21-20

Department Members who seize drugs of abuse as evidence will not subject them to presumptive testing (except as noted below). The suspected substance will be booked as evidence subject to visual identification based upon the officers' training and experience as opined in the crime report. In place of presumptive field testing, the substance will be tested by the Santa Clara County Crime Lab as follows:

- For out-of-custody suspects, the investigation should be submitted for charging review to the District Attorney in accordance with existing procedures as established by the District Attorney's Office.

- For in-custody suspects, the District Attorney's Office will review and evaluate charging of drug cases based upon confirmatory testing performed in an expedited manner by the Santa Clara County District Attorney's Office Crime Laboratory. Rush requests for confirmatory testing can only be authorized through the Supervising Deputy District Attorney of the Narcotics Prosecution Team.

EXCEPTION: In exceptional circumstances, supervisors may approve presumptive testing of drugs of abuse that have been seized as evidence. The approving supervisor will consider the inherent risks of handling uncontained drugs of abuse and whether the exceptional circumstance at hand justifies the risk. When testing is approved, it will be conducted in accordance with the following:

- Presumptive chemical reagents test kits will meet current NIJ standards for chemical spot test kits for preliminary identification of drugs.
- Presumptive testing will be performed by trained Department members in an approved manner (per DM L 5607 - TESTING AND HANDLING UNCONTAINED DRUGS).
- Once the test is completed, investigating officers will note in their Crime Reports which test was used and the results of said test.

EXAMPLE: The substance seized was presumed to be (insert drug name) according to (insert tester's name & rank), a qualified tester, who administered a narcotic presumptive test (specify brand name) at the Pre-processing Center.

- The tester is responsible for sealing all uncontained substances after testing.
- If the test proved negative, indicate as such and add the fact that the evidence will be submitted to the Crime Lab for a conclusive test. Submit the contained substance to Central Supply per existing procedures.
- If the test proved negative, release of the suspect is dependent on the totality of the circumstances. Release of an arrestee shall be done in accordance with Department policy and Department of Corrections procedures.

The Property and Evidence members will continue to transport the evidence to the Lab following existing criteria and procedures.

The Pre-Processing Administrative Officer is responsible for the overall coordination of this narcotics presumptive program. The Pre-Processing Administrative Officer will retain all records including dated presumptive log sheets, lab sheets, and list of qualified testers.

L 5509

NARCOTICS EVIDENCE BOOKING PROCEDURE:

Revised 02-18-18

When an officer has made a narcotic seizure, the following steps are followed:

ALL NARCOTICS EVIDENCE EXCEPT GROWING MARIJUANA PLANTS

- Place the narcotics seized in a plastic narcotics evidence bag
- Bag different types of narcotics separately from each other
- Fill in the information required in the upper half of the evidence tag which is affixed to the evidence bag

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- Transport the evidence bag containing the narcotics to the Evidence Processing Room that adjoins Central Supply. A heat sealer is located in this room
- Seal the open end of the plastic bag, and obtain an identifying tag from the Property Specialist and place on the upper right-hand corner of the bag. Completely fill out this tag
- The Property Specialist in Central Supply will weigh the sealed evidence bag. Record the date and the weight of the evidence on the label affixed to the bag. Record the date and weight of the evidence in the narcotic evidence receiving log
- Turn the sealed bag in to the Property Specialist at Central Supply

MARIJUANA PLANTS EVIDENCE - DRIED AND GROWING

The Police Department does not have the facilities required to store the entire evidence in marijuana seizures involving more than two (2) pounds. The Covert Response Unit (CRU) maintains procedures to destroy amounts in excess of two (2) pounds. When seizing intact marijuana plants, either dried or growing, officers will conform to the following procedures:

- Cases weighing less than two (2) pounds
 - Take photos of the plants before stripping
 - Place plants in a non-sealable container provided by Central Supply
 - Affix and complete an identifying label to the container.
 - Turn the container in to the Property Specialist
 - A Property Specialist will seal the container after the drying process
- Cases weighing two (2) pounds or more
 - Take photos (and video if any portion of the marijuana seized is to be destroyed and not stored) of the total amount of marijuana
 - Place a two (2) pound sample or a sample in the amount of medical marijuana a medical marijuana patient or designated caregiver is authorized to possess in accordance with 11362.77 (a) and (b) of the California Health & Safety Code (up to 10 pounds) of stripped marijuana in a non-sealable container provided by Central Supply. Discard the stalks.
 - Retain one whole plant, including stalk, in a separate container
 - From the remaining plants, take five random and representative sample leaves from different plants and place in a third separate container
 - Strip the remaining plants from the stalk and package, unless it is an exceptionally large seizure (e.g., over 20 remaining six-foot-tall plants)
 - Turn the containers in to the Property Specialist
 - In cases of an exceptionally large seizure, contact the Covert Response Unit immediately for further directions

L 5509.1 MARIJUANA SAFEKEEPING BOOKING PROCEDURE:

Added 02-18-18

When an officer books a person into jail for an offense not involving marijuana, but the person is in possession of marijuana either as an adult and within the quantity limits set forth in the Adult Use of Marijuana Act, or as a qualified medical patient or primary caregiver pursuant to the Compassionate Use Act, the marijuana is not considered contraband, but rather personal

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property. The officer shall book the marijuana into Central Supply using the same procedures as booking marijuana for evidence (as outlined in Duty Manual section L 5509) except that the marijuana shall be marked for safekeeping as personal property, and not as evidence. Marijuana booked for safekeeping shall be returned to the owner following the procedures established in Duty Manual section L 3217.

L 5510 TRANSPORTATION OF EVIDENCE TO COUNTY LABORATORY:

When narcotics evidence is removed for transportation to the County Laboratory, the following steps will be followed:

- A Property Specialist will weigh the evidence bag and record the weight prior to taking it to the lab.
- The evidence is transported to the lab for analysis.
- Laboratory members will cut the bottom of the bag off to remove the evidence for analysis.
- When replacing the evidence in the bag, laboratory members will place the cut off portion of the bag inside the bag and then heat seal with a lab seal.
- The Property Specialist will re-weigh the bag and log the weight when the evidence is returned to the Narcotics Evidence Room.

L 5511 TRANSPORTATION OF EVIDENCE TO COURT:

Revised 01-21-20

In an attempt to minimize the number of times narcotics are transported from the Police Department to court and back, the District Attorney's Office has developed a protocol which involves taking a photograph of the narcotics to court instead of the narcotics themselves. The following is the county-wide protocol for narcotics related preliminary hearings:

- When a narcotics case is set for preliminary hearing and the officer is notified by Court Notice, the officer should, as soon as practical, contact Central Supply and make arrangements for photographs of the narcotics to be taken. This should be done at least one or two days prior to the hearing date. The officer must be present to observe the photographing of the evidence. The photograph(s) should clearly show the narcotics in the narcotics envelope and the labels on the front of the narcotics envelope. In cases where more than one item is in the narcotics envelope, the photograph(s) shall demonstrate all items. These photographs must also be accompanied by a photocopy of the label on the front of the narcotics envelope.
- The photograph(s) may be taken any time before the preliminary hearing; however, the officer must write the case number, date and time on the photograph indicating when the photo was taken.
- The photograph(s) and photocopy shall then be given to the testifying officer and/or placed in the case file pending the date of the preliminary hearing.
- The testifying officer shall bring only the photograph(s) and photocopy of the label on the narcotics envelope to the preliminary hearing. The testifying officer may then state under oath that they viewed the narcotics when the photograph was taken and that the narcotics in the photograph are an accurate depiction of the narcotics confiscated in the case. The officer shall be prepared to testify as to how they know the narcotics in the evidence

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envelope are the narcotics associated to the case. The photograph may be marked as an exhibit in lieu of the narcotics.

- If the officer concludes that a photograph cannot accurately depict the narcotics, the officer should contact the District Attorney's Office for further instruction.
- At the conclusion of the preliminary hearing, the deputy district attorney shall take possession of the photograph(s) and photocopy of the label. The officer may then leave without having to return to Central Supply to re-book evidence.
- In exceptional cases, the officer may be required to bring the narcotics to the preliminary hearing. In those cases, the officer is notified by the District Attorney's Office prior to the date of the preliminary hearing.
- In the event a case goes to trial, the actual narcotics are transported and produced for the court when requested by the District Attorney's Office.
- Only contained substances safely sealed by the Santa Clara County Crime Lab will be transported to court.

When evidence is removed for transportation to court, the following procedure is followed:

- The evidence is weighed, recorded and logged out by the Property Specialist.
- The officer will take the evidence to court along with a "Property Receipt" form (Form 200-13d). If any portion of the evidence is retained by the court as an exhibit, the officer will have the receipt form signed by a Court Clerk and will return the receipt to the Property Room.
- The evidence envelope is not normally opened in court but, if it is, the top of the envelope is cut and the cut off portion is placed inside the envelope. The officer, upon return from court, will reseal the envelope at Central Supply and a new ID tag is placed in the upper right-hand corner. The officer will complete a Supplemental Report detailing the reasons for opening the envelope, where it was opened, the person opening the envelope and record that the envelope was resealed upon return to Central Supply. The report will then be routed to the Records Unit.
- When returned from court, all narcotics evidence is weighed at Central Supply by the Property Specialist. The weight is recorded on the bag and the bag placed in the evidence locker in Central Supply.
- The Property Specialist returning the evidence to the Narcotics Evidence Room will log the evidence.

L 5512

CURRENCY, COIN, AND NEGOTIABLE SECURITIES:

Revised 05-10-13

Negotiable property or evidence will be booked into the property booking area at Central Supply on a 24-hour-a-day basis. Currency, Coin, and negotiable securities with a total value over ten dollars will be booked directly into Central Supply with a Property Specialist. Any amount less than ten dollars will be booked into one of the lockers in the property room by the officer. The face value of the negotiable property will be counted in the presence of the Property Specialist. Negotiable property will be placed inside a plastic heat sealable envelope and the case number written on the upper right-hand corner. The envelope will then be

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sealed. A property report through the Mobile Report Entry system, and an evidence continuity through the Records Management System will be completed.

The Property Specialist receiving property with a value of more than \$10 will decide the correct method for booking the property.

L 5513 BIOLOGICAL SPECIMENS:

Evidence which is biological in nature requires special handling to ensure minimal decomposition during collection, storage and testing. Officers will, when necessary, process biological specimens in accordance with the following procedures:

L 5514 SEMEN OR BLOOD STAINS:

When possible, clothing or other materials stained with moist semen or blood will be placed on clean paper and allowed to dry before packaging. When time or circumstances does not permit drying prior to packaging, specimens will be packaged in a paper envelope or container tagged with a "Property Tag" stamped "wet" and booked into the Property Room in the same manner as other evidence.

L 5515 VAGINAL SPECIMENS:

The officer receiving custody of a vaginal specimen will book the specimen into the Property Room in accordance with Sections L 2001 through L 2005. Property Control Unit members will then be responsible for transporting the specimen to the County Crime Laboratory. Property Control Unit members are responsible for notifying the appropriate investigator of the disposition and findings made by the Crime Laboratory.

NOTE: Vaginal specimens must be booked so as to refrigerate the specimen.

L 5516 EXPLOSIVES, FIREWORKS, AND FLAMMABLES:

Revised 03-03-23

The following procedures shall be strictly adhered to by officers handling explosives and/or flammable materials seized as evidence or contraband or taken for safekeeping:

EXPLOSIVE MATERIALS:

An officer assigned to investigate an incident involving the presence of explosive materials, homemade fireworks, an explosive or suspected explosive device, or ammunition larger than .50 caliber, shall notify the district sergeant and request a member of the Bomb Squad to respond to the scene. Exceptions to the notification to the bomb squad are the following:

- Officers may collect, transport, and book consumer grade fireworks that do not exceed 25 pounds in total weight.
- Officers may collect, transport, and book consumer grade gunpowder in its original and undamaged packaging or shipping container, in quantities of five pounds or less.
- Officers may collect, transport, and book ammunition that is .50 caliber or less in any weight.

HOMEMADE EXPLOSIVES AND PRECURSOR MATERIALS:

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Non-commercial explosives are commonly called homemade explosives. These types of explosives can pose an extreme threat of damage to property, serious bodily injury, or death. Homemade explosives are usually more sensitive to heat, shock, and friction than commercial explosives. They can often be confused for narcotics as they are often similar in color and texture. These types of explosives can be manufactured from a wide variety of easily obtainable ingredients.

Department members encountering a situation involving a chemical laboratory should never assume the type of lab (e.g., narcotics, explosives, or biological). These circumstances require notification to and response by the Bomb Squad.

Homemade fireworks should be considered and treated as an Improvised Explosive Device (IED). Homemade fireworks are usually identified by their lack of consumer/commercial labeling. Another way to identify a homemade firework is if a consumer/commercial firework appears to have been tampered with or modified. Department members encountering homemade fireworks shall contact the Bomb Squad who will respond and take custody of the items.

DUTIES OF BOMB SQUAD MEMBERS:

The Bomb Squad member contacted will respond to the scene when requested by another Department member. Transportation, booking, and storage of explosive materials of a type or quantity other than those listed above are the responsibility of the responding Bomb Squad member.

STORAGE OF EXPLOSIVES:

The flammable storage area at the garage is for temporary storage of those items transported by beat officers. It shall not be used for storing any amount of high explosives. Gunpowder or pyrotechnic powder exceeding 5 pounds or fireworks and/or ammunition primers that cannot be fully contained in the fireworks barrel or storage lockers shall not be stored in this area. Department members with questions related to the storage of fireworks, ammunition, or any other energetic material shall contact a Police Property member or a member of the Bomb Squad for direction.

CONSUMER FIREWORKS BOOKED INTO EVIDENCE:

Due to safety concerns, fireworks are generally not allowed into courtrooms for criminal proceedings. Prior to booking fireworks into evidence at Central Supply, Department members shall adhere to the following procedures:

1. Thoroughly photograph the evidence including all sides of the packaging.
2. Obtain the gross weight (including packaging) of the individual fireworks.
 - a. Multiple packages of the same make and model of firework can be weighed together. The report shall note that the weight consists of multiple fireworks of the same make and model.
 - b. If fireworks are contained in a consumer 'multi-pack' which contains multiple types of fireworks and is still sealed, the Department member can obtain the total weight of the package without needing to open it.

- c. When weighing the fireworks, Department members shall take a photo of the fireworks on the scale, as well as a photo of the displayed total weight.
3. Document in a crime report the types of fireworks and weights of the fireworks that were obtained during the booking process.

The photographs and gross weight will provide the District Attorney's Office the information needed to determine the appropriate charges for the suspect(s). Additionally, the photographs will allow the District Attorney to present the case in court without having to request an officer to bring in the actual fireworks as evidence. Department members booking fireworks as 'found property' or 'for destruction' are not required to photograph and weigh the items.

Due to the hazards associated to storing large amounts of fireworks, members of the Bomb Squad shall make every effort to dispose of fireworks as soon as practical; this includes fireworks booked into evidence, unless there are special circumstances associated to a particular case (i.e., severity of the case). If any Department member identifies a need for long-term storage or if there is a need for special processing of fireworks, the Department member shall contact the Bomb Squad Sergeant to make proper arrangements.

FLAMMABLE MATERIALS:

Officers will place flammable liquid evidence in the temporary storage facility for flammable and explosives at the garage. The key to the gate and lockers can be obtained from Central Supply.

Department members storing any fireworks, flammables or energetic materials will mark, tag, and secure the item in the temporary storage facility. They will also need to process these items through Central Supply in the same manner as other evidence.

Bomb Squad members storing evidence in a facility other than those under the control of the Police Property Unit will 'paper book' this evidence at Central Supply to maintain proper records related to the evidence.

Investigators handling cases involving this type of hazardous evidence should make a determination on the evidence as soon as possible so the Property Specialists or Bomb Squad may return or dispose of the items. Long term storage is possible in available facilities away from the Department, but every effort should be made to keep its use to a minimum.

L 5517

FIREARMS AND RELATED ITEMS:

Revised 01-10-24

Firearms, shell casings and expended projectiles taken as evidence will be booked into the Police Property storage area appropriate for the time of day. When booking these items, a property report, and General Offense Report (Form 200-2-AFR) will be completed. The officer booking the item will include the following additional information on the reports:

- The statement "Send to Crime Lab for I.B.I.S" is noted
- The name of the person who had possession of the firearm

- The possessor's date of birth
- The possessor's physical description
- One additional identifier such as a driver's license number

When the person possessing a firearm is not the owner, the officer confiscating the firearm will include the same identifying information about the owner as determined about the possessor and include both descriptions in the General Offense Report (Form 200-2-AFR).

An automated Firearm Seized and Recovered Template shall be completed by any Department member who seizes a firearm as evidence, for safekeeping, or recovered as found property. Refer to Duty Manual section R 1583 - AUTOMATED FIREARM SEIZED AND RECOVERED TEMPLATE for additional information.

L 5518 IDENTIFIABLE VEHICLE PARTS:

When an officer impounds or recovers motor vehicle parts (including motorcycle parts) or frames that may or should contain identifying numbers, the parts will be stored in the police warehouse. The officers will submit a Vehicle Report (Form CHP 180) to the OSSD Auto Desk Detail as soon as possible.

L 5519 STORAGE OF BICYCLES:

The location of bicycle storage is determined by the nature of the impound. When impounding a bicycle, officers will adhere to one of the following appropriate procedures:

- **BICYCLES IMPOUNDED AS EVIDENCE OR FOR SAFEKEEPING:** Bicycles impounded pursuant to an arrest, associated with a suspect, as evidence or for safekeeping will be handled in the same manner as other forms of property. A "General Offense Report (Form 200-2-AFR) "General Offense Report (Form 200-2-AFR)" or "J.C.R." and a "Property Report" will be completed. Bicycles will be booked into the Property Room. Marking of evidence and the routing of the reports will be the same as for other forms of evidence.
- **FOUND OR ABANDONED BICYCLES:** Reports of found or abandoned bicycles will generally be referred to the Information Center. A Bicycle Report (Form 200-29) (8) will be completed.

Bicycle Reports completed by the Information Center will be routed to the Property Division. Property members will contact the reporting party and make an appointment to pick up the bicycle.

The following procedure will be followed when processing a found or abandoned bicycle:

INFORMATION CENTER DUTIES

Upon receiving a call, determine if the bicycle has a bicycle license or easily identifiable number. Check any license or number to see if the bicycle is stolen. If stolen, dispatch a unit to pick up the bicycle

- If not stolen, complete complainant sub-sections A, B, and C of the Found/Abandoned Bicycle Report

- After obtaining the complainant's name, address and phone number, advise the complainant that these reports are taken via phone and referred to the Property/Evidence Division for later pick-up
- Identify a day and time for Property Division members to call the complainant to arrange for pickup of the bicycle
- Complete sub-section (C) identifying who has taken the report. Obtain and place a case number on the report. Submit the report to Records for indexing and routing to the Property and Evidence Division.

INVESTIGATING OFFICERS' DUTIES

Officers investigating on-view cases, those cases where the bicycle is in custody of the complainant and/or those cases where they have been dispatched by the Information Center, will determine if the bicycle is stolen. If stolen, the bicycle is booked as such and a Property Report is completed.

If not stolen, the officer will:

- Complete complainant sections A and C along with the Bicycle Description Section of the Found/Abandoned Bicycle Report, obtain a case number, sign their name, badge number and leave the complainant copy with the reporting party as a receipt.
- Transport the bicycle to PAB and book it into the Property Section. Leave the Property copy of the Found/Abandoned Bicycle Report with the Property Specialist. A Form 13 is not needed. The Records copy is turned into Records.

RESPONSIBILITIES OF PROPERTY/ EVIDENCE MEMBERS

- Calling the complainant to arrange to pick up the bicycle
- Picking up the bicycle, completing the Found/Abandoned Bicycle Report, signing and leaving a copy as a receipt for the reporting party
- Booking, or receiving from investigating officer for booking, the bicycle into the Police Property storage area
- Checking any serial numbers, license numbers to determine if the bicycle is stolen. Property and Evidence members will refer cases involving stolen property back to the appropriate investigative unit for disposition and case closure reports
- Preparing/processing bicycle for disposition pursuant to law

L 5520

STOLEN BOAT PROCEDURES:

Revised 03-23-20

Officers assigned to incidents involving stolen or missing boats will adhere to the following procedures:

- **REPORTING PROCESS:** The assigned officer shall make contact with the reporting party to determine their identity and complete a General Offense Report (Form 200-2-AFR) detailing the entities involved: victims, suspects, vehicles, and additional witnesses. The assigned officer shall fill out the Stolen Vehicle Detail Page and the Stolen Vehicle template, documenting the circumstances, statements, and facts involved in the incident.

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The assigned officer shall provide the reporting party with an Incident Card (Form 200-45A). The officer shall contact the Auto Desk Detail as soon as possible by telephone or CAD to advise of the stolen boat.

- **RESPONSIBILITY OF AUTO DESK MEMBERS:** Department members in the Auto Desk Detail will process stolen boat reports by entering the information into the Stolen Boat System of NCIC.

L 5521**REQUIRED STOLEN BOAT INFORMATION:**

Revised 03-23-20

When a report of a stolen or missing boat is made, the Department member receiving the report will, when possible, obtain the following information:

- **REGISTRATION STATE:** State in which boat is registered
- **HULL NUMBER:** The hull number is usually located on the name plate of the vessel and often is not available unless the owner has separately recorded the number
- **ENGINE NUMBER:** When applicable, the engine number is recorded on the General Offense Report (Form 200-2-AFR). Engine numbers may be located on the registration document.
- **METHOD OF PROPULSION:** Categories are inboard, outboard, inboard/ outboard combination, sail only, sail with auxiliary inboard power, sail with auxiliary outboard power, manual (oars, paddles, etc.) and other
- **MAKE:** Include the complete manufacturer's name
- **BOAT YEAR:** Year of boat
- **LENGTH AND WIDTH:** Indicate these dimensions in feet and inches
- **HULL:** Hull material - metal, plastic, wood, other
- **COLOR:** Include trim color and main color (Example: red trim/white hull)
- **HULL SHAPE:** Categories include catamaran, deep-V, flat-bottom pontoon, round bottom, semi-V, tri-hull, tunnel, other
- **TYPE:** Categories are air boat, commercial (ferry, oyster boat, etc.), cruiser, houseboat, hovercraft, hydrofoil, hydroplane, jet-ski, runabout, sailboat, utility, yacht, all other
- **CATEGORY:** Categories are air propeller, mast, propeller, sail, spinnaker, other
- **ENGINE POWER:** Horsepower, liter, cubic inches or centimeters, pounds of thrust
- **REGISTERED OWNER:** The name, address and telephone number of the registered and legal owners is required.

The registration certificate will normally contain most of the foregoing information.

L 5522**REQUIRED STOLEN AIRPLANE INFORMATION:**

Revised 03-23-20

Stolen airplanes are to be reported on a General Offense Report (Form 200-2-AFR). The assigned officer shall make contact with the reporting party to determine their identity and

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complete a General Offense Report (Form 200-2-AFR) detailing the entities involved: victims, suspects, vehicles, and additional witnesses. The assigned officer shall fill out the Detail Page and the Stolen Vehicle Template documenting the circumstances, statements, and facts involved in the incident. The assigned officer shall provide the reporting party with an Incident Card (Form 200-45A). The officer shall then contact the Auto Desk Detail as soon as possible by telephone or CAD to advise of the stolen airplane. Information required for entry into the Stolen Vehicle System is as follows:

- REGISTRATION NUMBER: License number of aircraft
- LIS: License state
- LIY: Year license expires
- AIRPLANE IDENTIFICATION NUMBER
- AIRPLANE YEAR
- MAKE: Full name of aircraft make
- MODEL: Model of aircraft (includes blimp, helicopters, hot air balloons, jet-propelled, propeller, sailplane)
- VST CODES: Engine description or propeller (includes single-engine, twin-engine, tri-engine, multi-engine, either jet or propeller type)
- COLOR

L 5523**LOST VEHICLES:**

Revised 03-23-20

Officers locating vehicles entered into the Stolen Vehicle System from our agency as "LOST" will complete a Narrative/Supplemental Report (Form 200-3A-AFR) and the Stolen Vehicle Template. If the vehicle was reported "LOST" outside of San Jose's jurisdiction, the assigned officer shall complete a General Offense Report (Form 200-2-AFR) and a Stolen Vehicle Template. Field release the vehicle or complete a CHP Form 180 and impound the vehicle for storage. These vehicles will be treated as any recovered stolen vehicle. The officer will notify the Auto Desk by telephone or CAD as soon as possible after the recovery or impound of the "LOST" vehicle. The Auto Desk will take steps to remove the vehicle from the Stolen Vehicle System and notify the appropriate law enforcement agency and vehicle owners of its recovery.

L 5524**STOLEN VEHICLE PROCEDURES:**

Revised 03-23-20

Officers assigned to incidents involving stolen or missing vehicles will adhere to the following procedures:

- **REPORTING PROCESS**: If the vehicle is associated to any serious felony crime or threat to public safety, the officer shall request Communications broadcast an immediate Be-on-the-Lookout (BOL) for the vehicle and/or suspects. The assigned officer shall make contact with the reporting party to determine their identity and complete a General Offense Report (Form 200-2-AFR) detailing the entities involved: victims, suspects, vehicles, and additional witnesses. The assigned officer shall fill out the Stolen Vehicle Detail Page and the Stolen

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Vehicle Template documenting the circumstances, statements, and facts involved in the incident. The assigned officer shall provide the reporting party with an Incident Card (Form 200-45A).

Before concluding the event, the officer will contact the Auto Desk Detail by telephone or CAD mask to advise the Auto Desk Detail of the stolen vehicle. The officer will also inform the Auto Desk Detail if the vehicle was involved in any other crimes or when associated with some other threat to an officer or public safety. If the CAD mask is used to report the stolen vehicle to the Auto Desk Detail, the reporting officer will receive a confirmation message through CAD. If a confirmation message is not received, the officer shall contact the Auto Desk detail by CAD message or telephone to verify that the stolen vehicle report was received by the Auto Desk Detail prior to concluding the event.

The General Offense Report will be routed to Operations Support Services Division as soon as practical and before the officer concludes their shift.

- RESPONSIBILITY OF AUTO DESK MEMBERS: Department members in the Auto Desk Detail will notify the reporting officer that the auto theft notification report has been received. The Auto Desk Detail will then process stolen vehicle reports by entering the information into the California Department of Justice Stolen Vehicle System (SVS). The Auto Desk Detail shall generate a BOL for electronic distribution via the Mobile Data Computer (MDC) system.



L 5600 - EXPOSURE TO COMMUNICABLE DISEASES AND HAZARDOUS MATERIALS

Members of Department are routinely exposed to situations and circumstances that pose extreme risks to their health and well-being. It is the attitude of the Department that members protect themselves as best as possible while still performing their mission. In this regard, members will take steps to protect themselves whenever possible from dangerous health conditions. The Department is also concerned with accurate reporting and documenting of the exposures suffered by Department members.

PROCEDURE

L 5601 HAZARDOUS MATERIALS/CONTAGIOUS OR INFECTIOUS DISEASE:

While engaged in responding to or handling incidents that involve hazardous materials or contagious or infectious diseases, Department members will take steps to protect themselves and others from unprotected exposure when possible.

L 5602 EXPOSURE TO BLOOD OR OTHER BIOLOGICAL PRODUCTS:

Revised 07-02-15

Department members are reminded that whenever possible preventive efforts should be taken to minimize exposure to blood borne pathogens. Personal protective equipment such as latex gloves, masks, lab coats, safety glasses, alcohol-based cleaners and anti-microbial wipes are maintained by Central Supply for such purposes. If a Department member sustains a blood/body fluid exposure (as defined below) the affected member and the member's supervisor will adhere to those procedures detailed in Duty Manual section L 5605.

- **BLOOD BORNE PATHOGEN EXPOSURE DEFINED:** A blood borne pathogen exposure is a contact exposure involving blood, bodily fluids, tissue, or an instrument contaminated with one of the listed substances. Bodily fluid is defined as semen, vaginal secretions, as well as spinal cord, brain, joint, lung, abdominal, heart, membrane and/or amniotic fluids.

Saliva, urine, feces or vomit without visible blood do not present risks for blood borne pathogen transmission.

Should exposure occur, members should cleanse the area with a can of alcohol-based personal hand wash and/or the single-use hand wipes available at Central Supply. This is designed for the immediate removal of the blood (or other biological by-product) and is not to be substituted for proper medical attention. Department members are advised to seek immediate medical attention and to notify their supervisors whenever they have been exposed to a patient with a possible communicable disease. This includes exposure to contaminated blood or by-products.

L 5603 HAZARDOUS MATERIALS:

Department members are advised to follow the Department of Transportation (DOT) guidelines while handling chemical spills or events that create public exposure to hazardous materials. Members should consider that changing weather conditions (wind, rain, heat) can

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cause dynamic changes in an incident by making the incident much larger or changing the location.

Department members are reminded that Fire Department personnel are better equipped and trained to identify and handle hazardous material incidents. For these reasons, the Fire Department is responsible for taking control of the scene. The Fire Department will designate the safe areas, and officers will not knowingly allow themselves to be exposed to the hazardous materials.

Should a Department member become exposed to hazardous materials, seek immediate medical treatment to help minimize the effects.

In each exposure incident, Department members will complete the "Hazardous Material Exposure Report" when exposed to any type of hazardous material.

L 5604 REPORTING:

Revised 04-18-02

When exposed to a communicable disease, the "Notification of Possible Communicable Disease Exposure Report" will be completed and delivered to the Assaults Unit and the Department Safety Officer.

L 5605 MEMBERS EXPOSED TO BLOOD BORNE PATHOGENS:

Revised 07-01-10

When a Department member is exposed to a blood borne pathogen, the following procedures are followed:

- Immediately clean the area with the antimicrobial foam.
- Immediately contact the Department member's supervisor following a potential or known exposure. The supervisor will contact Employee Health Services and the Fire Department's Paramedic Field Coordinator - "MED 30."
- As soon as possible, flush the area with water for at least 10 minutes and then thoroughly wash the area with soap and water for at least 5 minutes.
- Follow first aid/post exposure direction provided by the supervisor, Employee Health Services or MED 30.

Member Procedure for Hepatitis B Post-Exposure Prophylaxis:

Suspect Status	Unvaccinated/Non-responders	Responders
HBV Infection Present	Go to VMC within 24 hours	Follow-up with EHS
Unknown	Follow-up with EHS	Follow up with EHS

"Unvaccinated" is someone who has not received Hepatitis B vaccination series

"Responder" is someone who received Hepatitis B vaccination series and testing detected the presence of antibodies against Hepatitis B virus (HBV)

“Non-responder” is someone who received Hepatitis B vaccination series and testing did not detect the presence of antibodies against HBV

- If the exposure occurred after normal business hours, the affected member must make an appointment the next business day to follow-up with Employee Health Services located at 393 Blossom Hill Road, Suite 390B, 794-1250.

Procedure for Human Immunodeficiency Virus (HIV) Post-Exposure Follow-up:

- If Post-Exposure Prophylaxis (PEP) is indicated during the emergency room examination or advised by the Paramedic Field Coordinator, obtain treatment within 2-4 hours at the Valley Medical Center (VMC) Emergency Room. Follow up with City Medical Director or City Nurse Practitioner at 794-1250 for counseling and laboratory testing within 24 hours.
- Schedule an appointment with the City Medical Director or City Nurse
- Practitioner for any additional laboratory testing if PEP treatment was started at the Emergency Room.
- Complete the series of testing for HIV antibody at the following intervals:
 - Not to exceed 1 week, post-exposure
 - 6 weeks after exposure
 - 3 months after exposure - 6 months after exposure
- Document and sign waiver if you decline medical testing.

SUPERVISOR RESPONSIBILITIES: When notified of a potential or actual exposure, the supervisor will:

- Notify Employee Health Services at 794-1250 during normal business hours or contact the Paramedic Field Coordinator “MED 30” via Fire Communications at 277-8950 if the exposure occurred after normal business hours.
- Arrange for blood drawing and testing through the Department’s blood drawing contractor of the source/suspect if the HIV, Hepatitis B or Hepatitis C status of the source/suspect is unknown. The blood drawing contractor shall be a licensed health care provider.

BLOOD DRAWING CONTRACTOR’S RESPONSIBILITY: The contractor, or the contractor’s phlebotomist who draws the blood samples, shall provide written notice to the arrestee of the blood borne pathogen exposure and make a good faith effort to obtain the written voluntary informed consent of the arrestee or the arrestee’s authorized legal representative for taking the blood samples and performing the blood tests (i.e. Consent for Blood Drawing and Testing and for Being Informed of the Test Results). Once consent is given in writing, the arrestee shall provide three specimens of blood for testing. The consent form used by the contractor shall be approved by the San Jose Police Department. The consent form will document the consent or refusal to consent to the blood draw and test and consent or refusal to consent to being informed of the test results.

In addition, the contractor or the contractor’s phlebotomist shall complete the Certification Pursuant to Health and Safety Code Section 121060(a)(2).

CONSENSUAL BLOOD SAMPLES: The contractor should always attempt to gain consent from the suspect. If the suspect gives consent for a blood sample:

- Ensure the suspect signs the SJPD Consent for Testing Form. These forms are maintained in red filing crates located in the PPC “Communicable Disease Exposure Area” and the Assaults/Juvenile Unit.
- Request through Police Communications that a Blood Technician respond to the Pre-processing Center, VMC or an approved blood removal area. Advise the Technician that a Department member has had a blood exposure and the source/suspect requires exposure testing.
- Coordinate delivery of the exposure testing vials to the Pre-processing Center for refrigerated storage prior to delivery to Quest Diagnostic Laboratories.

NON-CONSENSUAL BLOOD SAMPLES: There are several different procedures for obtaining involuntary testing of the suspect’s blood:

Penal Code Section 7510

The affected Department member or their supervisor fills out a Department of Health Services Form (DHS 8459). Fax the form to EHS at 408-363-9805 and to the Public Health Officer for Santa Clara County at (408) 792-3799. The suspect does not have to be in custody for this process to be completed. The County Health Officer, Employee Health Services and the City Medical Director must receive this form within 48 hours of the occurrence of incident.

Penal Code Section 1524.1

The District Attorney’s Office files a motion to gain a court order to obtain the suspect’s blood for testing at the request of the victim. The District Attorney’s Office completes a form and forwards it to the City Attorney’s Office. The City Attorney’s Office is responsible for attending the defendant’s next court date, either the arraignment or preliminary hearing, to request a blood test. The exposed officer must show probable cause for testing (e.g., that there was a transfer of bodily fluid between the suspect and the officer). To qualify for a court order, charges must be filed by the District Attorney’s Office and the suspect must be held to answer.

Health and Safety Code Section 121060

The City Attorney files a motion to order the blood testing. The supervising officer submits copies of the reports and the criminal complaint (charges must be filed) along with (1) the Certification Pursuant to Health and Safety Code Section 121060(a)(2) and (2) Consent for Blood Drawing and Testing and for Being Informed of the Test Results to the San Jose City Attorney’s Office. The City Attorney then files a motion to obtain the suspect’s blood for testing. The City Attorney can do this as early as the suspect’s arraignment. If the suspect was transported to a medical facility, Request for Exposure Evaluation Forms (ERF-1 and ERF-2) shall be completed by MED 30 or the supervisor and presented to the hospital where the suspect was transported.

DOCUMENTATION TO BE COORDINATED BY SUPERVISOR: The supervisor will ensure the following forms and functions are completed when documenting and processing a legitimate exposure:

- General Offense Report (Form 200-2-AFR)

- Certification Pursuant to Health and Safety Code Section 121060(a)(2)
- Consent for Blood Drawing and Testing and for Being Informed of the Test Results
 - The H&S 121060(a)(2) certification forms and Consent for Blood Drawing forms are located in the PPC “Communicable Disease Exposure Area” and the Assaults/Juvenile Unit
- Workers’ Compensation Forms, within 24 hours of an exposure or if the employee requests.
 - Employer’s First Report of Occupational Injury/Illness (Form 5020).
 - Employee’s Claim of Workers’ Compensation (Form DWC-1).
- Provide the affected Department member with copies of the 5020 and DWC-1 Forms.
- Forward one copy of the completed Form 5020 and DWC-1 to Department members.
- Forward one copy of the completed Form 5020 and DWC-1 to City of San Jose Risk Management.
- Ensure the affected Department member completes SJPD Employee Report of Incident Form (SAFE002) within 8 hours of the exposure.
 - If the Department member is unavailable to complete this form, the supervisor shall complete the form and specify who completed the form and why the affected member was unavailable.
 - A copy of the completed form is forwarded to the Assaults/Juvenile Unit prior to the end of shift for follow-up if necessary.
 - The original form is turned in to the Department’s Safety Officer, Office of the Chief of Police, along with the Accident Investigation Form (see below).
 - San Jose Police Department Accident Investigation Form (Form SAFE003).
- The supervisor shall complete as much of the investigation as possible within 48 hours.
- The Police Department Safety Officer shall be contacted at 537-9660 for assistance as needed.
- The supervisor will forward the completed Employee Incident Report and Accident Investigation Form to the Department Safety Officer.

PRE-PROCESSING (PPC) SUPERVISOR RESPONSIBILITIES: The PPC Supervisor will inspect the “biohazard refrigerator” at the beginning of every shift. If there is a “blood exposure container” in the refrigerator and it contains a blood specimen, the PPC Supervisor will:

- During normal business hours (0800 to 1700 hours) Monday through Friday, The PPC Supervisor will notify the Assaults/Juvenile Unit. The PPC Supervisor will then assign staff to deliver the blood to Quest Diagnostics Laboratories at 967 Mabury Road, San Jose, 1-800-288-8008 or 408-288-9850.
- After business hours (1700 to 0800 hours) Monday through Friday and weekends: The PPC supervisor will call the 24-hour lab before delivering the blood to ensure a Quest

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Diagnostics Laboratories employee is notified in advance of the delivery. The PPC Supervisor will assign staff to deliver the blood to Quest Diagnostics Laboratories or other City contract blood testing facility.

ASSAULTS/JUVENILE UNIT RESPONSIBILITIES: When notified of an exposure the Assaults Unit will:

- Serve as a point of contact for the affected Department member if they have any questions regarding the process for obtaining a blood sample.
- Serve as the point of contact between the Department and Employee Health Services.
- If the Suspect is out of custody:
 - Fax (1) the Certification H & S 12160(a)(2) form and (2) Consent for Blood Drawing and Testing and for Being Informed of the Test Results to the Blood Drawing Contractor to be signed by the licensed health care provider.
 - Coordinate with the Blood Drawing Contractor regarding meeting the Suspect at a designated location with the completed H & S 12160(a)(2) form and Consent for Blood Drawing and Testing and for Being Informed of the Test Results form.
- If appropriate, ensure that the District Attorney's Office or City Attorney is in the process of obtaining court orders for the suspect's blood.

L 5606 HANDLING OR PROCESSING DANGEROUS DRUGS:

Revised 01-21-20

Drugs of abuse such as, but not limited to, opioids, cocaine, heroine, cocaine base, LSD, PCP and methamphetamine have been ruled to be hazardous materials and require special handling whenever they are found in an "uncontained state." Department members are instructed to "contain" these drugs to mitigate exposure potential as soon as is practical in a safe manner. Zip lock bags and nitrile or latex rubber gloves are provided for Department members to safely contain dangerous drugs. This will allow the safe transporting, handling and booking of dangerous drugs. Drugs must be contained and sealed in a package or material or receptacle so as not to be exposed to human contact before being placed in the heat-sealed non-porous plastic drug pouch at Central Supply. Drugs which are not contained will not be accepted by the Crime Lab.

Officers working a covert assignment should be aware of the associated hazards and take appropriate methods to contain drugs as soon as field circumstances allow. However, they are reminded of the health hazards from touching, breathing or being exposed to "uncontained" dangerous drugs.

L 5607 TESTING AND HANDLING UNCONTAINED DRUGS:

Revised 01-21-20

In exceptional circumstances, Supervisors may authorize Department members to perform presumptive field testing (i.e., Valtox) of drugs of abuse that are seized as evidence. Members who handle "uncontained" drugs must take special precautions to safeguard against exposure. Lab coats, goggles, dust/particle masks and latex gloves are provided to employees who need to handle "uncontained" drugs or perform tests on drugs. Department members are required to use these safety precautions to minimize any health risk they may

encounter while performing this function. Pre-processing and Central Supply personnel are especially reminded of these requirements.

L 5608 MATERIAL SAFETY DATA SHEETS:

Material Safety Data Sheets contain safety and exposure information on each hazardous material. They are required by State and Federal law and are on file for employee reference at the Pre-processing Center, NCI and Research and Development.

L 5609 PREVENTATIVE RADIOLOGICAL AND NUCLEAR DETECTION (PRND) PROGRAM:

Added 02-05-18

The primary goal of the Preventative Radiological and Nuclear Detection (PRND) Program is to provide public safety by identifying radiological/nuclear materials before they can be used in terrorist acts or other malicious attacks.

Department members selected to participate in the PRND program shall receive specialized training on the use of a Personal Radiation Detector (PRD) and how to respond to events involving radiological/nuclear materials. Only those Department members trained in the PRND program will be issued a PRD (see NOTE below for exception). The PRD should be worn in the course of normal duties (i.e., Patrol, Bomb Squad) or can be deployed by trained personnel for special events throughout the city.

If a trained Department member receives an alarm on a PRD, they shall attempt to locate the source of radiation. If located, the following shall occur:

- If the source of radiation is determined not to be a threat/potential threat to public safety, the Department member shall notify the PRND program coordinator (Bomb Squad Sergeant) via email prior to the end of their shift.
- If the situation is determined to pose a threat/potential threat to public safety, the Department member shall advise their supervisor and SJPD Communications that a "Possible Hazmat Situation" exists.

SJPD Communications shall then notify:

- SJPD Intel Unit
- SJPD Bomb Squad
- San Jose Fire Department's Hazmat Team (HIT 29)

Upon notification, members of the Bomb Squad shall respond to the scene and work with members of HIT 29 to evaluate the situation and take appropriate action.

NOTE: Only trained Department members shall use PRDs, unless a Department member is carrying the PRD for a nearby trained Department member. Example: A PRD trained Bomb Technician and two non-trained Department members are monitoring an entrance to a special event. The Bomb Technician may provide preliminary training and a PRD unit to the two non-trained Department members, as long as the trained Department member remains in close proximity to investigate a PRD alarm discovered by the other Department members.

**L 5700 - NON-CRIMINAL PROPERTY:**

A goal of the Department is the safeguarding and proper disposal of all property coming into its custody. The Department strives to maintain property in the same condition as received and to preserve the evidentiary integrity of property that is contraband or held for presentation in court. Every reasonable effort is made to return property to its rightful owner.

PROCEDURE**L 5701 NON-CRIMINAL PROPERTY:**

Revised 01-31-12

Any physical object which comes into the possession of the Department and which are not instruments of a crime, contraband, or evidence are considered to be "non-criminal property." Such property includes found items and items taken into custody for safekeeping. Officers will, when booking such property, perform the following tasks:

- Tag the property with a completed "Property Tag".
- Complete a Property Report (PR) in Versadex and a "General Offense Report (Form 200-2-AFR)" or "Supplementary Report".
- As determined by the time of day, book the property into an appropriate storage area.

If the property owner is present at the scene when the officer takes the property into custody, the officer shall provide the property owner with an incident card (Form 200-45A Rev. 08/11). The card provides information on how to contact the Property Warehouse to retrieve property that has been booked for safekeeping. The card further describes the disposition of the property if not picked up by the legal owner within 90 days.

The Department's Property Control Unit is responsible for returning non-criminal property to its rightful owner as soon as practical.

L 5702 BOOKING PROPERTY FOR SAFEKEEPING - JUSTIFICATION:

Revised 01-01-03

Officers are authorized to take property into custody and book it into an appropriate storage area whenever any of the following elements are present:

- There is a reasonable indication that a crime may be committed if the property is not taken into custody
- The circumstances reasonably indicate that the owner is incapable of taking care of the property

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Firearms booked for safekeeping are held for five (5) business days and then returned to its rightful owner. (12028.5 PC)

L 5703 TAKING OF AMMUNITION FOR SAFEKEEPING:

Officers will not take ammunition for safekeeping when removal of the weapon(s) alone will abate the threatened danger. Officers will exercise reasonable judgment in determining that all weapons have been removed before leaving the ammunition with the owner. When an officer reasonably believes that a person is withholding a weapon, all ammunition located may be taken into custody and booked for safekeeping.

L 5704 BOOKING FIREARMS FOR SAFEKEEPING- DOMESTIC VIOLENCE INCIDENTS

Revised 01-10-24

- When responding to a domestic violence incident, the officer shall as necessary for the protection of the officer or other persons present:
- Have Communications check DOJ Automated Firearms System to determine ownership of firearms.
- Ask if there are any firearms on the premises.
- Obtain a Gun Violence Restraining Order if applicable.
- If the officer has obtained a Gun Violence Restraining Order, take custody of any firearm/ammunition in plain sight, or discovered pursuant to a consensual search or other lawful search (i.e., search warrant, emergency or exigent circumstance, incident to custodial arrest, probation, parole, or Post Release Community Supervision).
- If the officer has not obtained a Gun Violence Restraining Order, the officer should take custody of any firearms or ammunition discovered in plain sight or pursuant to a consensual search when the seizure is necessary for an urgent public safety need, such as when a person involved in the domestic violence incident may imminently have access to the firearms/ammunition and may use them to harm themselves or others. The officer shall also take custody of any firearms or ammunition incident to arrest or when authorized pursuant to a judicial order (i.e., search warrant or order of probation, parole, or Post Release Community Supervision).
- Have Communications run a warrant check.
 - The warrant check will also verify if a Domestic Violence Restraining Order (DVRO) is in effect and if there is an order prohibiting firearms.
 - If the officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order.
 - Have Communications notify the Sheriff's Office Warrants Unit to have proof of service entered into Domestic Violence Restraining Order System.
- Complete the Property Report and Evidence Continuity process through RMS listing the firearms/ammunition taken from the owner/possessor.
- Give the owner/possessor of the firearm/ammunition a report receipt (Form 200-45A).

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- Advised the owner/possessor to obtain a DOJ Firearms Release Form from the DOJ webpage or contact the Firearms Division for a return application.
- Firearms seized under this section will be booked at Central Supply for safekeeping unless they are evidence of a crime. If a firearm is collected for safekeeping it shall require a completed automated Firearm Seized and Recovered Template be submitted with a General Offense Report or Supplemental report.

L 5705 BOOKING FIREARMS FOR SAFEKEEPING - MENTAL HEALTH INCIDENTS

Revised 01-10-24

When detaining or apprehending a person at a W&I 5150 incident, the officer shall:

- Have Communications check DOJ Automated Firearms System to determine ownership of firearms.
- Ask if there are any firearms on the premises.
- Obtain a Gun Violence Restraining Order if applicable.
- If the officer has obtained a Gun Violence Restraining Order, take custody of any firearm/ammunition in plain sight, or discovered pursuant to a consensual search or other lawful search (i.e., search warrant, emergency or exigent circumstance, incident to arrest, probation, parole, or Post Release Community Supervision).
- If the officer has not obtained a Gun Violence Restraining Order, take custody of any firearms or ammunition in the immediate possession of the person detained under W&I 5150. The officer shall also take custody of any other firearms or ammunition in plain sight or discovered pursuant to a consensual search when doing so is necessary for an emergency or urgent public safety need, such as when the detained person may imminently have access to the firearms/ammunition and may use them to harm themselves or others. The officer shall also take custody of any firearms or ammunition incident to arrest or when authorized pursuant to a judicial order (i.e., search warrant or order of probation, parole, or Post Release Community Supervision).
- Check DOJ Supervised Release File and Mental Health Firearms Prohibition system. If weapons are present, subject may be charged.
- Complete the Property Report and Evidence Continuity process through RMS, listing the firearms/ammunition taken from the owner/possessor.
- Give the owner/possessor of the firearms a report receipt (Form 200-45A).
- Advise the owner/possessor to obtain a DOJ Firearms Release Form from the DOJ webpage or contact the Firearms Division.
- Firearms seized under this section will be booked at Central Supply for safekeeping unless they are evidence of a crime. If a firearm is collected for safekeeping it shall require a completed automated Firearm Seized and Recovered Template be submitted with a General Offense Report or Supplemental report.

L 5706 BOOKING FIREARMS FOR SAFEKEEPING - ACCEPTANCE OF FIREARMS SUBJECT TO RELINQUISHMENT UNDER PROTECTIVE ORDERS

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Persons subject to protective orders are required to relinquish any firearms in their possession or control within 24 hours after service of the order, either by surrendering the firearms to a local law enforcement agency or by selling the firearms to a licensed gun dealer. A person who chooses to surrender the firearm to the Department will be directed to respond to the Information Center, and an officer in the Center will take possession of the firearm for safekeeping. The person should be in possession of a DV-800/JV-252, Proof of Firearms Turned In or Sold, form. The accepting officer completes sections 4 and 6 of the DV-800/JV-252 form.

The officer who takes possession of the firearms is responsible for completing a General Offense Report (Form 200-2-AFR) or Supplemental Report (Form 200-3A-AFR), an automated Firearm Seized and Recovered Template, and booking the surrendered firearms for safekeeping.



L 5800 - RELEASE OF PROPERTY:

A goal of the Department is the safeguarding and proper disposal of all property coming into its custody. The Department strives to maintain property in the same condition as received and to preserve evidentiary integrity of property that is contraband or held for presentation in court. Every reasonable effort is made to return property to its rightful owner.

PROCEDURE

L 5801 RELEASE OF PROPERTY:

The Property Control Unit is responsible for the physical release of property. Normal hours for release are Monday and Friday, 0730 to 1600 hours and Tuesday through Thursday, 0730 to 1200 hours. Release of property at other times is limited to hardship cases and is arranged by contacting the Property Control Unit Supervisor at extension 277-4268. (Example of hardship: Someone traveling a great distance to pick up property.) Property is released only to owners, authorized agents of owners or for official use as authorized by the Office of the Chief of Police.

L 5802 AUTHORITY TO RELEASE PROPERTY:

Revised 05-10-13

Property which was taken into custody pursuant to a search warrant or which was presented in court as evidence is released at the direction of the courts or District Attorney.

Other property booked as contraband or evidence is authorized for release by the investigator assigned to the case after determining that such release will not jeopardize an investigation or otherwise interfere with a Department function. Authorization is via a Property Release Template in Versadex, and should be directed to the Property Control Handle (HPROP) with the following information: the Property Report Number (PR), item numbers, and the name and address of the person(s) to whom the specific items are to be released. The Property Release Template will be attached as a text document to the General Offense Report (Form 200-2-AFR).

L 5803 FOUND OR ABANDONED PROPERTY:

Department members assigned to the Property Control Unit may release found or abandoned property having no evidentiary value. Release is in accordance with Duty Manual section L 5805 - RESPONSIBILITY OF MEMBER RELEASING PROPERTY.

L 5804 RELEASE FOR OFFICIAL USE:

Property Control Unit members are authorized to release impounded property or evidence to officers and to the courts for purposes of presentation in court or for purposes of transporting to a crime laboratory. In all cases, the investigating officer or such officer's superior will approve release of impounded property or evidence.

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L 5805 RESPONSIBILITY OF MEMBER RELEASING PROPERTY:*Revised 05-10-13*

When releasing property, the records management system (RMS) will be used to indicate items released. The recipient is required to supply the following information:

- Proof of identity, and if appropriate, ownership. (The Property Specialist may require person(s) claiming ownership to complete a "Declaration of Ownership" Form.)
- A current address and telephone number
- One additional identifier

The name, address, telephone number and description of the additional identifier supplied by the recipient is indicated in RMS. The recipient will then sign for all property received.

If applicable by existing law, the assigned investigator will complete a Notice of Property Return and will surrender it to the Property Room when clearing property. Property members will then mail (First Class) a copy of the Property Return Form to the person from whom the property was taken. If the letter is returned undelivered and the assigned officer has no leads as to the subject's location, the returned letter is filed at the Property Unit. All cases of disputed ownership claims are referred to and reviewed by the Property and Evidence Unit. The Property and Evidence Unit supervisor will review all information presented and make a final determination as to the appropriate release of the property. Both parties are informed of the decision.

L 5806 RELEASING FIREARMS AND AMMUNITION:*Revised 05-10-13*

The Property and Evidence Unit will release ammunition booked for "safekeeping" to its owner whenever the firearm is released. The Department will not routinely refuse to return ammunition unless such ammunition is illegal in type or has been used in the commission of a crime. All weapons being held for "safekeeping" by the Department are held per Penal Code 12021.3. The following procedures are followed when releasing any firearm:

- Bureau of Investigations - On assigned cases, individual investigative units are responsible for performing necessary record checks as defined by the Firearm Release Checklist (Form 202-61)
- Court Liaison/Case Management Detail – On assigned cases, is responsible for performing the necessary record checks before disposing of a firearm in those cases defined by the Firearm Release Checklist (Form 202-61). Cases involving a firearm booked as found property or for "safekeeping" that have no associated criminal charges are routed to the Permits Unit for disposition
- Mental Health/5150 Cases – The Homicide Unit is responsible for disposing of firearms associated with a person who was the subject of a mental health investigation. Disposing of the firearm is done by performing necessary record checks as defined by the Firearm Release Checklist (Form 202-61)
- Firearms subject to Relinquishment under Protective Orders - At the expiration of the protective order requiring relinquishment of firearms, the Department shall return

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possession of any surrendered firearm to the respondent within 5 days after the expiration of the relinquishment order, unless the Department determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent. If the Department determines that the respondent is the legal owner of any firearm that was voluntarily relinquished and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon their identification of the firearm and proof of ownership.

To ensure compliance with all requirements related to a firearm release, a Firearm Release Checklist (Form 202-61) shall be completed for each firearm identified for release. A copy of the checklist will be placed in the case folder and the original shall be sent to OSSD. The Property and Evidence Unit will be given a completed "Property and Evidence Facility Firearm Release Form" prior to the owner's anticipated arrival at the property warehouse. Officers assigned cases involving firearms will continue to make local and state criminal history checks for routine investigative purposes. No firearm will be released without completion of the checklist and an approval through RMS of the assigned investigator.

L 5807 RECORDING EVIDENCE RETAINED BY THE COURT:

Officers intending to appear in court with evidence will obtain a "Property Receipt Form," (Form 200-13d) from the Property Specialist releasing the evidence to the officer. In the event any property is retained by the court as evidence, the item or items retained will be listed by the officer on the form. The officer will then complete the form, i.e., case number, date and then have it signed by the Court Clerk.

The officer will then retain a copy of the report and return the Property Room copy to the Property Room. If the Property Room is closed, the Property Room copy will be returned to Central Supply.

L 5808 LICENSING REQUIRED WHEN RELEASING BICYCLES:

Prior to releasing bicycles, Property Control Unit members will ensure that the bicycle is licensed whenever any of the following elements are present:

- The owner's principal residence is within the corporate limits of the city
- The owner intends to operate the bicycle within the corporate limits of the city

L 5809 DISPOSAL OF PROPERTY:

All property booked as contraband or evidence which has been presented in court will be held until released for disposal by a magistrate. Disposal will be conducted in accordance with appropriate laws, codes and regulations.

All other unclaimed property, except weapons, for which no owner can be located within four months of the date of booking, is sold at public auction after first obtaining approval of the officer assigned to investigate the case related to such property.

L 5810 DESTRUCTION OF WEAPONS:

All "weapons" used in the commission of a misdemeanor or a felony, or any weapon that is unclaimed, will not be sold to the general public and will be tagged for destruction on the next scheduled destruction date. No weapons are tagged for destruction that have not been held at least 180 days. The following procedures are adhered to as indicated:

- **DEFINITION OF "WEAPON":** By definition, "weapon" is to mean pistol, revolver, or other firearm capable of being concealed on the person, shotgun, rifle or any other firearm.
- **INITIAL ACTION:** The Senior Property Specialist will ensure that 30 days prior to July 1 of any given year all weapons scheduled for destruction are placed in one central location. A list of the serial numbers of all such weapons will then be prepared.
- **VERIFICATION OF SERIAL NUMBERS:** Two Property Specialists will verify the weapons to be destroyed by physically comparing each weapon's serial number against the list of numbers compiled. Upon completion of comparison, the Senior Property Specialist will print a final destruction list.
- **METHOD OF DESTRUCTION:** Between July 1 and July 31 of any given year, a Property Specialist is assigned to transport weapons scheduled for destruction to an appropriate site, consistent with existing laws, codes and regulations. Once there, the assigned Property Specialist is to safeguard the weapons until such time as they are rendered harmless. No one is to be allowed to approach or handle the weapons other than that person(s) who is designated to perform the actual destruction
- **PROCEDURE AFTER DESTRUCTION:** The assigned Property Specialist will retain a list of all weapons destroyed, to be kept in the Property and Evidence Division, where it is retained for audit at a later time. The supervisor of the Property Evidence Division will then ensure that the list of serial numbers is then delivered to the Records Division and entered into the proper automated system so as to indicate that the weapons were destroyed by the Department

L 5811 DESTRUCTION OF NUISANCE WEAPONS/DEVICES:

The supervisor of the Property and Evidence Division is responsible for the destruction of "nuisance weapons."

- **DEFINITION:** Nuisance weapons are defined as any illegal weapon or device (sap, switchblade, club, etc.) that is specifically mentioned in Penal Code Sections 653K, 12020, 12025 or 12031.

Nuisance weapons are disposed of in adherence to the following procedures:

- **INITIAL ACTION:** Two or more Property Specialists are assigned to transport the weapons/devices to the destruction site (depending on quantity).
- **METHOD OF DESTRUCTION:** The method used to destroy the nuisance weapons/devices need only be of such a nature as to totally destroy the item beyond use.
- **PROCEDURE AFTER DESTRUCTION:** The assigned Property Specialist is responsible for removing any debris resulting from the destruction process and disposing of it in a proper manner.

L 5812 PLACING HOLDS ON EVIDENCE:

Immediately upon learning that previously booked evidence will be needed in a civil case, officers will notify Property Room members to place a "Civil Action Pending" hold on the evidence.

Evidence on which a "Civil Action Pending" hold has been placed by an officer is retained until the officer releases it.

L 5813 DESTRUCTION OF NARCOTICS EVIDENCE:

Disposal of narcotics evidence is conducted in the following manner:

- A validated list is prepared by the Narcotics Division containing case number, quantity and description of narcotic material to be isolated for destruction.
- Immediately prior to the date of scheduled destruction, a supervisor from the Narcotics Division and a member of the Property and Evidence Division will jointly, from a validated list prepared by the Narcotics Division, check, weigh and seal the material to be destroyed, consistent with appropriate laws, codes and regulations.
- Both members will witness the destruction at the appropriate facility.
- Immediately following the destruction, Property and Evidence Division member will update the "Controlled Substance Evidence Card", the (Form 204-22).
- The appropriate case files are updated by the member of the Narcotics Division to reflect the current status of the evidence.

L 5814 RELEASE OF TOWED VEHICLES:

Vehicles towed by the Department due to being abandoned, blocking a driveway, driver's license and registration violations, etc., are considered impounds.

Citizens must come to the Vehicle Records Unit for a vehicle release before picking up the vehicle from the contract tow company.

- Vehicles are released to registered owners with a valid driver's license only, which is determined by a check through CLETS. If the registered owner does not have a valid license, they need to designate, in writing, another person to whom the vehicle may be released. The Vehicle Records Unit has forms for this purpose.
- Vehicles have to be currently registered to the citizen picking up the vehicle release. Citizens will be sent to the Department of Motor Vehicles to have the vehicle registered into their names prior to being given a vehicle release.
- There is a vehicle release fee charged by the Vehicle Records Unit.

L 5815 RELEASE OF INVESTIGATION HOLDS ON A VEHICLE:

Officers assigned to investigate cases involving impounded vehicles are responsible for authorizing the final release of such vehicles. When an assigned investigator is not available, authorization may be obtained from the investigator's commanding officer.

L 5816 CANCELLATION OF VEHICLE "HOLDS":

When there is no longer a necessity for retaining an impounded vehicle, the officer assigned to investigate the incident will notify the Vehicle Records Unit when the "hold" is to be canceled.

L 5817 RESPONSIBILITY OF VEHICLE RECORDS UNIT MEMBERS:

When notified that a "hold" has been canceled, Vehicle Records Unit members will record the cancellation on the original Form CHP 180 and modify other reports as necessary.

- A "Hold-Off" letter will be sent to the vehicle owner and to the contract tow company.
- The vehicle will be released to the vehicle owner. If the registration is not current or the vehicle is not registered in the vehicle owner's name, the citizen will be sent to the Department of Motor Vehicles prior to being given a vehicle release.
- If the registered owner does not have a valid driver's license, the registered owner must designate in writing, in person at Vehicle Records or by notarized letter, another person with a valid driver's license to pick up the vehicle release.
- When the registered owner is in custody, the vehicle will be released to another person if the "Prisoner Property Release" form (Department of Corrections form) has been properly completed and the person has a valid driver's license.
- A vehicle release fee will be charged unless an investigator or hearing officer waives the fee. Victims of crimes, such as stolen vehicles, homicides and fatal accidents, are not required to pay a vehicle release fee.



L 5900 - DEATH CASES:

Department managers, investigators and patrol officers will perform all tasks necessary to ensure that evidence surrounding a suspicious death is not lost or altered.

PROCEDURE

L 5901 DEATH CASES - INITIAL RESPONSE:

Revised 05-23-22

Officers initially assigned to a death case will adhere to one of the following appropriate procedures:

SUSPICIOUS DEATHS

When the incident involves suspicious circumstances or other indications of possible homicide, the incident will be reported immediately to the area Watch Commander who will be responsible for notifying the Homicide Commander or their designee in order to ascertain whether the Homicide and/or Crime Unit will respond. It will be the responsibility of the officer initially assigned to the case to secure and, if necessary, take photographs of an actively changing crime scene until the arrival of members of the Crime Scene Unit. The initial officer will not allow any persons, including other police personnel, into the crime scene until the scene has been examined by the Crime Scene Unit. At this point, Crime Scene Unit members will escort those police personnel whose duties necessitate viewing the scene. When authorized by the Crime Scene Unit Supervisor, any evidence or item(s) believed to be at risk of destruction and/or contamination may be photographed, measured, and collected, prior to the arrival of Crime Scene Unit personnel.

ATTENDED DEATHS

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 their death.
- The death occurred at a hospital (excluding the ER) or licensed facility.

If the death is attended, officers will contact the Coroner's Office to explain the circumstances of the death, to answer any questions the Coroner's Investigator may have, and to obtain a release number. Prior to leaving the scene, the investigating officer will ensure the release number has been provided to the family, a mortuary of the family's choosing has been contacted, and an ETA has been provided.

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Attended deaths do not require a crime report or notification to the Homicide Unit. Officers shall document the release number and the name of the Coroner's Investigator in the CAD event prior to clearing the call.

NATURAL DEATHS

Officers assigned to investigate deaths which are not attended but which appear to be of natural causes (history of illness, old age, etc.) do not need to notify the Homicide Unit. 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.

- When the Coroner's Investigator provides a release number, a crime report is not required and the officer shall document the release number and the name of the Coroner's Investigator in the CAD event prior to clearing the call.
- When the Coroner's Investigator provides a pending release authorization, the officer will prepare a General Offense Report (Form 200-2-AFR) in accordance with Duty Manual section L 5905 – DEATHS REQUIRING CRIME REPORT.
- If the Coroner's Investigator responds to take custody of the body, a General Offense Report (Form 200-2-AFR) will be prepared in accordance with Duty Manual section L 5905 – DEATHS REQUIRING CRIME REPORT.

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 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. Once an officer has verified the decedent was a Hospice patient, there is no requirement to contact the coroner (per Government Code 27491) or the medical physician. The Homicide Unit does not need to be notified, nor is a police report required for a hospice death. Officers shall document in the CAD event that the incident is a Hospice death.

END OF LIFE OPTION ACT DEATHS

Under the End of Life Option Act, 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. There is no requirement the investigating officer contact the coroner, nor is a police report required, unless other circumstances dictate a report should be written. Officers shall document in the CAD event that the incident is an End of Life Option Act death.

CHILD DEATHS

Non-traffic deaths of children under the age of 18 that are not medically attended, or where medical personnel suspect other than natural cause, shall be immediately reported to Night Detectives (if available) and the area Watch Commander, who will be responsible for notifying the Homicide Commander or their designee in order to ascertain whether the Homicide and/or Crime Unit will respond. Child death investigations will comport with Duty Manual section L 3034 - Severe Child Injury or Death (SCID) and with the Santa Clara County Child Abuse Protocol.

IN-CUSTODY DEATHS

When the incident involves the death of an individual as a result of a police action or the death of a subject in police custody, the incident will be reported immediately to the area Watch Commander who will be responsible for notifying the Homicide Commander or their designee in order to ascertain whether the Homicide and/or Crime Unit will respond. In addition, all in-custody death investigations shall be conducted consistent with the most recently published Santa Clara County Police Chief's Association Officer-Involved Incident guidelines.

Communications will immediately notify the area Watch Commander, who will advise Communications when to activate the Officer-Involved Incident callout procedure.

L 5902 TRANSPORTING WHEN LIFE IS POSSIBLE:

If there is any possibility that a person may be alive, though severely injured, the police officer on the scene will take all reasonable steps possible to resuscitate the victim and to arrange for immediate transportation to the nearest medical facility.

L 5903 DEATHS OCCURRING AT MEDICAL FACILITIES:

Deaths which occur in hospitals or convalescent homes are considered to have a doctor in attendance and, therefore, require no investigation of the immediate circumstances. However, when the death results from criminal activity or the death occurs under unusual circumstances, an investigation will be conducted even though the death occurs in a medical facility or convalescent home.

L 5904 DEATH NOTIFICATIONS:

Officers of this Department will not notify next of kin at the request of the Coroner's Office. If a teletype is received from another law enforcement agency, they will refer the requestor to the Santa Clara County Coroner's Office at 793-1900. If unusual or special circumstances warrant involvement from the Police Department; the Department member will contact and inform the BFO watch commander. After being apprised of the circumstances, the watch commander will decide if a Department response is appropriate.

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When directed by the BFO watch commander, the officer assigned will in person notify only the relative named in the request or the nearest next of kin. The assigned officer will ensure that the requesting agency is informed of whether or not the notification was made.

L 5905 DEATHS REQUIRING CRIME REPORT:

Revised 05-23-22

A General Offense Report (Form 200-2-AFR) 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
- Imminent-death cases where the victim is being transported to a medical facility and the cause of death or imminent death is unknown. This does not apply to cases where death or imminent death is believed to be from natural causes or for known medical reasons (e.g., Hospice or End of Life Option Act)
- Unattended deaths occurring outside medical facilities where a doctor will not sign, or a doctor's involvement is unknown or unverified (e.g., coroner is contacted and responds)
- Unattended deaths occurring outside medical facilities where the Coroner's Investigator provides a pending release authorization

L 5906 HOMICIDE REPORTS:

Revised 05-10-13

Officers originally assigned to an actual or suspected homicide will complete a General Offense Report (Form 200-2-AFR) in Versadex. All Narrative/Supplemental Reports (Form 200-3A-AFR) will also be completed in Versadex. The Watch Commander, upon notification that the case is a homicide, will promptly request the General Offense Report (GO) be made "Private" by OSSD.

Line Operations/Procedures

L 6000 – L 6900



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L 6000 - INVESTIGATION OF SEX CRIMES:

Revised 10-22-21

Officers are encouraged to identify, locate, and arrest any person reasonably believed to have committed a sexual assault or other sex crime. Officers assigned to such incidents will remain sensitive to the survivor's trauma and will conduct the investigation in a manner which encourages cooperation of persons involved. Each officer has an individual responsibility to assist survivors through a trauma-informed approach, offer and explain resources to the survivor, conduct appropriate investigative tasks, make arrests when allowed by law, and properly document the incident whenever a suspected sexual assault is discovered or otherwise reported.

PROCEDURE

L 6001 SEX CRIMES - DEFINITIONS:

Revised 10-22-21

For the purposes of this manual, sex crimes are comprised of the following criminal acts:

- 261 PC - Rape
- 289 PC - Penetration with a foreign object
- 286 PC - Sodomy
- 288 PC - Lewd and lascivious acts with children
- 647.6 PC - Child Annoying
- 287 PC - Forced oral copulation
- 285 PC - Incest
- 243.4 PC - Sexual Battery
- 261.5 PC - Unlawful Sexual Intercourse
- 314 PC - Indecent Exposure
- Child Exploitation
- 236.1 PC - Human Trafficking
- 647(j)(4) PC - Revenge Pornography
- Failure to Comply with 290 PC - Sex Registration Laws

L 6001.5 MANDATORY REPORTING FOR SEXUAL ASSAULT:

Added 10-22-21

Mandatory reporting is required when knowledge or reasonable suspicion of child abuse or neglect or sexual abuse including assault or exploitation is obtained in the reporter's

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professional capacity or within the scope of their employment. Failure of a mandated reporter to report suspected abuse is a misdemeanor.

A mandated reporter of child physical or sexual abuse under the Child Abuse and Neglect Reporting act is not required to report consensual vaginal intercourse unless it fits P.C. 261.5(d) (a person 21 years of age or older having intercourse with a minor under age 16). This includes voluntary conduct in violation of P.C. 286 (sodomy), 287 (oral copulation), or 289 (sexual penetration), if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor under age 16. For example, voluntary oral copulation between a 19-year-old and a 15-year-old would not be required to be reported if there are no indications of abuse. Pursuant to existing law, this is to make it consistent with the reporting of all four types of sexual conduct in order to equalize the reporting of heterosexual sexual conduct and LGBTQ+ sexual conduct.

This does not preclude officers from documenting ALL incidents of alleged or suspected sexual or physical child abuse, endangerment or neglect, including cases which are unfounded and acts which result in non-accidental injury of a child, even if it does not rise to the level of a crime, on a General Offense (GO) report, in addition to other forms required to investigate or process the case as required by Duty Manual section L 3027 REPORTING.

L 6002 PRELIMINARY INVESTIGATION (OFFICERS INITIALLY ASSIGNED):

Revised 11-22-21

Officers initially assigned to respond to the location of a sexual assault survivor will, when necessary, ensure that medical care is provided. Officers will then conduct a brief interview of the survivor and witnesses and then perform the following functions:

- Establish the elements of the criminal act.
- Obtain a complete description of the suspect, the suspect's vehicle and, if known, the suspect's location.
- Determine the time, place and location of the incident.
- Determine the methods of entry, clothing worn, and methods of restraint.
- Describe any words, phrases or directions given by the perpetrator.
- Determine if the perpetrator has any unusual marks, scars, deformities, unusual body odor or other unusual physical features.
- When appropriate, officers will ensure the information obtained is immediately broadcast to other field units and recorded in a General Offense Report (Form 200-2-AFR). An automated Domestic Violence/Sexual Assault Human/Trafficking Assessment template shall be completed in all cases involving domestic violence, sexual assaults and/or human trafficking.

NOTIFICATION TO THE SEXUAL ASSAULT INVESTIGATIONS UNIT - If the crime is determined to be a freshly reported felony sexual assault (one which occurred within the last 72 hours), Officers will, during normal working hours, notify the Sexual Assault Investigations Unit Officer of the Day. If the sexual assault occurred after normal working hours, officers will notify the Sexual Assault Investigations Unit On-Call Sergeant.

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L 6002.5 NON-INVESTIGATIVE REPORT:*Revised 10-22-21*

Officers initially assigned to respond to a sexual assault where the survivor does not want to report the incident to law enforcement but does want a medical evidentiary exam (SART) shall perform the following functions:

- Officers shall not contact the survivor without the survivor's consent.
- Respond to the location where the SART exam was conducted.
- Obtain the mandatory reporting requirements from the SART nurse.
- Collect the SART kit and verify that the survivor's SART kit, SART exam report, and toxicology envelope are marked with "NIR" (non-investigative report) and the case number.
- Book the SART kit as evidence at Central Supply in accordance with Duty Manual sections L 5400 through L 5800. Use property type code "SART kit – NIR" to identify the SART kit.
- Book the blood and urine specimens in the toxicology envelope as evidence at AIB.
- Complete a General Offense Report (FORM 200-2 AFR) with offense code "261 PC – RAPE – NIR."

An investigation will not be conducted on a non-investigative General Offense report without the survivor's consent in cases where the survivor is aged between 18-64. An investigation shall be conducted in cases where a survivor is aged 17 and under in accordance with applicable law and the Santa Clara County Child Abuse Protocol.

NOTE: If, or when, a survivor re-initiates a non-investigative report into a standard report, the officer receiving the case will write a supplemental to the original General Offense report with the survivor's statement and any other investigative steps taken. The supplemental report will be routed to the Sexual Assault Investigations Unit (SAIU). Lastly, the officer shall notify the SAIU Officer of the Day (during normal business hours) or the SAIU On-Call Sergeant (after hours).

L 6003 SUBSEQUENT SURVIVOR'S STATEMENTS:*Revised 10-22-21*

SAIU Detectives will determine if a more detailed interview of the survivor will take place at a later time. In cases of sexual assaults against children under the age of 14, SAIU Detectives will determine whether a more detailed Multi-Disciplinary Interview (MDI) should take place at the Children's Advocacy Center (CAC). Scheduling for these subsequent interviews will be arranged through the Sexual Assault Investigations Unit.

L 6004 COLLECTION OF EVIDENCE AT THE SCENE:*Revised 10-22-21*

The collection of evidence at the scene of a sexual assault is the responsibility of the assigned officer and is conducted in the same manner as other crimes. See Duty Manual section L

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4400 – COLLECTION OF PHYSICAL EVIDENCE. In addition, the following items are collected when available and applicable.

- **VEHICLE USED**: If an assault took place in a vehicle, the assigned officer will ensure that the vehicle is impounded as evidence and towed to the SJPD Vehicle Warehouse. See Duty Manual section L 5405 – STORAGE FACILITIES.
- **CLOTHING**: The assigned officer will collect clothing worn by the survivor at the time the attack occurred. Such clothing will be collected at the scene whenever other clothing and facilities are available to ensure that the survivor's dignity and privacy is maintained. If necessary, officers should transport the survivor to another location (i.e. their home) to get a change of clothes. This will be done in order to collect the clothing from the survivor in cases where the survivor is not taken to a medical facility. Otherwise, clothing will be collected after arrival at a medical facility.
- **BED SHEETS, TOWELS AND TISSUES**: Officers will collect bed sheets, towels and any other tissues or cloth material used by the survivor or suspect. Items collected will be folded inward to maintain any attached hairs or fibers.
- **OTHER COMPARISON EVIDENCE**: Officers will collect any other comparison evidence at the scene which can link either the suspect or the survivor to each other or the scene itself.

Items collected will be booked into evidence in accordance with Duty Manual section L 5400 – VEHICLES through L 5800 PROPERTY AND EVIDENCE CONTROL.

L 6005

COLLECTION OF ADDITIONAL EVIDENCE FROM SURVIVOR AND SUSPECT (INVESTIGATING OFFICER):

Revised 10-22-21

Incidents involving sexual assaults usually require additional biological material, or trace evidence be collected from both the survivor and the suspect. The time element between the incident and the initial investigation should be considered when determining whether to collect these types of evidence.

Types of additional evidence can include, but are not limited to:

- Blood
- Saliva
- Head and Body Hair samples
- Photographs
- Fingernail scrapings or clippings
- Swabs (genital, rectal, or oral)

The SART protocol (also known as a Sexual Assault Forensic Examination – SAFE) will be followed when the investigation requires the collection of additional evidence from a survivor or a suspect. Refer to L6008 – MEDICAL EXAMINATION FACILITIES for further details.

The investigating officer is responsible for contacting the SAFE examiner when the exam is authorized for a survivor or a suspect.

When the SAFE examiner cannot respond to collect evidence from a suspect or the suspect refuses to consent to evidence collection, the officer will contact the SAIU on-call supervisor for guidance on collecting the additional evidence. Refer to the information listed below for details on evidence collection in the absence of the examiner.

- **BLOOD**: When possible, blood samples will be taken from the suspect. The sample will be taken by an authorized technician who will be summoned by the assigned officer. Officers will indicate on the required forms to the technician that the blood taken will be analyzed for the following:
 - DNA Analysis
 - Blood Alcohol/Drug Content
- **SALIVA**: To assist in obtaining elimination samples for DNA testing, the investigating officer will seek consent to obtain buccal swabs from suspects.
- **BODY and HEAD HAIR**: In order to assist in determining sexual contact between a victim and suspect, the investigating officer will obtain pubic hair specimens from the suspect.
- **FINGERNAIL SCRAPING**: When appropriate, the investigating officer will obtain fingernail scrapings from the suspect to determine the presence of tissue, blood, cosmetics or other substances transferred from the survivor to the suspect.
- **PHOTOGRAPHS**: The investigating officer will take photographs of the suspect to detail injuries received during the incident, identifying marks or tattoos, clothing worn, and preserve their appearance at the time of arrest.
- **SWABS – GENITAL, RECTAL or ORAL**: The officer will ensure that all necessary swabs are collected in accordance with the instructions located within the male SART kit.

When any of the evidence is obtained, the investigating officer will ensure that the items collected are booked into evidence in accordance with Duty Manual section L 5800 – PROPERTY and EVIDENCE CONTROL. Particular care should be taken to ensure that all biological evidence is refrigerated.

L 6006

MEDICAL REPORTS (INVESTIGATING OFFICER):

Revised 10-22-21

The investigating officer will request from the examining SAFE Team member a completed copy of the medical report relating to the examination of the sexual assault survivor. The medical report will also be booked into evidence

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L 6007 **CONSENT TO PERFORM SEXUAL ASSAULT FORENSIC EXAMINATION (SAFE) (INVESTIGATING OFFICER):**

Revised 10-22-21

The investigating officer will explain to a survivor the purpose for a SAFE (to corroborate the assault and aid in identifying the perpetrator). When a survivor refuses to consent, regardless of age, no medical examination will be performed. When the survivor gives consent to a SAFE, the investigating officer will proceed as follows:

- **EXAMINATION OF ADULTS:** No further procedures, other than collection of evidence need be employed except to indicate in the General Offense Report (Form 200-2-AFR) that the survivor consented.
- **EXAMINATION OF JUVENILES:** In all sexual assault cases involving a survivor under the age of 18 years, the investigating officer will adhere to the following procedures:
 - **Consent from Parent or Guardian.** In cases involving a minor under 12 years of age, an attempt must be made to obtain consent for the examination from a parent or guardian (when a parent or guardian is unavailable, consent is implied). The results of such an attempt will be recorded in the General Offense Report (Form 200-2-AFR).

When the parent or guardian is present, consent will be evidenced by having such parent or guardian sign the appropriate medical facility forms. When the parent or guardian is not present, the officer will indicate in the General Offense Report (Form 200-2-AFR) the time consent was given and how obtained.

- **Parent or Guardian Refuses Consent.** When a parent or guardian is available but refuses consent for a minor under 12 years of age, the examination will not be performed unless the parent or guardian is a suspect or the officer takes custody of the juvenile victim pursuant to Section 300, Welfare and Institutions Code (no parental control, unfit home, etc.), in which case, consent will be implied. The fact that a parent or guardian is a suspect will be noted in the General Offense Report (Form 200-2-AFR).

L 6008 **MEDICAL EXAMINATION FACILITIES:**

Revised 10-22-21

All adult survivors of sexual assault that have been approved for a SAFE examination will register in the Emergency Department (ED) at any of the following locations:

- Santa Clara Valley Medical Center 751 S. Bascom Avenue, San Jose, CA.
- Stanford Hospital Emergency Department located at 1199 Welch Road, Stanford, CA.
- St. Louise Medical Center Emergency Department located at 9400 No Name Uno, Gilroy, CA.

At the direction of SAIU, medically stable survivors of child sexual abuse will be taken to one of the emergency departments listed above or the Children's Advocacy Center (CAC) located at 455 O'Conner Drive, Suite 150. Refer to the Santa Clara County SART Protocol for more information.

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If exigent circumstances require the survivor to be treated at a private facility, the officer accompanying the sexual assault survivor to the hospital will note their name, badge number and case number on billing form provided by the facility performing the examination.

All suspects of sexual assault that have been approved for a SAFE examination will have their examinations performed in custodial facilities (IE: PPC or Police Interview Rooms).

L 6009 NOTIFICATION TO SURVIVOR

Revised 01-10-23

Department members shall provide advocacy referrals in all sexual assault cases. Advocacy is provided via pamphlet, telephone support, or in-person advocacy.

- Pamphlet: Officers shall immediately provide the survivor of a sexual assault with a notification card (Form 200-45c) titled "Sexual Assault Survivor's Bill of Rights."
- Telephone Support: Prior to leaving the event, officers shall offer the survivor the opportunity to call an advocate. Refer to the "Sexual Assault Survivor's Bill of Rights" notification card for advocacy information.
- In-person: Refer to Duty Manual section L 6010 – NOTIFICATION TO A SURVIVOR ADVOCATE

L 6009.5 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO SURVIVOR OF SEX CRIMES

Revised 10-22-21

The survivor of sex offenses (220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 647.6), or the survivor's parent/guardian if the survivor is a minor, may request their name not be disclosed under the California Public Records Act. Notification of the right to confidentiality, pursuant to Government Code Section 6254 and Penal Code Section 293, shall be verbally provided to the survivor or the survivor's parent/guardian if the survivor is a minor. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

L 6009.6 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO VICTIMS OF HUMAN TRAFFICKING

Added 05-29-17

Pursuant to Penal Code Section 293 and Government Code Section 6254, a Department member shall verbally notify the victim of human trafficking, as defined in Penal Code Section 236.1, that the names and images of the victim and the victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, will be withheld from public disclosure and kept confidential at the victim's request, until the investigation or any subsequent prosecution is complete. In addition, the victim will be advised that the addresses of the victim and victim's immediate family will remain confidential permanently. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

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Note: "Immediate family" means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

L 6009.7 NOTIFICATION OF SEXUAL ASSAULT BILL OF RIGHTS:

Revised 01-10-23

Law enforcement agencies are mandated to develop a card which explains the rights of sexual assault survivors, pursuant to Penal Code Section 680.2 (Form 200-45c - Sexual Assault Survivor's Bill of Rights).

Upon the initial interaction with a sexual assault survivor, law enforcement officers shall provide the survivor of a sexual assault with a notification card, consistent with L 6009. This card shall include, but is not limited to, all of the following:

- A clear statement that a sexual assault survivor is not required to participate in the criminal justice system or to receive a medical evidentiary or physical examination in order to retain their rights under law.
- Telephone or Internet Website contact information for a nearby rape crisis center and sexual assault counselor.
- Information about the types of law enforcement protection available to the sexual assault survivor, including a temporary protection order, and the process to obtain that protection.
- Instructions for requesting the results of the analysis of the survivor's sexual assault forensic exam.
- Information about state and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for sexual assault survivors if a criminal trial occurs.
- A clear statement that the survivor has the right to have a sexual assault counselor and at least one other support person of the survivor's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview arising out of a sexual assault, and that a sexual assault counselor can be contacted 24 hours a day.
- Information about the rate of potential evidence degradation.
- A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.
- A clear statement that the law enforcement agency or crime laboratory will retain the sexual assault forensic evidence for at least 20 years, or if the survivor was under 18 years of age at the time of the alleged offense, at least until the survivor's 40th birthday.

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- A law enforcement official shall, upon written request by a sexual assault survivor, furnish a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency, to the survivor. A law enforcement agency may redact personal, identifying information in the copy furnished to the survivor.
- A prosecutor shall, pursuant to Section 290.46, upon written request by a sexual assault survivor, provide the convicted defendant's information on a sex offender registry to the survivor, if the defendant is required to register as a sex offender.
- The law enforcement agency shall provide sufficient copies of the card described in subdivision (a) to each provider in its jurisdiction of medical evidentiary examinations or physical examinations arising out of sexual assault.

L 6009.8 NOTIFICATION OF RIGHT TO HAVE A SURVIVOR ADVOCATES AND SUPPORT PERSON:

Revised 01-10-23

An initial investigation by an officer to determine whether a crime has been committed and the identity of the suspect(s) shall not constitute as an interview by law enforcement for the purposes of Penal Code Section 679.04.

Before the conclusion of the initial investigation to determine whether a crime was committed and the identity the suspect(s), and prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, the officer shall notify the survivor of a sexual assault as a result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 in writing that they have the right to have a survivor advocate and a support person of the survivor's choosing present at any interview thereafter by providing form 200-45c – Sexual Assault Survivor's Bill of Rights

However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or district attorney determines that the presence of that individual would be detrimental to the purpose of the interview.

L 6010 NOTIFICATION TO A SURVIVOR ADVOCATE:

Revised 03-09-21

Department members shall ask the survivor if they would like an in-person advocate present during a Sexual Assault Forensic Examination (SAFE). It is the responsibility of the patrol officer assigned to the case to call and request an advocate's response. The officer shall document whether the survivor accepted or declined the advocate services. If an advocate responds in-person, the officer shall document the name and agency of the advocate who responded.

L 6011 MEGAN'S LAW/290 DETAIL:*Revised 02-16-06*

The Megan's Law/290 Team is responsible for enforcing compliance of Section 290 of the California Penal Code (mandatory registration of sex offenders) and for performing public notification to the community when deemed appropriate for public safety.

L 6012 DEFINITIONS/CATEGORIES OF SEX OFFENDERS:*Revised 02-16-06*

The California Department of Justice has categorized each registered sex offender as either "Full Address," "Zip Code," or "No Post/Excluded." Department members can identify the category of an offender by either contacting the Sexual Assault Unit's 290 team or by using the Department of Justice Internet Web Application (www.meganslaw.ca.gov). Department members can also contact the Department of Justice directly.

- FULL ADDRESS CATEGORY - The conviction of certain sex offenses requires that the home address of the offender be posted along with other information about the registrant.
- ZIP CODE CATEGORY - Commission of certain sex offenses requires that the information about the offender, including their ZIP Code and other information but not including the home address, be posted on the web application.
- NO POST/EXCLUDED CATEGORY - These are registrants who have been convicted of sex offenses not listed in the above categories. Offenders in this category are not viewable by the public. Offenders in this category must still register as sex offenders with local law enforcement agencies and are viewable to law enforcement.

L 6013 PUBLIC NOTIFICATIONS:*Revised 02-16-06*

- PUBLIC NOTIFICATIONS - The Megan's Law/290 Team is responsible for conducting proactive public notifications of any sex offender when deemed necessary for public safety.
- ACCESS TO THE MEGAN'S LAW INTERNET WEBSITE BY THE PUBLIC - The public may access the Megan's Law Internet Website by browsing to the following web address: <http://meganslaw.ca.gov>.

L 6014 PROACTIVE DISSEMINATION OF SEX OFFENDER INFORMATION:*Revised 02-16-06*

Proactive dissemination of information is when any member of the Police Department determines that it is necessary to release information on a sex offender in the interest of public safety. The methods for this type of notification must be uniform and tracked. Therefore, proactive public notifications of sex offenders are the responsibility of the Megan's Law/290 Team.

EXCEPTION - Under exigent circumstances, and when the following criteria are met, an officer may disclose information about a sex offender to the public:

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- An officer must have reasonable suspicion based upon information that has come to their attention,
 - that a person might become a victim of the sex offender, and
 - the sex offender has encountered, or is likely to encounter, that person.

Exigent circumstances could include, but are not limited to, the following:

- A sex offender is a known suspect to a crime where the victim(s) would be put at risk if they were not advised.
- A sex offender is seen loitering around a school or playground and had no apparent lawful reason for his presence.

L 6015 INFORMATION WHICH MAY BE DISCLOSED:

Revised 02-16-06

Department members may provide information to the public about a registered sex offender when it is deemed necessary to ensure public safety based upon information available to the agency concerning that specific person. Information which may be included, but not limited to, in the notification:

- Name & known aliases
- Gender
- Race
- Physical description
- Photograph
- Date of birth
- Address (which shall be verified prior to release)
- Description & license plates of vehicle(s) associated with the offender
- Type of victim targeted
- Relevant parole or probation conditions
- Crimes resulting in registration
- Date of release from confinement

EXCLUDE information that could identify the victim

L 6016 PROCEDURES AFTER NOTIFICATION IS MADE (OFFICERS):

Revised 02-16-06

Officers who make a notification under the exigency guidelines will also be responsible for completing the following additional steps:

- Write a General Offense Report (Form 200-2-AFR) to document their actions. The report should include the following statement:

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"THE PURPOSE OF THE RELEASE OF INFORMATION IS TO ALLOW THE PUBLIC TO PROTECT THEMSELVES AND THEIR CHILDREN FROM SEX OFFENDERS"

- Forward the report to the Megan's Law / 290 Team for tracking purposes.
- Notify Communications of the notification process, and they will record it in the comment field of the offenders Supervised Release File Record.

L 6017 **ADVOCACY REFERRALS:**

Added 03-09-21

Department members shall provide advocacy referrals to survivors of sexual assault and domestic violence before leaving the scene. Refer to the "Your Rights as a Survivor of Sexual Assault" notification card for advocacy information. The resource card will provide referrals, 24-hour telephone support, and in-person advocacy.

The purpose of the advocate is to provide free, confidential services to all survivors and:

1. Provide emotional support and crisis counseling;
2. Provide interview and court attendance support;
3. Explain survivor's rights and criminal justice process;
4. Connect the survivor to resources with ongoing case management; and
5. Provide guidance on goals and needs.

Refer to Duty Manual section L 6009 – Notification to Survivors for further details.

L 6018 **HUMAN TRAFFICKING:**

Revised 11-22-21

A General Offense Report (Form 200-2-AFR) and an automated "Domestic Violence/Sexual Assault/Human Trafficking Assessment" template shall be completed in all cases of a human trafficking investigation.

Officers assigned to investigate incidents involving human trafficking shall utilize the Santa Clara County Law Enforcement Human Trafficking Protocol as a guideline for their investigations. The protocol is detailed and will provide valuable investigative assistance to responding officers. A link to the protocol may be found on the SJPD policies and procedures virtual library.

Officers investigating domestic violence incidents involving human trafficking survivors shall also refer to SJPD Duty Manual section L 7307 – Domestic Violence Reporting.

Officers investigating sexual crimes involving human trafficking survivors shall also refer to SJPD Duty Manual section L 6000 – Investigation of Sex Crimes.

Each officer has an individual responsibility to assist survivors through a trauma-informed approach, offer and explain resources to the survivor, conduct appropriate investigative

tasks, make arrests when allowed by law, and properly document the incident whenever suspected human trafficking is discovered or otherwise reported.

**L 6100 - VICE CASES:**

The Department has a responsibility to detect, enforce, and document all incidents of vice law violations occurring within the city. Each officer has an individual responsibility to conduct appropriate investigative tasks whenever a violation of vice laws is discovered or otherwise reported.

PROCEDURE**L 6101 VICE CASES:**

Officers are directed to investigate and report all violations of vice laws including gambling, bookmaking and prostitution. Arrests will normally be made in all instances in which an officer reasonably believes that the person to be arrested is guilty of a violation and there is sufficient evidence to warrant the arrest. The officer discovering the violation will assess the circumstances and determine if the services of the Vice Unit are appropriate. Circumstances to be assessed are as follows:

- **DESTRUCTION OF EVIDENCE:** If the circumstances indicate that entry into a dwelling or closed area by uniformed officers would result in the destruction of evidence, the services of plainclothes Vice Unit officers is appropriate.
- **DEVELOPMENT OF FURTHER SUSPECTS:** When the circumstances reasonably indicate that the use of Vice Unit officers would enhance the ability to develop further suspects, the use of plainclothes Vice Unit officers is appropriate.
- **DEVELOPMENT OF FURTHER EVIDENCE:** When the incident is complex and requires the development of documented evidence uncovered over a period of time or involves repeated contact with a suspect or informant in order to develop such evidence, the use of plainclothes Vice Unit officers is appropriate.
- **GENERAL LOCATION:** Record the location of the violation by indicating the address and/or cross streets and description of the dwelling or area involved.
- **PARTICULAR LOCATION AND PECULIARITIES:** Indicate the particular part of the building or area where the violation(s) occur, such as the rear storage area of a business. Also indicate any peculiarities, obstacles or impediments to entry which may endanger investigating officers or otherwise frustrate an investigation.
- **NATURE OF THE VIOLATION:** Explain the nature of the acts which constitute the violation and supply the appropriate code name and section number violated.
- **TIME ELEMENT:** Record the time of the day and weekday during which the violation usually occurs.
- **METHOD OF DISCOVERY:** Indicate how the violation was discovered.

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When the discovery was based on an informant, officers will indicate the name of such informant, unless the informing person requested confidentiality and/or respecting this confidentiality would ensure obtaining further information.

EXCEPTION: When an informant's testimony is crucial to a case or mandated by a magistrate, the identity of an informant will be disclosed to the District Attorney handling the case.

- MISCELLANEOUS INFORMATION: Other pertinent information such as passwords, introduction cards or the names of participants should be indicated as long as the uniformed officer obtaining such information does not arouse the suspicions of the violators and thereby adversely affect any further investigation.

Officers will not hesitate to report any suspected violation of vice laws. When the information obtained is only fragmentary, officers are encouraged to orally report the information to the Vice Unit. Vice Unit officers will then complete an in-house "Police Incident Report" (Form 201-13a), and the incident will then be assigned to a vice officer for investigation.

L 6102

REPORTING INCIDENTS AT CARDROOMS:

Any incident of criminal activity occurring at a cardroom, or involving an employee of a cardroom, anywhere in San Jose will be documented in a General Offense Report (Form 200-2-AFR) and routed to the Vice Unit. In those incidents involving felony violations where it is determined that assistance of the Vice Unit is warranted, the on-call Vice Unit Cardroom Team supervisor at 537-1452 or via Communications.



L 6200 - ROBBERY CASES

The actions taken by officers initially responding to the scene of a robbery often determine the outcome of the overall investigation. These initial actions include: a proper response; adequate care of the victims of crime; establishing the nature of the incident; protection and collection of evidence and apprehension of perpetrators. In this regard, the Department maintains procedures to ensure a proper initial response. Officers will adhere to these procedures whenever appropriate and, in any case, perform all appropriate tasks possible to ensure that the community's welfare and safety is restored and/or maintained

PROCEDURE

L 6201 RESPONSE TO REPORTED ROBBERY:

Officers assigned to respond to the scene of a robbery incident will adhere to the Duty Manual section L 4300 (Investigations -Initial Actions).

L 6202 RESPONSIBILITY OF DEPARTMENT MEMBERS RECEIVING REPORT:

The person receiving the initial report of a robbery will ascertain the address of the incident and, while maintaining contact with the reporting party, ensure that patrol vehicles are immediately dispatched to the scene.

The person receiving the initial report will then obtain the following additional information as quickly as possible:

- Elements of the crime.
- Weapons involved.
- Description of perpetrators.
- Time of occurrence.
- Vehicles involved.
- Perpetrator's direction of travel.
- Any unique, unusual or dangerous conditions that may exist, such as lookouts or emotional condition of the perpetrator that may endanger responding officers or citizens.

Additional information obtained will be broadcast immediately to units responding to the scene.

L 6203 ASSIGNMENT AND RESPONSIBILITY OF UNITS:

When the robbery is not in progress or information indicates that the perpetrator is not in the area, a minimum of two officers will be assigned to respond to the scene and, upon arrival, they will perform the following tasks:

- Approach the area with caution since the perpetrator may still be in the area.

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- Check on the welfare of the victims and, if necessary, provide first aid and arrange for further medical treatment.
- Obtain a brief description of the suspect, vehicle involved, direction of travel and the time element involved.
- Immediately broadcast the information obtained.

The officer assigned to the scene will then conduct a preliminary investigation in accordance with established investigative procedures.

When the robbery is in progress, or information indicates that the perpetrator(s) is in the area, a minimum of two officers will be assigned to respond to the scene and, upon arrival, they will perform the following tasks:

- Approach the building or area with caution, preferably from a direction which cannot be seen by the perpetrator(s).
- Watch for "lookouts" or accomplices standing near or in the area or sitting in a vehicle.
- Secure the exterior of the building or perimeter of the involved area.
- Observe individuals coming out of businesses and note unusual movements or gestures which may indicate involvement:
 - Failure to look in officer's direction.
 - Fast paced walk or overly relaxed walk.
 - Running from area.
 - Leaving involved area with containers or weapons.
 - Persons with hands in pockets or otherwise concealed.
- Once the exterior of the business or area is secured, assigned officers should wait until the suspect(s) exits before affecting an arrest.

NOTE: When the presence of officers is known by a suspect(s), the officer in command of the scene will contact Communications and request that an immediate supervisor respond to the scene.

L 6204

AREA SEARCH:

When the robbery is not in progress and the perpetrator has recently left the scene, the location of the crime is the center for sectioning off the search area into quadrants. Communications will assign at least one car to each quadrant. Assigned cars will not converge on the scene but will work out from the scene based on knowledge of the area and the perpetrator's means of travel. Units not involved in the area search will take positions at major intersections or along arterial routes that may be used for escape.

L 6205

NOTIFICATION OF INVESTIGATORS:

The officer initially assigned to respond to the scene will ensure that Communications notifies the Bureau of Investigations, Robbery Unit, as soon as practical.

L 6206 RECORDING VICTIM WHEN BUSINESS INVOLVED:

When the incident involves a business, the name of the business is listed as a victim, and is entered first, before person entities are entered in the General Offense Report (Form 200-2-
AFR). Individuals working at the business or customers of the business who have personal items or money taken are listed as subsequent victims.

L 6207 RESPONSE TO REPORTED ROBBERY ALARMS AT BANKS AND SAVINGS/LOANS DURING BUSINESS HOURS:

In order to prevent armed confrontations inside banks and savings/loans between police officers responding to a reported robbery alarm and robbery suspects, the following procedures have been established:

L 6208 BANKS AND SAVINGS/LOANS TO REPORT ALARMS:

When a robbery alarm has been activated and a robbery is not in progress or just occurred, the bank or savings/loans is to call Communications and advise the circumstances of the false alarm.

L 6209 ASSIGNMENT AND RESPONSIBILITY OF UNITS:

Upon receiving the alarm and no call reporting a false alarm has been received from the bank or savings/loans, Communications will dispatch multiple units to the scene.

Responding units from different radio channels will use the channel for the area in which the robbery is occurring.

Non-uniformed officers that are in the area will advise Communications of their response and location. They will maintain surveillance only prior to the arrival of uniformed officers.

[REDACTED]

[REDACTED]

[REDACTED]

In the event a robbery has occurred, Communications will obtain and broadcast suspect information. If the suspects have left, a minimum of two officers will enter to preserve the scene and take the report. If the suspects are present, the situation is handled as per Duty Manual section L 6203, (Assignment and Responsibility of Units Robbery in Progress) and Duty Manual section L 1401, (Response to Hostage Situation).

[REDACTED]



L 6210

RESPONSE TO REPORTED ROBBERY ALARMS AT OTHER INSTITUTIONS:

In order to prevent armed confrontations inside establishments between police officers responding to a reported robbery alarm and robbery suspects, the following procedures have been established.

L 6211

ESTABLISHMENT TO REPORT FALSE ALARMS:

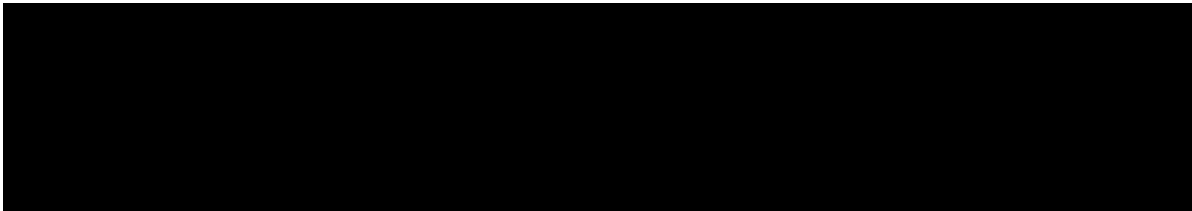
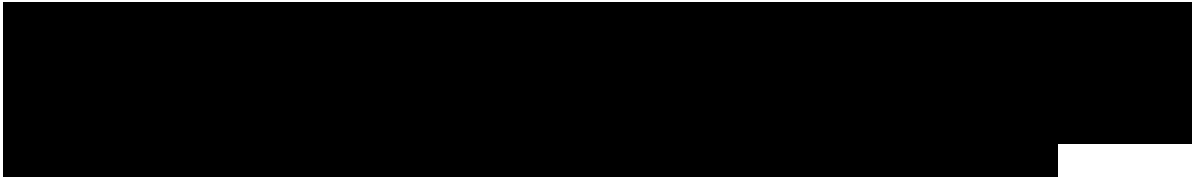
When a robbery alarm has been activated and a robbery is not in progress or just occurred, the establishment is to call Police Communications and advise the circumstances of the false alarm.

L 6212

ASSIGNMENT AND RESPONSIBILITY OF UNITS:

Upon receiving the alarm and no call reporting a false alarm has been received from the establishment, Communications will dispatch multiple units to the scene.

Responding units from different radio channels will use the channel for the area in which the robbery is occurring.





**L 6300 - FRAUD:**

The actions taken by officers initially responding to the scene of a fraud often determine the outcome of the overall investigation. These initial actions include: a proper response; establishing the nature of the incident; protection and collection of evidence and apprehension of perpetrators. In this regard, the Department maintains procedures to ensure a proper investigation. Officers will adhere to these procedures whenever appropriate and, in any case, perform all appropriate tasks possible to ensure that the community's welfare and safety is restored and/or maintained.

PROCEDURE**L 6301 CHECK AND CREDIT CARD FRAUD - GENERAL PROVISIONS:**

Field units will respond to the scene of a check or credit card fraud only when the reporting party indicates that the suspect is still present or has just fled.

In all other cases, the reporting party will be directed to contact TRAC to report the matter over the telephone. They should be told to protect the evidence, which may be collected at a later time by detectives. The victim should not be told that the case will be automatically assigned to a detective. The determination on case assignments is the decision of a supervisor in the Financial Crimes Unit.

L 6302 PROCEDURES COMMON TO BOTH CREDIT CARDS AND CHECKS:

The following procedures are adhered to by officers assigned to respond to incidents involving credit card or check fraud:

- **CRIME REPORT REQUIRED:** When an officer responds to an in-progress incident and upon arrival discovers that the crime did occur but the suspect has fled, a General Offense Report (Form 200-2-AFR) will be completed, unless the case can be filed with the District Attorney's Check Restitution Program.
- **COLLECTION OF SPECIFIC EVIDENCE:** The officer assigned to complete the "Crime Report" will also obtain all checks, credit cards, invoices, drivers' licenses, identification, computers, software, credit card readers, or any other document or device used to commit the offense or that may have been used to commit other offenses. Should the merchant insist on sending a credit card or check to the credit card company or bank, officers will advise the merchant that the investigation requires that all evidence must be seized. Officers will provide the merchant with a receipt for the credit card or check, if requested. The merchant will be encouraged to keep a copy of the original documents taken for evidence. Evidence, such as items purchased, may remain in the custody of the merchant, after they are photographed, if such items will be available for presentation in court at a later date.

The reporting party and/or witnesses involved should be admonished to keep all notes and information concerning the documents involved so as to enable them to recognize (by number and other data) the check, money order, credit card or other document in court at a later date.

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Credit cards, checks, invoices or any other documents used to commit the fraud will not be marked, defaced, altered or folded. Such documents will be preserved for fingerprints or other processing by placing them in plastic check protectors or envelopes.

When documentary evidence such as checks, receipts or credit cards are seized, it will be taken to the Financial Crimes Unit and placed in their evidence locker. Evidence placed in the Financial Crimes Unit evidence locker will be placed in a sealed envelope and an evidence tag will be completed and attached to the envelope. Evidence tags and envelopes will be kept in the Financial Crimes Unit and Central Supply. All other evidence seized will be booked into Central Supply in accordance with Department policy. The location where evidence was booked should be included in the General Offense Report (Form 200-2-AFR).

A large amount of check fraud cases are committed through the use of computers. If a computer is seized as a device used to commit the offense, the Financial Crimes Unit should be contacted during normal business hours, and the information will be documented in the Crime Report.

- PHOTOGRAPHING FRAUD SUSPECTS: When an officer arrests a suspect or has reasonable cause to transport a suspect to a police facility for identification purposes, the assigned officer will ensure that a photograph of the suspect is entered into the San Jose Police Photo Database and fingerprints are taken. When reasonable cause to arrest or transport a suspect is not present, the assigned officer will take a Polaroid photograph in the field by having a Polaroid camera brought to the scene. Approval from the officer's district supervisor is required before requesting a camera pick-up and transportation to the scene.
- NOTIFICATION WHEN ARREST MADE: When an officer makes an arrest during normal business hours (0800-1700 hours, Monday-Friday), they will transport the prisoner to the Pre-processing Center where the Financial Crimes Unit will be notified. Upon arrival at Pre-processing, the following tasks will be performed:
 - Interrogation
 - Sample of handwriting obtained
 - Fingerprints, including rolled outer palms
 - Photo Data Base entry
- RECORDING STATEMENTS: A suspect's statement will be recorded on a "Supplementary Crime Report" whether an arrest is made or not; this is necessary to limit a suspect's possible defense at a later time. The officer should document the suspect's intent to commit the crime in the General Offense Report (Form 200-2-AFR).
- PROCEDURE WHEN ARREST IS NOT MADE: If the circumstances are not sufficient to support an arrest, there may be sufficient cause to perform one or more of the following actions:
 - Conduct a field interrogation. The officer assigned to the event may conduct a field interview so as to identify the suspect and obtain enough additional information to support the issuance of a complaint at a later date.
 - Detain for Investigation. The officer assigned to the event may, when justified, detain a suspect in order to obtain photographs, fingerprints and/or interrogation information.

When an officer intends to release an individual because probable cause to arrest is not present, the officer will ensure that the suspect's identity is established.

L 6303**CHECK FRAUD:**

When assigned to respond to a fraud involving the use of checks, officers will make a reasonable attempt to verify the status of the account and/or the right of the suspect to possess the check(s). When obtaining such verification, officers will contact one or more of the following sources:

- The person named on the check who is legitimately entitled to have, written, sign, pass or present the document for payment.
- The bank where the account is located.
- Police records (reports of stolen checks).

L 6304**ARRESTS INVOLVING CHECK FRAUD:**

The decision to make an arrest or release of a suspect pending further investigation is the responsibility of the officer in charge at the scene. The element of "intent to defraud" will be established prior to making an arrest involving checks. Circumstances to consider include, but are not limited to, the following:

- The circumstances which cause the check to be suspected.
- The dollar amount indicated on the suspected check.
- The number of checks passed by the suspect in the past.
- The nature of the circumstances which caused the merchant or receiver of the check to become suspicious.
- The quality of the suspect's identification.

When intent is in question and the incident occurs during normal business hours, the officer will contact the Financial Crimes Unit. When after normal business hours, and the incident involves a major amount of money or merchandise, the officer may request a Financial Crimes Unit member be contacted at home. Additional circumstances which officers will consider before making an arrest are as follows:

- **FORGED CHECKS:** When the assigned officer establishes that a suspect at the scene has forged a check, an arrest is made. A check is considered as forged whenever the suspect uses the name of another person without permission, or the name of a fictitious person, with intent to defraud a recipient of the check.
- **COUNTERFEIT CHECKS:** When the officer assigned establishes that a suspect at the scene has attempted to cash a counterfeit check, an arrest is made. The officer must personally speak with a representative from the business that is named on the check to confirm that the suspect was not authorized to cash the check and the check is counterfeit. The officer can contact Communications and request that the Business Locate/Emergency Number File be checked for the business name. When a business representative cannot be located and the check appears invalid, the officer should contact the bank listed on the check for information.

- **NONSUFFICIENT/INSUFFICIENT FUNDS/CLOSED ACCOUNTS:** Arrests will normally not be made in cases where the account is closed, overdrawn or contain insufficient funds to cover the issued check, unless the officer is able to obtain evidence which establishes reasonable cause to believe that deceit and design to commit a fraud had occurred. The District Attorney's office will not file a complaint on these cases unless the bank records are submitted with the complaint.
- **DISTRICT ATTORNEY'S BAD CHECK RESTITUTION PROGRAM:** Currently, The Santa Clara County District Attorney's Office has a Bad Check Restitution Program and will accept cases under the following circumstances:
 - There are non-sufficient funds in the account to cover the check or the account was closed at the time the check was written.
 - Checks where a stop payment has been placed, if there was an intent to defraud and no dispute about services.
 - The check written is not more than \$1500.00. (The total of all checks written by one person can be more than \$1500.00.)
 - Proper photographic identification verified during transaction.
 - There was no agreement to hold the check between the merchant and the person who wrote the check.
 - The case is filed with the District Attorney within 90 days of the date the check was issued.

The merchant should report the case directly to the District Attorney's Bad Check Restitution Program. No General Offense Report (Form 200-2-AFR) is necessary. The office is located at:

P.O. Box 26370
San Jose, Ca. 95159-6370
1-877-520-6137

L 6305

CREDIT CARD FRAUD:

When a field unit has responded to the scene and a credit card(s) has been recovered, verification of the card's status will be obtained in accordance with the following procedures:

Officers can telephone the following 24 hr./7-day numbers to get the credit card company's loss prevention number for the status of the account:

- For VISA 1-800-367-8472
- For MasterCard 1-800-231-1750
- For Discover Card 1-800-347-7611
- Diners 1-800-525-9135
- American Express 1-415-981-5300
- Checking of department store cards can be done by calling the nearest store security.

- The police department's records can be checked to determine if the card has been reported stolen.
- The Financial Crimes Unit can be contacted during normal business if there is a problem contacting a credit card company.
- The officer will record the name and telephone number of the credit card company representative in the General Offense Report (Form 200-2-AFR).
- Get the cardholder's name and telephone number and contact the cardholder to confirm that the suspect was not authorized to use the account.

When verification cannot be obtained and the facts will not support an arrest, but the circumstances are suspicious and the suspect's actions or statements do not dispel such suspicions, then the officer may seize the credit card and detain the suspect for questioning, fingerprinting and photographing in accordance with aforementioned procedures.

In all cases not involving an arrest, a General Offense Report (Form 200-2-AFR) will be completed and forwarded to the Financial Crimes Unit.

CREDIT/DEBIT CARD READERS (SKIMMERS): Credit/debit card skimmers are devices used to capture an unsuspecting cardholder's account number. The credit/debit card is usually swiped through a skimmer when the account holder gives his card for a purchase. When the card is swiped through a skimmer, the cardholder's information on the magnetic stripe is stolen. The magnetic stripe information is then put on another card and used at an ATM or to make purchases.

If an officer contacts a person in possession of a skimmer, an arrest should be made and the Financial Crimes Unit should be immediately contacted. Do not turn the skimmer off or tamper with it in any way until directed to do so by the Financial Crimes Unit. Some skimmers have an automatic erase button or will erase all numbers inside the device if the unit is turned off.

L 6306

SERVICE STATION COMPLAINTS:

Instructions in Section L 6301 are followed. In addition, all voice dispatches are preceded by the word "possible" when assigning field units to respond to credit card complaints at gasoline service stations. This procedure is necessary since oil companies combine stolen and bad payment credit cards in the same category.

LISTING THE VICTIM OF A CREDIT CARD FRAUD: When completing the General Offense Report (Form 200-2-AFR) officers will list the card holder and the merchant as victims.

L 6307

COUNTERFEIT CURRENCY:

Department members will thoroughly investigate each reported incident of counterfeit currency with a special emphasis on determining intent so that innocent persons do not become arrested. Department members will ensure the following steps are taken:

- Retrieve and book into property the counterfeit currency.
- Prepare the necessary departmental reports.

- Verify the I.D. of the passer. Note: Should there be any question relative to the subject's I.D., the passer/possessor should be arrested, processed at Pre-processing to include prints and photos and released pending review by investigators.
- Should the officer develop documentation of the necessary intent, the subject should be arrested.
- Notify U.S. Secret Service at (408) 535-5288 before releasing. They can be reached 24 hours a day at the above telephone number.
- Preferred Booking Section recommended by D.A.'s Office is 648 P.C., "Making, issuing, etc., unauthorized money."



L 6400 - BURGLARY AND THEFT:

The actions taken by officers initially responding to the scene of burglary or theft often determines the outcome of the overall investigation. These initial actions include: a proper response; establishing the nature of the incident; protection and collection of evidence and apprehension of perpetrators. In this regard, the Department maintains procedures to ensure a proper initial response. Officers will adhere to these procedures whenever appropriate and, in any case, perform all appropriate tasks possible to ensure that the community's welfare and safety is restored and/or maintained.

PROCEDURE

L 6401 BURGLARY - GENERAL PROVISIONS:

Officers will remain aware that the potential for violence is present at incidents involving in-progress burglary. Individuals engaging in such incidents may be professionals, narcotic addicts, first time offenders or juveniles. When confronted with an incident involving burglary, assigned officers will employ appropriate procedures in order to successfully apprehend the perpetrators and to ensure the safety of other involved individuals.

L 6402 ASSIGNMENT OF UNITS:

When the burglary is not in progress, one patrol unit is assigned to respond to the scene. When the burglary is in progress, or information indicates that the perpetrator is in the area, a minimum of two officers are assigned to respond to the scene.

L 6403 RESPONSE TO REPORTED BURGLARIES:

Officers assigned to respond to the scene of a burglary incident will adhere to the Duty Manual section L 4300 (Investigations - Initial Actions).

In addition, the senior officer initially arriving at the scene will determine if the incident is founded or unfounded. If the incident is founded, and the circumstances indicate that the perpetrator may be present, the outside of the building will be secured. Officers will then notify Communications of their respective positions.

The senior officer present at the scene will request the response of a supervisor and additional Department members as needed. Officers will then adhere to the following additional procedures when appropriate.

- **RESIDENTIAL BURGLARY:** Prior to entering the premises, officers will, when possible, contact the reporting party and determine what was seen. Information received will then be evaluated and an approach conducted in a manner which ensures the safety of assigned officers and residents possibly inside the residence allegedly being burglarized. When possible, the following information should be obtained:
 - **Age and Description of Suspect.** This information may assist the officer in determining a proper entrance into the premises and/or what tactics to employ. The information will also assist assigned officers in assessing the involvement of persons discovered in the area.

- Status of Resident. The assigned officer should determine if the resident works at night, is on vacation or is otherwise normally absent. This information will assist the officer in deciding if the person seen entering would be the resident.
- Vehicles Belonging to Resident. This information may assist the assigned officer to determine if residents are home and thus indicate the most appropriate approach.
- View of Victim's Residence by Reporting Party. This information may assist the assigned officer to determine what could be seen, where actual entry was made, and other information not determined prior to arrival.
- **COMMERCIAL BURGLARY**: When assigned to respond to a commercial burglary, officers should remain aware that commercial burglaries are more hazardous than residential burglaries because of the potential existence of the following circumstances:
 - Nature of the Perpetrator. Commercial burglars are generally experienced and usually work with other suspects and thus create an increased threat to officers since such individuals are apt to be older, armed, and may even outnumber the officers initially arriving at the scene.
 - Planning by Suspect. Commercial burglars generally plan their operation. Circumstances which responding officers should consider and be observant for are the following:
 - > The existence of lookouts.
 - > The use of a "getaway" vehicle and/or vehicles to carry away contraband.
 - > Equipment and tools in the area.
 - > The use of radios and police monitors by suspects.
 - Nature of Commercial Areas and Buildings. Suspects who plan their crime will often select commercial areas that afford a view of the surrounding area and streets. Responding officers are seen by perpetrators before arriving at the scene. In addition, commercial areas generally have extensive exterior artificial lighting and officers should anticipate being seen by suspects inside a commercial building, thus increasing such suspect's opportunity to escape or plan an assault upon arriving officers.
- **INCIDENTS INVOLVING ALARMS**: Officers assigned to respond to an incident involving a burglar alarm will assume that the alarm is valid. In addition, assigned officers will consider the following circumstances:
 - Source of the Alarm. The type of alarm and source within the building may indicate what areas to secure or how to approach the scene.
 - Safe or Interior Alarm. This type of alarm may indicate that perpetrators entered by overcoming the exterior alarm or cutting through the roof.
 - Sonic Alarm. This type of alarm is designed to detect sounds or movement within a building and, like an interior alarm, may indicate an experienced perpetrator who has prepared for escape or detection by responding officers.
 - Multiple Alarms. A building, or series of buildings, experiencing multiple alarms may indicate the presence of several perpetrators, the entering of several businesses, or

the cutting of a telephone line carrying the circuitry for several businesses adjacent to each other.

L 6404 GUIDELINES RELEVANT TO IN-PROGRESS BURGLARY INCIDENTS:

Officers assigned to an in-progress burglary incident will consider the following guidelines:

- Determine the search method employed and development of Department members prior to entering the building.
- Maintain security of the exterior during the interior search.
- Direct the business or residence owner/representative to remain outside while the interior is searched, unless entrance by an owner/representative is necessary to assist officers in locating and entering specific areas.
- Determine the existence of locked interior doors or areas and obtain the keys if possible.
- Determine the existence of weapons inside the premises prior to entry.

L 6405 THEFT OF BICYCLES:

All bicycle thefts are recorded in a General Offense Report (Form 200-2-AFR).

L 6406 USE OF JUVENILE CONTACT REPORT:

A "Juvenile Contact Report" (J.C.R.) must be used. Additionally, a General Offense Report (Form 200-2-AFR) shall be completed in the MRE system to document all entity information related to the incident. The corresponding narrative can be written on EITHER the JCR or entered into Versadex as a text document. It does not need to be duplicated in both.

L 6407 RESPONSE BY FIELD UNIT:

When the incident involves a theft from a locked garage or a theft with a suspect or involves a felony, the beat officer will respond and complete a General Offense Report (Form 200-2-AFR) and a JCR if the juvenile is arrested at the time of the report.

L 6408 REPORTS VIA TELEPHONE:

Thefts of unattended bikes or bikes taken from an open garage may be reported via telephone to the Telephone Report Automation Center (TRAC).

L 6409 ENFORCEMENT OF ANTI-SCAVENGING ORDINANCE:

When a complaint is received during regular business hours, 0800-1700, Monday through Friday, the complainant will be placed in contact with the City Code Enforcement Unit, telephone number 408-535-7770, which will handle the complaint.

During non-business hours or if the complainant wishes to talk to police Department members, the complaint is handled by the Information Center. When it is necessary for police Department members to document a complaint of unauthorized scavenging, an Offense Report is completed and a copy is forwarded to the Code Enforcement Unit. If an on-scene investigation is demanded and/or the situation has or may develop into a confrontation between the parties involved, an officer is dispatched.



L 6500 - MISSING AND FOUND PERSONS:

The Department has a responsibility to locate individuals who have been reported missing, whose welfare or safety is threatened, and to ensure the welfare of individuals that are found/located. Therefore, the Department maintains procedures which ensure a timely and efficient investigative process pertaining to reports of missing persons and gives priority to handling missing persons reports over reports to property crimes.

PROCEDURE

L 6501

DEFINITIONS:

Revised 10-22-21

- **MISSING PERSONS:** A missing person is defined as any person who is reported as such to a law enforcement agency, until the person is located or determined to be a voluntarily missing adult. Missing person includes, but is not limited to, any of the following:
 - **INVOLUNTARILY MISSING** - Includes the involuntary abduction of an adult; the involuntary abduction of a child, i.e., a child who has been taken, detained, concealed, enticed away, or retained by a parent in violation of Chapter 4. Child Abduction (commencing with Penal Code Section 277) of Title 9 of Part 1 of the California Penal Code; children who have been rejected by their families; a child or adult who is missing involuntarily, or under circumstances not conforming to their ordinary habits or behaviors and who may be in need of assistance.
 - **RUNAWAY** - Any child who is voluntarily missing or under circumstances not conforming to their ordinary habit or behavior and who may be in need of assistance.
 - **UNKNOWN MISSING** - Cases where there are insufficient facts to determine the missing person's disposition.
 - **AT RISK-** A Missing Person is defined as "at risk" when any of the following conditions are present:
 - > The missing person is the victim of a crime or foul play;
 - > The missing person is in need of medical attention;
 - > The missing person has no pattern of running away or disappearing;
 - > The missing person may be the victim of parental abduction;
 - > The missing person is mentally impaired, including cognitively impaired or developmentally disabled.
 - **CHILD** - Any person under 18 years of age. The term "child" is synonymous with the term "minor" and "juvenile."
 - **ADULT** - Any person 18 years of age or older.

L 6502

MANDATORY REPORTING:

Revised 10-22-21

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All reports of missing persons regardless of jurisdiction will be immediately taken when reported. The Department member receiving the report will not instruct the reporting party to wait for a specified time prior to making a report.

In cases where an outside jurisdiction should be involved, officers will coordinate the investigation with that jurisdiction, if possible.

All Incidents involving missing persons will be referred to TRAC for reporting unless one of the following is involved:

- The missing person is reasonably considered "AT RISK";
- A search of the area is necessary;
- There is suspected foul play;
- Parental abduction is reasonably suspected;
- Collection of evidence is necessary.

L 6503 MANDATORY MUPS/NCIC CA DOJ NOTIFICATIONS:

Revised 10-22-21

All missing persons will be entered into the Missing Unidentified Person (MUPS) and National Crime Information Center (NCIC) systems without delay. Upon completion of all Missing Person reports, the field unit receiving the report will call the OSSD/Records Unit and request that the missing person be placed in the MUPS/NCIC missing persons file systems without delay, regardless of age or circumstance.

If the reported missing person is under 21 years of age, or if there is evidence that the person is at risk, within two hours of receiving the report, the OSSD/Records Unit shall electronically transmit the report to CA DOJ via CLETS.

L 6504 INCIDENTS INVOLVING AT RISK MISSING PERSONS:

Revised 10-22-21

When the missing person is reasonably deemed to be "AT RISK", an officer will be dispatched to the location from which the person is missing. Once it is confirmed the person is "At Risk," the assigned officer will ensure that the Missing Persons Unit or Night Detective is notified immediately if possible. The assigned officer will then begin a search of the location where the "At Risk" missing person was last seen and expand outward as determined by the amount of time the missing person has been missing. The department member taking the report shall broadcast a "Be On the Lookout" (BOL) bulletin and will call the OSSD/Records Unit and request that the missing person be placed in the MUPS/NCIC missing persons file systems without delay, regardless of age or circumstance.

When the "At Risk" missing person is not located within one hour, or when the circumstances indicate the missing person has met with foul play, the assigned officer will notify an immediate supervisor of the circumstances. The supervisor contacted will ensure that the Missing Persons Unit is notified of the circumstances and that a MUPS/NCIC entry

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has been made, that a BOL has been broadcast and will then arrange for assignment of additional assistance, if necessary.

L 6505 **BOL REQUIREMENT FOR INCIDENTS INVOLVING MISSING PERSONS:**
Revised 10-22-21

For all missing persons cases, the assigned unit taking the report shall broadcast a "Be On the Lookout" (BOL) bulletin and will call the OSSD/Records Unit and request that the missing person be placed in the MUPS/NCIC missing persons file systems without delay regardless of age or circumstance.

L 6506 **FOUND PERSONS:**
Revised 10-22-21

A found person is an adult or minor who is located alive, whose identity and/or parent, guardian or residence may be unknown and whose welfare or safety is threatened. A Field Unit is dispatched to investigate instances of found persons. Officers handling these incidents will use all means available to determine the identity of found persons and return them to parents, guardians, medical institutions or appropriate government institutions, as appropriate.

Found/located missing person cases will be documented in a General Offense Report (Form 200-2-AFR). Officers will use the Missing Person Detail Page to appropriately document the missing person incident. The "Located" section of the Missing Person Detail Page will be completed for locating both juveniles and adults regardless of originating agency.

Person's 17 years old or younger who need temporary placement may be placed at the County of Santa Clara's Department of Family and Children's Services' "The Welcoming Center (TWC)". A completed JCR may be required prior to entry depending on the circumstances. It is recommended the officer contact The Welcoming Center prior to transporting the juvenile to determine which facility the juvenile will be placed at.

L 6507 **RESPONSIBILITY OF THE TELEPHONE REPORT AUTOMATION CENTER (TRAC) IN MISSING PERSON CASES:**
Revised 10-22-21

When circumstances indicate that a response by a Field Unit is not necessary, the Department member receiving reports of missing persons at TRAC will complete a Missing Person Detail Page and route this to the OSSD/Records Unit without delay to allow entry into the MUPS/NCIC missing persons file system.

For all missing person cases, the Department member taking the report shall broadcast a "Be On the Lookout" (BOL) bulletin and will route this to the OSSD/Records Unit without delay.

L 6508 **REPORTING REQUIREMENTS:**
Revised 10-22-21

Events involving missing and found persons will be reported in accordance with the following procedures:

Missing:

- Complete a General Offense Report (GO) and a corresponding Missing Person Details Page for both juveniles and adults.
- A complete and detailed description (including scars, marks, and tattoos) of the missing person must be entered within the Entities tab of the General Offense Report (GO).
- Complete a separate GO with a separate case number for each missing person regardless of age and circumstance.

Exception: Abduction cases only require one General Offense Report (GO) to document both the missing person(s) and the suspect. A Missing Person Details page is required for each missing person and suspect.

- If any other crime is involved with the missing person incident, document the details of the crime in a separate General Offense Report.

Found:

- Complete a Supplemental Report to the original Missing Person General Offense Report and corresponding Found Missing Person Text Template for both juveniles and adults.
- Complete a separate Found Missing Person Supplemental Report for each found missing person.
- A General Offense Report (GO) and corresponding Found Missing Person Text Template is required for a Found Missing Person reported from another agency.

A Juvenile Contact Report (County Form 2259) may be needed to facilitate temporary placement of a juvenile into the Santa Clara County "The Welcoming Center (TWC)." It is recommended to contact the center prior to transporting the juvenile as they may utilize a satellite placement location.

- If no access to electronic forms, a Missing Person Report (Form 200-18-AFR) will be utilized.
- VICTIM: The missing or found person will be listed as the victim in the "Missing Person Report" or "Crime Report" if it is a parental abduction. If the missing person is also the suspect of a crime, a separate General Offense report (GO) will be generated for that crime.
- DESCRIPTION: A full detailed description of the missing or found person must appear within the Entities tab on the General Offense Report including scars, marks, tattoos, and mental health diagnoses if applicable.
- PHOTOGRAPH: The Department member will attempt to obtain a recent photograph of the missing person or runaway and include it with the report. The attached photograph will be forwarded through OSSD/Records Unit to the Missing Person Unit.
- SCHOOL: The school the missing person attends will be documented.

In addition to completing the missing person's data, the following information will be included in the narrative portion:

- The extent of any search performed by the reporting party or others.
- The time and place at which the missing person was last seen and by whom.
- Information about the missing person that is of use in the investigation, such as interests, favorite areas or businesses, relatives or friends in the area, prior statements indicating possible desire to visit other areas, clothing and jewelry worn, and other characteristics.
- The relationship of the reporting party with the missing person.
- Any physical or mental health diagnoses the missing person may have that could require medical attention or pose a danger to the public, or officers upon contact.

L 6509 VEHICLES ASSOCIATED WITH MISSING PERSONS:

The following procedures will be adhered to when a vehicle is associated with a missing person:

- VEHICLES ASSOCIATED WITH MISSING PERSONS: When there is a vehicle associated with a missing person, the vehicle information will be added as an entity to the General Offense Report (Form 200-2-AFR) with a role code of "16 – missing person." The vehicle license number, color, make, model and style to have the vehicle entered into the MUPS/NCIC and SVS systems. The vehicle will be placed in the CLETS Stolen Vehicle System (SVS) by OSSD/Records Unit as being associated with the missing person.
- OSSD/RECORDS: This unit will complete a vehicle registration check (10-28) and confirm the vehicle information listed on the Missing Person General Offense Report (Form 200-2-AFR) prior to entering the vehicle information into MUPS/NCIC. The VIN number, Issuing Vehicle License Plate State (LIS), License Plate Year of Expiration (LIY), and License Plate Type (LIT) will be entered from the registration check.

If the vehicle is located and impounded, a Form CHP 180 will be completed. OSSD/Records Unit will remove the vehicle from the Stolen Vehicle System. The completed paperwork will be forwarded to the Missing Persons Unit. Auto Desk will determine if the Missing Persons Unit needs a continued investigative hold on the vehicle and will then process the vehicle according to impounded vehicle procedures.

If the vehicle is located and impounding the vehicle is clearly not warranted, the located vehicle will be documented in the Missing Person Report.

L 6510 RESPONSIBILITY OF OSSD/RECORDS UNIT:

Revised 10-22-21

Upon completion of an MUPS/NCIC entry, the OSSD/Records Unit member will attach a copy of the entry in the General Offense report.

L 6511 RESPONSIBILITY OF COMMUNICATIONS:

Revised 10-22-21

RADIO BROADCASTS: Information pertaining to missing persons and/or vehicles associated with missing persons are supplied to field units via radio broadcasts whenever the following circumstances are present:

- **THREAT TO OFFICER OR THE PUBLIC:** A Public Safety Broadcast is authorized whenever circumstances indicate that the missing person is a possible threat to field units and/or the public. Examples of circumstances are as follows:
 - Indication of foul play.
 - Indication of threatened suicide, such as a note or indication they want to commit “Suicide by cop”
 - Indication they are armed with a weapon or plan on obtaining a weapon.
 - Mental or physical illness which, if left untreated, would endanger the missing person or members of the public.
 - Mental disability or other debilitating conditions which threatens the safety and/or welfare of the missing person.
- **CHILDREN 11 YEARS OLD OR YOUNGER:** A Public Safety Broadcast is authorized in all cases involving children 11 years old or younger without delay, regardless of the circumstances.
- **JUVENILES 12-16 YEARS OF AGE (AT LEAST 12 YEARS OLD AND LESS THAN 16 YEARS OLD):** A Public Safety Broadcast is authorized in all cases involving juveniles 12 years of age and under 16 years of age without delay, regardless of circumstances.
- **OTHER:** When deemed necessary by an investigating officer assigned to the Juvenile / Missing Persons Unit or when so deemed by a command officer.

L 6512

DISPOSITION WHEN LOCATED:

Revised 10-22-21

Officers will adhere to the following procedure when locating a missing person:

INCIDENTS INVOLVING ADULTS: The officer locating the adult will determine if any foul play was involved (such as elder/dependent adult abuse, kidnapping, etc.) and/or if any life, health or welfare threatening circumstances exist. When such circumstances do exist, the officer locating the missing person will perform those tasks necessary to ensure medical care is provided and proper preliminary investigation is initiated. If circumstances indicate elder/dependent adult abuse, contact the Child/Elder Abuse Supervisor or “Officer of the Day” at the Family Violence Unit or, if after normal working hours, an immediate supervisor and explain the circumstances of the case. (Supervisors are referred to Section L 7200, ELDER AND DEPENDENT ADULTS, for guidance in making a proper decision).

The officer locating the missing person will then ensure that the following additional tasks are performed:

- Complete a supplemental report to the original Missing Person Detail Page in the General Offense Report (Form 200-2-AFR). If the found missing person was originally

reported missing from another jurisdiction, complete a Missing Person General Offense Report (Form 200-2-AFR).

- Detail the facts surrounding the finding of the missing person and document what tasks were performed and evidence obtained during the preliminary investigation.
- Notify the Missing Person Detail that the adult has been located.
- Unless directed otherwise, the officer locating the missing person will notify the party originally reporting the incident that the missing person has been located and is in good health. The officer will retain the confidentiality of the adult missing person's location and will not disclose the present whereabouts or address of the missing person without the missing person's permission. The EXCEPTION to this is if the missing person is a conserved individual; in this case the conservator will be notified, and the missing person will be released to them if possible. This notification and the circumstances are to be documented in a supplemental report to the original Missing Person General Offense Report (Form 200-2-AFR) and the 1065F (Found Missing Person) template.
- When the reporting party inquires as to the reason why the missing person has remained secluded, officers will advise the party that such information must be obtained from the missing person.
- If the missing person is unable to give permission due to illness or injury, the officer will notify their supervisor or the BFO watch commander in charge prior to releasing any information to the original reporting party.
- When the reporting party insists that the officer supply the information, the party is referred to the supervisor of the Missing Persons or the BFO watch commander in charge. The officer will notify the watch commander of the event. Such notification will be indicated in the Missing Person General Offense Report filed.

INCIDENTS INVOLVING MINORS: Officers locating a missing minor will adhere to the following procedures:

- Notify the Missing Persons Detail that the minor has been located.
- If required, provide medical treatment.
- Complete a supplemental report to the original Missing Person General Offense Report (Form 200-2-AFR) and the 1065F (Found Missing Person) template detailing the facts surrounding the finding of the minor, the address where located, any other persons involved, and the mental and/or physical condition of the minor. When the minor purposely remained missing, take a statement from the minor detailing the reason(s) why. Indicate the notification of parents/guardians, Missing Persons Unit, or supervisors in the supplemental report. If the found missing person was originally reported missing from another jurisdiction, complete a Missing Person General Offense Report (Form 200-2-AFR).

- Unless directed otherwise, the minor is transported to their residence and released to the custody of a parent or legal guardian. Explain the details of the investigation to such parent or guardian in as much detail as the parent/guardian requests.

EXCEPTION: When the circumstances indicate that the minor purposely remained missing because of abuse or neglect on the part of the parent/guardian, contact the Child/Elder Abuse Supervisor or “Officer of the Day” at the Family Violence Unit or, if after normal working hours, an immediate supervisor and explain the circumstances of the case; then proceed as directed. (Supervisors are referred to Section L 3000, Juvenile Contacts, of this manual for guidance in making a proper decision).



L 6600 - INTOXICATION CASES:

The initial tasks performed by officers investigating persons suspected of being intoxicated often determine the outcome of the overall investigation. These initial actions include: establishing the nature of the incident; protection and collection of evidence and recording observations. The Department maintains procedures to ensure a proper investigation and officers will adhere to such procedures when appropriate and necessary to restore and/or maintain the community's welfare and safety.

PROCEDURE

L 6601 INTOXICATION CASES - GENERAL PROVISIONS:

Officers assigned to incidents involving the use of intoxicants or drugs will record the facts associated with such an incident. Facts which will be recorded include, but are not limited to, the following:

- ODORS: The odor of alcoholic beverage on the person's breath, clothing or inside a vehicle is noted. The presence of odors from the use of narcotics, marijuana, hashish or other controlled substances are reported.
- INSTRUMENTS AND CONTAINERS: The presence of bottles, cans, boxes, bags or other containers used to hold the intoxicant, narcotic, drug or controlled substance is reported.
- PHYSICAL CONDITION: Speech abnormalities such as slurring, rambling or incoherence is noted. Coordination problems such as staggering, fumbling or misjudging distances are reported. When a person will not or cannot answer questions accurately or perform physical tasks with normal ability, the officer observing such conduct will first determine if some illness, injury or emotional condition caused the abnormality, or if it was caused by ingestion of an intoxicating substance. The determination will be included in the report.

L 6602 NONTRAFFIC CASES:

Deleted 07-02-15

L 6603 BLOOD SEIZURES IN TRAFFIC-RELATED CASES:

Revised 07-02-15

When an officer has reasonable cause to believe that an individual is involved in a traffic-related case, including hit and run, and vehicle/pedestrian collisions, and under the influence of alcohol or drugs, and the level of intoxication would be an essential element in the alleged violation (i.e., Felony DUI), then assigned officers will conduct a chemical test in accordance with Department procedures. (Refer to Duty Manual section L 6607)

L 6604 IMPAIRED DRIVER:

Revised 03-24-23

Officers detaining suspected impaired drivers will adhere to Duty Manual section L 6601 – INTOXICATION CASES – GENERAL PROVISIONS and administer the following SFSTs at

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the scene (refer to SJPDP Form 202-65), unless the subject is injured, refuses to perform the tests, or unusual circumstances exist:

- Walk and Turn (Validated Test)
- Modified Position of Attention (Non-Validated Test)
- Finger to Nose (Non-Validated Test)
- Finger Dexterity (Non-Validated Test)
- Horizontal Gaze Nystagmus (Validated Test)
- One-Leg Stand (Validated Test)

The officer conducting these SFSTs will refer to the “Standardized Field Sobriety Tests” form (SJPDP Form 202-65). Officers will note the subject’s performance on the “CHP Driving Under the Influence Arrest/Investigation Report” (CHP form 202).

When a subject refuses to perform the tests, the subject will be asked why, and the reason given will be noted on the CHP 202 form.

When a subject’s physical condition precludes conducting the above tests, physical condition will be noted on the CHP 202 form.

If alcoholic beverages, drugs, or narcotics are discovered on the subject’s person or in the vehicle, the evidence will be processed in accordance with Duty Manual section L 5500 – PROPERTY REQUIRING SPECIAL PROCESSING

L 6605 INVOLVEMENT IN VEHICLE ACCIDENT:

Revised 06-20-02

When a suspected drunk driver is involved in a vehicle accident, per Vehicle Code Section 40300.5, the investigating officer may, without a warrant, arrest the person when the officer has reasonable cause to believe that the person has been driving the vehicle.

L 6606 PROCESSING DUI ARRESTEE:

Revised 07-02-15

When it is established that the driver is under the influence and placed under arrest, officers will adhere to the following procedures:

- Disposition of Arrestee’s Vehicle: The arresting officer will advise the arrestee that their vehicle will be towed to a secure storage facility for safekeeping unless the officer determines that the vehicle can be lawfully parked or released to another person with the consent of the driver. When the vehicle is stored, an inventory will be conducted in accordance with the Duty Manual section L 5406, Inventory of Stored/Impounded Vehicles.
- Procedures at Processing Facility: The arrestee will be transported to a designated processing facility. The processing officer will then perform the following tasks:

- Admonishments. The officer processing a DUI driver will read both the “Miranda” warning and the “Implied Consent” statement verbatim from the “Driver Under the Influence” form. The officer will record on the form where and what time the statements were read. The arrestee’s response will be indicated on the form by quoting the actual words used by the arrestee to indicate a waiver or refusal.
- Complete Field Sobriety Exercises. Officers will, when possible, have the arrestee complete one field sobriety exercise as indicated on the CHP 202 form.
- Complete Reports. The Form CHP 202 and the “Pre-Booking Information Sheet” will be completed. “Supplementary Reports” (Form CHP 556-MRE) may also be used to record additional details.
- Obtain Test Sample. Upon arrival at the Alcohol Investigations Bureau (AIB), the officer will attempt to collect a consensual chemical test from the pursuant to Vehicle Code Section 23612. (Refer to Duty Manual section L 6607)

L 6607 OTHER TRAFFIC RELATED INCIDENTS:

Deleted 07-02-15

L 6607 CHEMICAL TESTS OF DUI ARRESTEE (VEHICLE CODE SECTION 23612):

Added 07-02-15

If a person is arrested for driving under the influence of alcohol, the person has a choice of blood or breath and the officer shall so inform the arrestee. If the person is incapable or states that he is incapable of taking the chosen test, the person must submit to the remaining test. If both blood and breath tests are unavailable, then the person is deemed to consent to a urine test.

If the person is arrested for DUI of any drug or combined influence of drugs and alcohol, the person has a choice of blood or breath and the officer shall so inform the arrestee.

- A person who chooses to submit to a breath test may also be requested to submit to a blood test if the officer has reasonable cause to believe the person is driving under the influence of a drug or the combined influence of alcohol and a drug and if the officer has a clear indication that a blood test will reveal evidence of the person being under the influence. If the arrestee is incapable of completing the blood test, the person shall submit to and complete a urine test. The officer shall state in their report the facts upon which that belief and clear indication are based and shall document the officer advised the person that they were required to submit to the additional test.

If the person needs medical treatment, and is being transported to a medical facility where it is not feasible to administer a particular test of the arrestee’s blood or breath, then the person has the choice of those tests, including a urine test, that are available at the medical facility. In that case, the officer shall advise the arrestee of the tests that are available at the medical facility and that the person’s choices are limited to the tests that are available.

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If a person has hemophilia, the arrestee is exempt from the blood test, but must complete a urine test.

If the person has a heart condition and is using an anticoagulant under the direction of a licensed doctor, he is exempt from a blood test, but must take a urine test.

- Officers shall not require persons claiming medical exemptions to provide medical proof. When it is determined that a person is exempt from a blood seizure due to a medical reason, they may still provide a breath or urine sample as an alternative to a blood sample.

A person arrested for DUI may request the arresting officer to have a blood or breath test to determine alcohol content of blood.

If a blood or breath test is not available to determine alcohol content of blood, then the remaining test will be administered, and if both tests are unavailable, then the urine test is deemed consented to and administered to determine alcohol content of the blood.

- If breath is selected, any Intoxilyzer certified officer may operate the Intoxilyzer. Certified officers are to assist non-certified officers whenever feasible.

Officers are reminded that nonconsensual blood samples, where all criteria are met, require a valid search warrant prior to the seizure, must be taken in a medically approved manner and be in compliance with Duty Manual sections L 6701, L 6703 and L 6706, L6708, and R 1574.

However, no warrant is required where the suspect consents to a sample before or after the implied consent admonition of Vehicle Code Section 23612. See also Vehicle Code Section 13353 for the requirements to administratively suspend or revoke a driver's license for the refusal to submit to a required chemical test or tests pursuant to Vehicle Code Section 23612.

L 6608

PUBLIC INTOXICATION CASES:

Officers assigned to an incident or observing an incident involving a person who is intoxicated while in a public place will process the incident in accordance with the following procedures:

- **FIELD TESTS:** No field tests need be conducted when the degree of intoxication is such that the person is not able to stand without assistance or the degree of staggering or weaving indicates that the individual is drunk beyond a reasonable doubt.
 - When the circumstances indicate that coordination tests should be conducted, administer the line walking and standing balance test. See Duty Manual section L 6604.
 - In either case, officers will, when necessary, record the events and conduct which indicated the degree of intoxication.
- **DISPOSAL OF INTOXICATING BEVERAGES:** When a person is taken into custody for public intoxication, any opened intoxicating beverages in the possession of the person will be poured out at the scene in the presence of the intoxicated person.

- DISPOSITION: Intoxicated persons taken into custody will be transported to an authorized facility for housing such persons. Officers will complete all forms and other records required by personnel receiving the intoxicated person.

When the intoxicated person comes under the exception provisions of the Penal Code, the officer will book the individual into County Jail and charge the arrestee with a violation of Penal Code Section 647(f). A "Pre-Booking Information Sheet - Drunk in Public" (Form 200-12a) will be completed and, when necessary, a "Supplementary Report" filed detailing the conduct which indicated booking was appropriate.

**L 6700 - CHEMICAL TESTS:**

Department members will ensure that chemical tests are conducted at an appropriate location, and in a manner which is medically approved and consistent with existing law and departmental procedures. When a conflict occurs between the law and departmental procedure, provisions of the law will prevail.

PROCEDURE**L 6701 APPROPRIATE LOCATIONS FOR CONSENSUAL BLOOD SEIZURES OF ADULTS AND MINORS:**

Revised 05-02-24

Officers must ensure that not only will blood samples be taken in a medically approved manner, but under conditions which will not expose officers, suspects or other persons to contaminated blood (HIV, AIDS, etc.), or invite personal risk of infection or injury. Appropriate locations for the consensual seizure of blood samples would include police facilities, medical hospitals or clinics. Locations such as patrol cars, parking lots or outdoor areas shall not be used for blood seizures. The following specific locations are appropriate for blood seizures:

- With the approval of jail personnel, detectives/investigators may use the Santa Clara County Jail for the seizure of blood from adults.
- The Alcohol Investigation Bureau (AIB) may be used for obtaining blood samples from adults and juveniles.
- The San Jose Pre-Processing Center, Holding Cell #2, is specifically equipped with a stainless steel table designed for obtaining nonconsensual blood samples. Holding Cell #2 may also be used for those arrest situations where, prior to booking, a blood sample is required and it is not necessary to process the arrested subject at the Adult or Juvenile Pre-Processing Center.
- Officers placing an arrestee into the Mission Street Recovery Station (MSRS) for misdemeanor DUI and low-level narcotics violations may obtain a blood sample from the arrestee at the MSRS facility prior to admission.

In situations where a blood sample is required from an unconscious individual, officers must first obtain a search warrant, as outlined in Duty Manual section L 6708 - PROCEDURES FOR SEIZING NONCONSENSUAL BLOOD SAMPLES, and ensure the sample is collected while under the supervision of medical personnel at a medical facility. This procedure only pertains to DUI cases. The law does not allow for obtaining search warrants for narcotics influence cases.

L 6702 JUVENILES REQUIRING BLOOD EXTRACTION:

Deleted 07-02-15

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L 6703 MEDICAL CONDITIONS PREVENTING BLOOD SEIZURES:*Revised 07-02-15*

If there is any possibility that a blood seizure will adversely affect the arrestee's medical condition, then blood shall not be drawn unless approved by a medical doctor at a medical facility. Examples that may exempt an individual subject to a blood seizure may include, but are not limited to: serious injury, hemophilia, or taking anticoagulants.

Officers shall not require persons claiming these exemptions to provide medical proof. When it is determined that a person is exempt from a blood seizure due to a medical reason, they may still provide a breath or urine sample as an alternative to a blood sample.

The arresting officer is required to record in the crime report the reason why the blood sample was not obtained and, although not required by the arrestee, any available supporting medical information that prevented the blood seizure (e.g., information from an attending physician or other health care provider, an obvious medical condition, current prescription drugs being used, statement of a family member, neighbor or friend who knows the person, etc.).

Should the individual from whom the officer requires a blood sample be unconscious, and therefore unable to provide consent, the officer should first obtain a valid search warrant for the seizure of the blood to take place at an approved medical facility. (Refer to Duty Manual L 6708).

L 6704 BLOOD TYPING AND DNA TESTING:*Deleted 07-02-15***L 6705 CONTAGIOUS OR INFECTED PERSONS:***Revised 02-16-06*

In-custody arrestees who report that they are infected with contagious or infectious diseases (e.g., AIDS, HIV, tuberculosis, etc.) are evaluated on a case-by-case basis for admittance to PPC by the PPC Supervisor. If the PPC Supervisor determines that the arrestee is not allowed in the Pre-Processing Center's main processing area and a blood sample is required prior to formal booking at the County Jail, the arresting officer will adhere to the following procedures:

- Ensure the Pre-Processing supervisor is advised that the officer is responding to PPC with an arrested party who is contagious or infected, or with an arrestee who claims to be contagious or infected.
- Identify the type of disease or infectious condition.
- Advise the PPC Supervisor of the booking offense.
- Provide an estimated time of arrival.
- Upon arrival, contact the PPC Supervisor via telephone from the ramp area.
- Upon arrival at the PPC, the arresting officer shall not enter the building until advised to do so by the PPC Supervisor. Holding Cell #2 is the only location within the Pre-Processing facility where blood samples are drawn from contagious and infectious

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persons who are denied admittance by the PPC Supervisor. Medical masks are provided to staff and arrested persons. This room is posted as a contaminated area after the blood extraction is completed. The contaminated room must then be cleaned according to the requirements and standards set forth by the County Board of Health prior to being cleared for operational use. The arresting officer will ensure that the PPC Intake Log is completed prior to their departure.

L 6706 SEARCH WARRANT REQUIREMENTS FOR NONCONSENSUAL BLOOD SEIZURES:

Revised 07-02-15

Officers will adhere to the following appropriate procedures whenever an arrestee refuses to consent to a blood seizure:

- **MISDEMEANORS:** Physical force shall only be used to obtain a blood sample from an individual arrested for the following misdemeanor DUI offenses: 23140, 23152, or 23153 of the Vehicle Code, AND
 - The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, AND
 - The sample will be drawn from the person in a reasonable, medically approved manner, AND
 - The officer has obtained a signed, valid search warrant authorizing the seizure.
- **BLOOD SEIZURES FROM UNCONSCIOUS SUSPECTS:** Blood seizures are acceptable in those cases where all of the following exist:
 - The suspect is at a hospital and unconscious,
 - The officer has probable cause to believe that the person is under the influence of alcohol or other drugs,
 - The officer has a clear indication that a chemical test will reveal evidence of the person being under the influence,
 - The officer has obtained a valid search warrant for the blood seizure, AND
 - The level of intoxication would be an essential element in the alleged violation (i.e., DUI.).

Officers are reminded that blood should not be seized from a person who is seriously injured, a hemophiliac, or possibly using an anticoagulant unless approved by a medical doctor at a medical facility.

- **FELONIES:** The fact that the crime is a felony is not in itself sufficient to support a blood seizure. The U.S. Supreme Court has found the intrusion into one's body to be a greater intrusion than a normal search. Thus, the collection of a blood sample cannot be seized under the 'search incident to arrest' rule, even if contemporaneous to the crime. Intoxication or impairment must be considered evidence of an essential element in the alleged violation for which the arrestee is being charged, and the officer has to have probable cause to believe such evidence will be present in the arrestee's blood.

Simply put, ALL blood samples, regardless of the arrest charge, may only be collected when the officer has obtained 1) consent, 2) a search warrant, or 3) articulable exigent

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circumstances excusing the need for a warrant; simple dissipation of evidence is not a sufficient exigency.

- **SEARCH WARRANT EXEMPTIONS for NONCONSENSUAL BLOOD SEIZURES:** These warrant exemptions are the exception and not the rule. In addition, any of the following nonconsensual blood seizures where a search warrant cannot be obtained must first be approved by a supervisor and properly documented.
 - 1) Crash to be investigated or medical assistance to be arranged, where further delay in order to secure a warrant after the time spent investigating the accident and transporting the injured suspect to the hospital to receive treatment would have threatened the destruction of evidence.
 - 2) No magistrate available. While the DA's Office has on-call attorneys and magistrates, improvements in communications technology do not guarantee that a magistrate judge will be available when an officer needs a warrant after making a late-night arrest.
 - 3) Delays from the application process. While very rare, exigent circumstances justifying a warrantless blood sample may arise in the regular course of law enforcement due to delays from the warrant application process (e.g., equipment malfunctions, many warrant applications already awaiting the magistrate's attention, etc.)

All blood seizures must be collected by trained medical personnel in accordance with accepted medical practices. Only objectively reasonable force will be used when obtaining blood samples. Under no circumstances will unreasonable force be used. Generally, reasonable force would be the application of that amount of physical restraint required to collect the blood sample in a safe and efficient manner. If blood cannot be safely obtained, it should not be collected. Lastly, blood should not be seized from a person who is seriously injured, a hemophiliac, or possibly using an anticoagulant unless approved by a medical doctor at a medical facility.

In some cases, a search warrant for a nonconsensual blood sample may not be necessary if the suspect requests to undergo an alternative form of drug testing that would yield results of equal evidentiary value.

Officers may coordinate with the District Attorney's Office on-call staff, obtained via Communications or the respective SJPD investigative unit for further assistance, but should make every effort to become proficient in obtaining electronic blood seizure search warrants.

L 6707 **METHOD OF BLOOD SAMPLE EXTRACTION:**
Deleted 07-02-15

L 6708 **PROCEDURES FOR SEIZING NONCONSENSUAL BLOOD SAMPLES:**
Revised 05-13-22

A blood sample is considered non-consensual when the arrestee refuses either verbally or physically to voluntarily submit to the collection of their blood.

All non-consensual blood seizures will be collected at the Pre-Processing Center, Holding Cell #2 stainless steel table. The only exception will be at a medical facility where the arrestee is physically restrained. In that circumstance, the procedures of the medical facility for taking blood samples will be followed.

The following procedures must be adhered to whenever a non-consensual blood sample must be obtained from an arrestee:

- Arresting officers will transport the arrestee to the Pre-Processing Center (PPC) and request a supervisor to respond,
- Identify the booking charges and specify the need for forced blood (Refer to Duty Manual section L 6706—SEARCH WARRANT REQUIREMENTS FOR NON-CONSENSUAL BLOOD DRAW)
- Coordinate with the Santa Clara County District Attorney's Office for an electronic blood seizure search warrant
- Provide the supervisor the electronically signed search warrant for verification
- Ensure that a blood technician is responding
- Ensure the blood technician is aware the blood draw is for toxicology, DNA, etc.
- The supervisor will evaluate each situation on a case-by-case basis to minimize potential injury to the suspect, officers, and blood technician. The supervisor will also ensure the blood seizure is performed in Holding Cell #2, and the suspect is securely handcuffed to the stainless steel table.
- After obtaining the signed warrant, the supervisor will attempt to gain consent from the arrestee to:
 - Toxicology—Seize their blood and admonish them physical restraint may be used to collect the blood sample if they do not consent
 - DNA—Seize their DNA via buccal swab and admonish them physical restraint may be used to collect the blood sample if they do not consent
- The supervisor will ensure the blood sample is collected in a medically approved manner and only reasonable force is used to collect the blood sample. Generally, reasonable force would be the application of that amount of physical restraint required to collect the blood sample in a safe and efficient manner.
- If the arrestee resists to a degree that the subject cannot be placed in a position for a blood seizure without undue risk of injury to the arrestee, officers, and/or blood technician, then the officers shall not attempt to conduct a forced blood seizure. Also, if, in the opinion of the blood technician, the level of the arrestee's resistance creates an undue risk of injury, the blood technician may choose not to attempt obtaining a blood sample.
- The arresting officers will ensure that all incidents of non-consensual blood seizures are documented in a General Offense Report (Form 200-2-AFR) or

Narrative/Supplemental Report (Form 200-3A-AFR). If reportable force was used to collect the blood, a use of force investigation will be conducted as described in Duty Manual chapter L 2600—USE OF FORCE. The crime report shall include the facts and circumstances necessitating the forced blood seizure, the type of force used, the statement and behavior of the arrestee, the electronic search warrant number and magistrate's name, and all witnesses present, including the laboratory technician.

L 6709 URINE SAMPLES:

Revised 05-02-24

Persons who refuse to give a blood sample will frequently give a urine sample. Since there is a direct correlation of alcohol or controlled substances in urine as well as in blood, a urine sample is acceptable if a blood sample is unobtainable. Urine samples are the preferred chemical sample in narcotics cases.

Urine samples may be taken at Alcohol Investigation Bureau (AIB) and the Department's Pre-Processing Center. Officers placing an arrestee into the Mission Street Recovery Station (MSRS) for misdemeanor DUI and low-level narcotics violations may obtain a urine sample from the arrestee at the MSRS facility prior to admission.

Prior to taking a urine sample (except in narcotic cases), the suspect must empty their bladder. The sample will be taken 20 to 30 minutes later. The officer will note on the envelope the time of voiding and the time the sample was taken. The following additional procedures will also be adhered to when administering a urine test:

- The law requires that when a urine sample is taken the subject must be given reasonable privacy consistent with the accuracy of the sample and the dignity of the individual.
- The person obtaining the sample will use a urine sample bottle and a "chain of possession" envelope. Officers will ensure that the envelope is completed and the initials of the person obtaining the sample, the date, the case number and their own initials are indicated on the urine sample bottle.

L 6710 BREATH SAMPLES:

Intoxilyzer certified officers may operate the breath analysis machines. Upon completion of the test, officers will place both laboratory copies of the Intoxilyzer Test Record and the completed Breath Test Procedure form in the completed Blood Alcohol envelope. The envelope will be processed in the same manner as the blood test. The remaining two copies of the Intoxilyzer Test Record will be submitted to the Records Unit with the other reports pertaining to the case.

L 6711 REQUIRED ADDITIONAL REPORTS:

In addition to those forms used to report the incident (Crime Report, AIB Form, JCR, etc.), officers initiating the taking of biological samples for analysis will complete the "Request for Taking Specimen - Chemical Analysis" form (Santa Clara County Form 6857) and submit the officer's copy with the other reports pertaining to the case.

L 6712 DNA SAMPLES FROM MINORS:

Added 06-03-20

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When seeking to collect a DNA sample from a minor, (including buccal swabs or other biological samples) investigating officers will use the search warrant process rather than requesting the sample by consent. In the rare circumstance that there is an investigative necessity to seek a DNA sample from a minor (under 18) by consent rather than by warrant, such an exception may be granted by the investigating officer's Deputy Chief.

All approved consensual requests for DNA samples from a minor shall be performed in compliance with the provisions contained in Welfare & Institutions Code Section 625.4. The investigating officer will be responsible for preparing all written consent & expungement documents required by the statute (to include completing Form 204-30, Minor's Voluntary DNA Sample Consent/Expungement Form).

L 6713 DNA SAMPLES FROM CONSENTING ADULTS:

Added 05-13-22

DNA samples may be collected from any adult upon consent. The preferred method of collection is via buccal swab. A signed Search Consent Form (Form 202-54) and an audio/video recording of the provided consent is strongly encouraged.

All consensual DNA samples will be booked as evidence at Central Supply or upon the direction of the investigating unit without delay. Any officer booking evidence containing DNA at Central Supply will consult with Central Supply personnel to ensure proper packaging and markings for DNA submission and analysis.

All DNA samples will be documented in the applicable police report.

L 6714 DNA SAMPLES FROM ADULT FELONY ARRESTEES:

Added 05-13-22

Officers shall collect a DNA sample, using a buccal swab, from a person when all of the following conditions exist:

- Arrestee is an adult
- Arrest is for a felony
- Evidence possibly containing the suspect's DNA is seized or may be seized in the future (e.g., bloody weapon, soiled bedsheets, cigarette butt, etc.)
- Collection occurs at or soon after the time of arrest and prior to release or booking
- DNA analysis may aid in the on-going investigation (e.g., linking a suspect to firearm)
- The arrestee consents

In the event an adult felony arrestee does not consent (refuses either verbally or physically) to provide a DNA sample using a buccal swab, officers will collect a DNA sample by adhering to Duty Manual section L 6708 — PROCEDURES FOR SEIZING NON-CONSENSUAL BLOOD SAMPLES.

All evidence containing DNA, including weapons, buccal swabs, and blood vials, shall be booked as evidence at Central Supply or upon the direction of the investigating unit without delay. Any officer booking evidence containing DNA at Central Supply will consult with

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Central Supply personnel to ensure proper packaging and markings for DNA submission and analysis.

All DNA evidence will be documented in the applicable police report.

Note: Nothing in this section prohibits an officer from collecting a DNA sample from any adult by consent.



L 6800 - DISTURBANCE OF THE PEACE:

The Department has a responsibility to detect, document and resolve disturbances of the peace occurring within the city. Each officer has an individual responsibility to conduct appropriate investigative tasks whenever disturbance of the peace, including domestic violence, is discovered or otherwise reported.

PROCEDURE

L 6801 DISTURBANCE OF THE PEACE - GENERAL PROVISIONS:

Officers assigned to incidents involving a disturbance of the peace must remain calm and objective in order to successfully resolve and manage the confused, emotional and often dangerous situation. Crucial to a successful response is the assigned officer's ability to demonstrate neutrality, tact, patience and investigative thoroughness.

L 6802 OFFICER SAFETY:

Officers assigned to disturbance calls will remain aware that police intervention is often viewed by participants as unwarranted and may result in violence directed at arriving officers. The following elements will be considered by officers assigned to respond to the scene of a disturbance.

- **THE NATURE OF THE DISTURBANCE:** The degree of threat to an officer's safety is directly related to the number of people involved and the nature of the disturbance. Assigned officers and especially supervisors will assess such circumstances and intervene in the disturbance with sufficient resources to maintain control.
- **THE LOCATION:** The type of structure or area in which the disturbance is occurring will indicate the safe approach. Officers will assess this factor and approach in a manner which affords them maximum safety and control of the area and/or circumstances.

Assigned officers will remain aware that the incidents involving a disturbance of the peace are normally accompanied by participants who are emotional, angry and unconcerned about the consequences of their actions.

L 6803 OFFICER CONDUCT:

Officers will convey a calm, positive, determined and professional image by adhering to the following process when appropriate:

- **SUPPLY INFORMATION TO PARTICIPANTS:** Officers will introduce themselves and explain their presence to participants. When necessary, assigned officers will also explain the law.
- **DISPLAY EFFECTIVE ATTITUDE:** Officers will not downplay the incident by belittling the problem or by ridiculing participants. A matter of fact, business-like attitude is

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advisable so that participants are made aware that the officer intends to mitigate the problem, make arrests for violations of existing law and restore the public peace.

- **MAINTAIN EFFORT**: When entry into a dwelling or area is refused and the disturbance is continuing, officers may enter to make an arrest if reasonable cause and the elements of a crime are present. When a forced entry is made, approval from a district supervisor will be obtained and sufficient resources allocated to effectively accomplish entrance and arrest, if necessary.
- **OBTAIN FACTS**: Upon arrival at the scene, assigned officers will be attentive to the conduct and actions of participants. When violence is occurring, officers will, if possible and practical, intervene and take into custody those persons initiating the violence. Once calm is restored, officers will carefully interview those participants directly involved in the disturbance. Officers will avoid taking action until pertinent facts have been obtained from both parties. This is crucial to maintaining objectivity and impartiality.
- **INFORM PARTIES OF LIMITS**: When the facts and/or circumstances fail to establish reasonable cause for an arrest or otherwise limit the options available, officers will explain true limits on police authority to participants or other persons demanding action.

When an atmosphere of calm is established and facts obtained, the assigned officer will then perform those tasks required to resolve the conflict or disturbance.

L 6804

TAKING POSITIVE ACTION:

Assigned officers will consider mediation, referral and arrest as possible alternatives in resolving disturbances and restoring the public peace. One or more of the alternatives may be used depending on the circumstances of each case.

- **MEDIATION**: Officers may attempt to have participants agree to a solution to the dispute. Officers will remain aware of the important role the participants have in deciding on any solution. Unless the parties themselves agree to a given solution, any agreement between them will quickly disappear after the officer is out of their sight. Essentially what is to be sought is recognition by participants of their respective contribution to the problem and a commitment to solve the problem in other ways than by displaying hostility or violence.
- **REFERRALS**: Where outside counseling seems advisable, but before suggesting a referral, officers will carefully consider what the most appropriate referral would be. It is essential that the disputants be referred only to an agency that is equipped to help with the particular problem. A full list of social service agencies is in the Department's Community Resource Manual (Blue Pages). This manual should be consulted in making a proper referral. When making a referral, the following elements will be considered and employed when appropriate. Identifying the Referral Agcy. When making a referral, write down the name of the agency, the address, and the telephone number. If someone at the agency is known personally, write down their name, too. Parties are much more likely to take advantage of services offered when they have a specific person to ask for upon their arrival at the agency.
- If there is a choice among agencies, make the referral to the agency or organization closest to the home of the disputants.

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- Dissimilar Problems: Where the disputants or the family have more than one problem and really need the services of a number of agencies, determine the most acute problem and make an appropriate referral for such.
- ARREST: There are some situations when there is no reasonable alternative but to arrest persons who are involved in an act of physical violence or there is other criminal conduct directed toward the complainant and committed in the presence of the officer or where sufficient probable cause exists in felony cases.
- DOMESTIC VIOLENCE: Definition - Any harmful physical contact or threat thereof between persons who are spouses or cohabitants or who have previously been spouses or cohabitants. Arrest will be considered an appropriate alternative to resolve domestic violence cases when probable cause exists.

Where there is insufficient probable cause for a lawful arrest by the officer in domestic violence cases, officer shall inform the victim of their right to make a citizen's arrest. Officers shall not dissuade persons from making citizen's arrests but will inform victims when the elements for a lawful citizen's arrest do not exist. If the victim wants to make a citizen's arrest, and the elements for the arrest exist, the officer shall assist the victim in accomplishing the arrest and receive the arrested person into custody. The officer may cite and release as provided for in the Penal Code.

In non-arrest disturbance situations, officers will report facts surrounding the incident, the statements of the participants or reporting party, and the action taken by the officer, when the situation warrants such documentation for future reference.

L 6805

OBSCENE OR DISTURBING TELEPHONE CALLS:

When an obscene or disturbing call is received, the complaint will be referred to the Telephone Report Automation Center (TRAC) or Information Center and processed in accordance with the Duty Manual section S 4304 (Obscene or Disturbing Telephone Calls).

EXCEPTION: When the perpetrator threatens the victim and there is an indication that the threat may be carried out, a field unit will be dispatched. Circumstances which will be considered include, but are not limited to, the relationship between the perpetrator and victim, the indicated reason for the threats, the officer's own perception of the situation and the ability of the suspect to perform the action threatened. The field officer assigned will then complete a "Crime Report" detailing the nature of the threat, the identity of the suspect, if known, and any other information which may assist in a subsequent investigation.

L 6806

BARKING DOG COMPLAINTS:

When a barking dog or other animal disturbance complaint is received during regular business hours, 0800-1700, Monday through Friday, the complainant will be placed in contact with the San Jose Animal Care Center, telephone number (408) 794-7297, which will handle the complaint. At other times TRAC or Main Lobby will attempt to handle the complaint.

If the complainant wishes to talk to police personnel, the complaint will be handled by the Information Center. Information Center members handling such complaints may attempt resolution of the disturbance by telephoning the owner of the animal. If on-scene investigation is demanded and/or the situation has or may develop into confrontation between the parties involved, an officer will be dispatched.

All copies of the "Crime Report", if prepared, will be forwarded to the Department of Planning Building and Code Enforcement. Department members will inform the complainants that they will forward the information to South Bay Animal Control Services for follow-up.

L 6807

DISTURBANCE VIOLATIONS:

Whenever Department members respond to a disturbance (block parties, nightclubs, etc.), particularly one where the member strongly suspects that subsequent calls will be received, they will complete the Disturbance Violation Report (Form 204-17) and provide a copy to the responsible party. The Department member will also verbally explain that if the Police Department responds for a second time to the violator's location in the next 12 hours, that the violator will be billed for the actual time and expenses required to restore order and quell the disturbance. The person who is responsible for the disturbance, or who owns, leases or rents the property, will be personally liable for the bill. Department members will document their first response on the Form-204-17 and will enter the name and the date of birth of the person admonished in the comment field on the MDT before closing the event. This will allow other units to access the name of the reporting party should the initial unit be unavailable. The second unit will document the Police Department response in a General Offense Report (Form 200-2-AFR). The documentation will include the number of units that responded (identified by name and badge number), the amount of time spent at the call, and any equipment damaged or injuries sustained while handling the disturbance.

Responses to some permitted facilities (nightclubs, block parties and special assembly permits) need not have a second response (or a warning) before the owner/organizer is given notice for the cost recovery. It is presumed that they were warned as a function of the permit process under San Jose Municipal Code Section 6.02.240. However, to use this section, there must be clearly blatant violations of the permit such as the number of people in the establishment, insufficient security, etc.

All completed Form-204-17's will be deposited in the box for the FAIR cards, and the General Offense Report (Form 200-2-AFR) will be submitted through normal channels. Both the crime report and the F-204-17 will contain both event numbers where applicable. The Permits Unit will be coordinating this process for the Police Department, including the issuing officers' appearances before the Appeals Board.

This is a civil procedure, not a criminal procedure. The fundamental emphasis is not on revenue but on educating the public on how repeated responses to public disturbances create enormous expenses to the City.



L 6900 - TRAFFIC ACCIDENTS:

Revised 02-20-17

An accident or collision is an unintended event that produces damage or injury involving a motor vehicle in-transport; the word "injury" includes fatal injury. For the purposes of this Duty Manual, "accident" and "collision" are used synonymously. The investigation of traffic accidents is necessary, not only to determine traffic law violations, but also to obtain engineering data, to protect the rights of the individuals involved and to assist in traffic education. The Department will process accidents occurring within the City limits. In cases of questionable jurisdiction, the Department will process such accidents and determine the jurisdiction at a later time.

PROCEDURE

L 6901 TRAFFIC ACCIDENTS - GENERAL PROVISIONS:

Revised 07-13-18

Motor vehicle accidents will be investigated and reported on the "Traffic Collision Report" (Form CHP 555-MRE) of the Mobile Report Entry (MRE) system when the event is unintended; produces damage or injury, and one or more of the following circumstances exist:

- A fatality occurs.
- An injury occurs where the injured person requires immediate hospitalization or
- Intends to leave the accident scene and seek medical care immediately or complaint of pain.
- All hit-and-run accidents with suspect information or follow-up information.
- A drunk driver is involved.
 - Note: The vehicle collision shall be documented on the Form CHP 555-MRE and the DUI investigation shall be documented on hard copy CHP report forms (CHP 202, CHP 556 Narrative/Supplemental, etc.).
- The collision involves a City vehicle, City liability, or occurs on City property or property controlled by the City, or involves a vehicle or property controlled by another governmental agency when such other governmental agency requires that a report be completed.
- An arrest is made which is directly associated with the accident.
- The collision involves an aircraft or train.
- If follow-up is required.

While the above listed traffic collisions shall be documented on the automated Traffic Collision Report (Form CHP 555-MRE), Department members who diagram/sketch an accident scene shall use the hard copy "Form CHP 555 page 4" for the sketch/diagram. The hard copy sketch/diagram shall then be submitted to the Records Unit for processing.

All other accidents will be handled as follows:

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If the accident does not involve any injured parties, the officer or CSO shall facilitate the exchange of information between the involved drivers. If two or less vehicles are involved, there is no investigation required; however, officers and CSOs may utilize the automated Property Damage Only Traffic Collision Report (CHP 555 MRE) as a mechanism to document the collision. In the "Special Conditions" box of the automated CHP 555-MRE form, officers and CSOs shall type "Property Damage Only, No Narrative" and then enter the involved entities into the report. The officer or CSO is not required to complete a sketch or narrative unless an officer at the scene issues a citation. The officer or CSO will submit the completed CHP 555-MRE report for supervisor approval.

EXCEPTION: If an officer is working a secondary employment assignment, the officer shall utilize hard copy forms. When using the hard copy forms, the officer will check the "No" box next to "Report Taken" and the "Yes" box next to "Exchange of information." The top half of the form will be completed to include Party 1, Party 2 and any relevant witness information. The officer is not required to complete a sketch or narrative unless the officer issues a citation. Whenever a hard copy CHP 555-03 form is completed by an officer working secondary employment, the assigned officer will then give each driver a carbon copy. The original copy will be forwarded to the Records Unit in the same manner as other report forms.

All officers and CSOs may facilitate information exchanges through means other than the Property Damage Only Traffic Collision Report; however, an event number will be provided to involved parties.

Department members may issue a citation for a moving violation not committed in the officer's presence when using the CHP 555-03 form. Members shall document all circumstances and witness names/statements in sufficient detail to enable them to testify in court with sufficient clarity and detail as to the cause of the accident and reason for the citation. Pursuant to Vehicle Code Section 40600(d), a peace officer may issue a citation if, as a result of the officer's investigation, the officer has testimonial and/or real evidence that would be sufficient to issue a citation if the officer had personally witnessed the events investigated. Officers will document all entities in the Mobile Report Entry (MRE) system.

L 6902

PRIVATE PROPERTY ACCIDENTS:

Since the Vehicle Code's "Rules of the Road" are not normally applicable on private property, accidents occurring thereon will not normally be investigated. The involved parties and/or their agents are in a more appropriate position to civilly represent their own interests. However, the Department serves as an agent of the City, and certain exceptions are applicable to the Vehicle Code. Therefore, private property accidents involving the following circumstances are investigated:

- A death or injury occurred.
- Intoxicated driver involved.
- Hit-and-run involved.
- City vehicle or property involved.
- County, state or federal vehicles or property involved.

L 6903 QUESTIONABLE JURISDICTION:

In cases of questionable jurisdiction, a report will be taken and jurisdiction will be determined later. Accidents occurring on freeways within the City will be handled by the California Highway Patrol.

L 6904 INITIAL RESPONSIBILITY UPON ARRIVAL AT THE SCENE:

The following tasks will be performed upon arrival at the scene of a vehicle accident:

- **PARKING CITY VEHICLES:** Park vehicles so as not to create a hazard. However, vehicles can be used as a temporary barrier for traffic control.
- **INITIAL OBSERVATIONS:** Be alert for autos or persons who were involved in the accident leaving the scene.
- **DETERMINE INJURIES:** When appropriate, the first arriving officer will summon an ambulance and render first aid.
- **PROTECTION OF PROPERTY:** Protect damaged vehicles and personal property.
- **DETERMINE NATURE:** The officer assigned to investigate the accident will ascertain if it is a "hit-and-run" case. If so, the officer will proceed as specified in this manual under section L 6910, "Investigating Hit-and-Run Accidents."
- **DETERMINE PARTICIPANTS:** The officer assigned to report the accident will locate involved vehicle drivers and witnesses observing the collision. As each driver/witness is located, the investigating officer will obtain such person's driver's license or other identification.

L 6905 INITIAL INVESTIGATIVE PROCEDURES:

When the circumstances indicate a full investigation is required, the assigned officer will perform the following additional tasks upon ensuring that the scene is secure and required medical care provided:

- **OBTAIN STATEMENTS:** The officer assigned to interview drivers and witnesses will do so at the scene unless they have been taken to a hospital, physically incapacitated or have left prior to the officer's arrival. When a driver or witness is not at the scene, officers will delay interviewing until completion of the on-scene investigation. Interviews will be conducted in accordance with Duty Manual section L 4500 (Interviews/Interrogations).
- **DETERMINE EVENTS:** The officer assigned to report the accident will determine the point of impact, direction of travel, speeds involved, location of vehicles after impact, presence and nature of skid marks, and any other conditions or events which are necessary to establish an understanding of the accident. When practical, officers will mark the position of the involved vehicles and then move them from the street in order to restore a safe traffic flow.
- **DETERMINE PHYSICAL CONDITION OF DRIVERS:** The officer assigned to interview the drivers will examine them for physical conditions which may have contributed to the accident. When a driver's conduct and/or physical condition indicates possible intoxication, the interviewing officer will conduct an examination of such driver in conformance with Duty Manual section L 6600 (Intoxication Cases).

- **DETERMINE MECHANICAL CONDITION OF VEHICLES:** The officer assigned to report the accident will examine the involved vehicles for mechanical defects or deficiencies such as lighting equipment, brakes, windshields and windows and other safety devices.
- **DETERMINE CONDITION AND NATURE OF ROADWAY:** The officer assigned to report the accident will determine the character of the roadway and area in which the accident occurred. The presence of traffic control devices, lighting conditions, roadway width, surface composition and traffic conditions will be noted.
- **COLLECT PHYSICAL EVIDENCE:** The officer assigned to report the accident is responsible for ensuring that physical evidence at the scene is collected, marked and processed in accordance with Duty Manual section L 4401 (Collection of Physical Evidence).

The officer assigned to report the accident is responsible for ensuring that all statements, facts, circumstances, conditions, events and descriptions are included in the report.

L 6906

IDENTIFICATION OF PERSONS INVOLVED:

The following will apply in the case of all persons listed in reports:

- **NAMES:** Obtain and report the full name, not merely the surname and initials. Check the spelling against any written identification in the possession of the individual.
- **ADDRESSES:** Addresses are complete and accurate. Include the name of the city in each case, and if the parties are not local residents, ascertain if they have a temporary local address and the probable duration of their stay.
- **FIELD CHECKS:** If investigating motor vehicle accidents, make a warrant check on the drivers involved. If warrants are outstanding, they are immediately served, unless this is prevented by the physical and mental condition of the person involved. Officers will indicate on the report that a warrant search has been made.

L 6907

TAKING STATEMENTS FROM WITNESSES:

The officer interviewing witnesses will obtain the following information and ensure its inclusion in the report:

- **LOCATION:** Note where the witness was in relation to the accident and if such witness could have observed the events described. Include in the report the names of the passengers and their location within the vehicle.
- **OBSERVATION:** Note what and where the first thing connected with the accident was observed. Were there any unusual actions on the part of persons involved?
- **IDENTIFICATION OF PARTIES:** Can the witness identify the parties involved in the accident? Did such witness have any conversation with them?
- **WITNESS'S DEFICIENCIES:** Is the witness biased, antagonistic, uncooperative or mentally incompetent? If so, indicate such condition on the "Accident Report" form.

The officer will, when possible, obtain a witness's signature following the written statement contained in the report.

L 6908**RECORDING SKID MARKS:**

Tire skid marks left on the surface of a street by a vehicle may be used to determine the minimum possible speed at which the vehicle could have been traveling at the time the brakes were applied. They are also valuable in determining the course traveled by vehicles. The following will apply in respect to field investigation in such cases.

- **IDENTIFICATION:** Skid marks left by a vehicle in the street may be identified by any or all of the following means:
 - By a witness.
 - Admission by the driver.
 - Physical facts - marks leading directly to the vehicle.
- **MEASURING:** The officer assigned to report the accident will measure and describe all skid marks identified as associated with the accident. Elements to determine are as follows:
 - **Number of Marks.** Identify the wheel which caused each of the skid marks.
 - **Length of Marks.** Measure the full length of each skid mark starting from the first visible indication. In the case of a skid mark that forms an arc, measure the length of the arc following the mark itself.
 - **Method of Measurement.** Pace the distance and note the number of paces on the report. To confirm the measurements, two or more officers may check each other. Convert the paces into feet.
 - **Points.** Show the position of the marks in relation to permanent reference points such as curbs, elongations of property lines or other fixed objects.
 - **NOTEBOOK USE:** When possible, draw a rough sketch of the scene in a notebook indicating the location of skid marks. Such material has evidentiary value as original notes.

L 6909**PHOTOGRAPHING THE ACCIDENT SCENE:**

The officer assigned to report the accident will, when appropriate, ensure that photographs are obtained in accordance with the following procedures:

- **WHEN REQUIRED:** When necessary, take photographs. Generally, pictures are taken of accidents involving fatalities, serious injuries, and in every case where City property is involved or damaged.

Pictures are taken of felony crime scenes and suicides whenever applicable.

- **PERSPECTIVES REQUIRED:** The prosecutor requires that primary pictures of ordinary accidents include a perspective of the north-south curb lines showing vehicles in relation to skid marks and curbs and similar photographs of east-west curbs.
- **NUMBER OF PHOTOGRAPHS:** Take as many pictures as necessary to prove the violation.
- **FOLLOW-UP PHOTOGRAPHS:** These pictures may include any important fact, such as the length of skids with their relation to reference points.

- **NIGHT PHOTOGRAPHS:** During hours of darkness, first take pictures of skid marks and other items of evidence without chalk marks and then retake them with the area outlined with chalk. Use a flash when taking photographs at night.
- **BLOOD MARKS:** First take the picture without aids and then retake it with the area outlined in chalk or with some person pointing to the marks.
- **DAMAGE TO CITY PROPERTY:** Regardless of their evidentiary value, take photographs in every case where a City vehicle or City Property is involved in an accident. The photographs will show the extent of damage to vehicles or other property involved in the accident.
- **ADMISSIBILITY:** The admissibility of photographs is dependent upon the following basic factors:
 - **Relativity.** That the photograph is related to the case.
 - **Prejudice.** That it would not cause undue prejudice or sympathy.
 - **Identification.** That it is properly identified. Include details of processing, such as date and time taken, location, exact location of camera lens, exposure data and the type of film used.
 - **Officer's knowledge.** That the officer giving the testimony saw the event or fact depicted in the photograph, that of the officer's own knowledge the depiction is true, and that the officer took the picture or that it was taken in such officer's presence. Photographs merely corroborate an officer's testimony.

L 6910

INVESTIGATING HIT-AND-RUN ACCIDENTS:

Officers assigned to respond to the scene of a hit-and-run, or who determines that an accident is a hit-and-run, will adhere to the following procedures:

- **INITIAL ACTION:** The first arriving officer will immediately obtain and broadcast a description of the suspect driver and the vehicle involved. After providing medical care to victims and protecting evidence, officers will locate witnesses who can assist in identifying the suspect and hit-and-run vehicle.
- **COLLECTION OF EVIDENCE:** Collect evidence in accordance with the DM Section L 4401, (COLLECTION OF PHYSICAL EVIDENCE), When an involved vehicle is impounded for examination by the crime laboratory or other investigators, instruct the tow company representative that the impounded vehicle must be protected from weather or other conditions that might destroy evidence.
- **TELETYPES:** If initiating teletypes pertaining to hit-and-run incidents, indicate on the teletype request that returned information be directed to the Hit-and-Run Detail. Officers will also include their own name, badge number and case number on the teletype request.

L 6911

CITATIONS:

The officer investigating an accident may issue a citation at the scene under the following circumstances:

- **CITATIONS FOR MOVING VIOLATIONS:** When the evidence (statements, observations, physical items, circumstances) reasonably indicates that a violation occurred and such evidence is reported on the "Traffic Collision Report," the officer investigating the accident may issue a citation. When the issuing officer has not observed the violation and the violator refuses to sign, the officer will perform those tasks necessary to have a warrant issued - the violator will not be booked for a violation not witnessed by the citing officer.

L 6912 VERIFYING INVESTIGATION:

The officer having responsibility for an accident investigation, even when assisted by others, will verify all facts at the scene so that such officer will be qualified to testify in court concerning the accident.

L 6913 INFORMATION SUPPLIED AT SCENE:

The individuals involved will be allowed to exchange names and addresses and be provided any other information pertinent to the accident when it is practical to do so.

L 6914 NOTIFICATION OF FINANCIAL RESPONSIBILITY:

Investigating officers will notify drivers of their obligations under the California Vehicle Code to file a "Financial Responsibility Form" (State Form) in accidents in which more than \$1,000.00 damage occurs or in accidents involving any personal injury.

L 6915 DELAYED HIT-AND- RUN ACCIDENT REPORTS:

In those cases where the reporting of a hit-and-run accident is delayed, the vehicles have left the scene and there are no injuries or suspects, the reporting party will be directed to respond to the Police Administration Building 7 days a week, between 0600 and 2400 hours. The reporting party will be referred to the Information Center where a Department member will assist the reporting party in completing an "Accident Report." Information officers should also inspect the reporting party's vehicle to ensure that damage is described accurately.

When there are injuries, or a suspect is known and apprehension is possible, or the vehicles are still at the scene, a field unit will be dispatched and a report taken.

L 6916 IMPOUND OF VEHICLES INVOLVED IN ACCIDENTS:

When the driver of a vehicle involved in an accident is incapacitated due to injury, illness, unconsciousness or fatality and cannot provide the assigned officer with directions on the disposal of such person's vehicle, the assigned officer will order the vehicle towed to a safe storage facility. When a vehicle is towed under these circumstances, the officer ordering the tow will inventory the vehicle in conformance with Duty Manual section L 5406 (INVENTORY OF STORED/IMPOUNDED VEHICLES).

If the vehicle is only being stored at the tow company, the vehicle owner is given a Report Receipt Card (Form 200-45a) with the case number and name and telephone number of the tow company written on it. The Auto Desk is not involved in releasing vehicles towed under these circumstances.

NOTE: When the accident involves a fatality and a criminal investigation is being conducted, the towed vehicle will have a hold placed on it pending completion of the investigation. A

Form CHP 180 will be made by the officer and turned into the Auto Desk as soon as possible after his shift.

EXCEPTION: When a responsible member of the driver's family is present and the vehicle is not evidence, the assigned officer may release the vehicle to such person's custody.

L 6917 REPORTING CAUSES AND CONDITIONS:

When investigating and reporting accidents, officers will accurately and appropriately complete both the narrative portion and the "check off" portion of the accident form.

L 6918 AIRCRAFT CRASHES - DUTIES AND RESPONSIBILITIES:

Several agencies must coordinate their efforts to properly investigate an aircraft crash. Responsibility for the different duties in an aircraft crash within San Jose City limits are:

- INVESTIGATION: Inquiry into the cause of the accident is the responsibility of the National Transportation Safety Board (NTSB) and the Federal Aviation Agency (FAA).
- RESCUE AND DISASTER CONTROL: This is the responsibility of the San Jose Fire Department with assistance as needed from paramedics and the Police Department.
- TRAFFIC AND CROWD CONTROL: This is the responsibility of the San Jose Police Department and shall be maintained until the disaster situation is terminated and the Coroner's Office has removed all remains. Protection of property will continue until private property owners can take over that responsibility.
- REPORTING: The Public Utilities Code, Aircraft Financial Responsibilities Act, Section 24300, requires that the Department complete a Department of Transportation "Report of Aircraft Accident." It shall be the responsibility of the investigating officer to complete the form immediately after any crash in which any person is injured or killed, or in which there is more than \$400 damage to property of any person other than the owner or operator of the aircraft.

The Traffic Collision Report (Form CHP 555-MRE) will be used to report any aircraft crash. All entities involved shall be entered into the Mobile Report Entry (MRE) system.

Line Operations/Procedures

L 7000 – L 7900



San Jose Police Department Duty Manual



L 7000 - ACCIDENTS INVOLVING DEPARTMENT MEMBERS:

Revised 02-20-17

The nature of emergency services exposes public safety Department members to various hazards. One hazard which can be controlled is unintended vehicle collisions. In this regard, the Department continuously strives to develop the driving techniques which minimize the frequency of vehicle collisions involving Department members. To develop such techniques, the cause and circumstances surrounding a collision must be determined. Therefore, the Department maintains procedures which ensure a thorough and proper investigation of all accidents involving on-duty Department members. Accidents shown to have been preventable are examined to determine if disciplinary attention is necessary

PROCEDURE

L 7001 ACCIDENTS INVOLVING ON-DUTY DEPARTMENT MEMBERS:

Department members who are involved in an accident with a City vehicle or involved in an on-duty accident with any other vehicle, will adhere to the following procedures.

L 7002 DRIVER'S RESPONSIBILITIES:

Revised 11-16-12

The driver of a vehicle involved in an accident while on City business will abide by the following procedures:

NOTIFICATION OF SUPERVISOR: Immediately notify Communications that the vehicle has been involved in an accident. Unless incapacitated, make a request for an investigating officer and a district supervisor.

STATEMENTS AT THE SCENE: Department members who are involved in a vehicle accident shall provide a verbal statement to the investigating officer, regardless of the investigating agency. Prior to providing a statement, Department members may consult with a supervisor, union representative, City Attorney's Office representative or any other outside counsel. If after consulting with one of the above-listed resources, the involved Department member does not provide a statement at the scene, they will advise the investigating officer that a statement will be provided within 24 hours. The statement shall be given to the investigating officer, either verbally or in writing on a Form CHP 556-MRE.

In any event, members involved in a vehicle accident will not investigate their own accident, but will cooperate in supplying driver's license and vehicle information to the investigating officer.

L 7003 OTHER INVOLVED DEPARTMENT MEMBERS:

Revised 06-24-19

Department members riding as passengers in any City vehicle or witnessing a police vehicle accident shall adhere to the provisions of Manual Section L 7002. The members shall assist in the investigation as needed and identify themselves for inclusion in the accident report.

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Any facts material to the cause of the accident shall be reported to the investigating officer, regardless of the investigating agency, as soon as practicable after the accident. The statement shall be given to the investigating officer, either verbally or in writing, on a Form CHP 556 Supplemental.

L 7004

RESPONSIBILITY OF SUPERVISOR ASSIGNED:

Revised 03-01-24

Supervisors assigned to a Department-involved vehicle collision are responsible for ensuring that the following tasks are performed:

ASSIGNING INVESTIGATIVE RESPONSIBILITY: Assign a field officer from the district of occurrence to investigate and report the collision.

RESPONSE TO THE SCENE: Respond to the collision scene and ensure that a proper investigation is being conducted pursuant to Department policy and procedures. In cases involving a driver who is a sworn Department member, ensure the member is informed of their rights in accordance with Duty Manual Section L 7002 - DRIVER'S RESPONSIBILITIES.

INVESTIGATION: Assist in or direct the actual gathering of facts, statements, and citizen interviews. Examine the damaged vehicles and direct photographs be taken as necessary. If suspicions of City vehicle equipment failure are present, remove the City vehicle to the City Garage and request a special inspection.

ENFORCEMENT OF VEHICLE CODE VIOLATIONS: Make an on-scene determination as to the enforcement of California Vehicle Code infractions or misdemeanors against the civilian driver(s). Law violations such as driving under the influence of alcohol or drugs or hit-and-run should be enforced. When there is evidence of a violation by the civilian driver that can be corroborated by physical evidence and/or impartial witnesses, then a citation is appropriate. Such information should appear on the accident report.

SUPERVISOR'S CONCLUSIONARY REPORT AND RECOMMENDATION: The supervisor assigned to the investigation will prepare a memorandum detailing their conclusions as to the cause and preventability of the collision. In the memorandum, the supervisor will document what form of counsel, if any, the Department member obtained prior to providing a statement. The supervisor will also document in the memorandum whether a sworn member was informed of their rights according to Duty Manual Section L 7002 prior to providing a statement. The memorandum will be addressed to the Chief of Police. The memorandum will conclude with a recommendation assigning the collision to one of the following categories:

- Preventable: The City employee did not exercise prudent and careful judgment to prevent the collision or operated the vehicle in an unsafe manner or in disregard of the rules of the road or contrary to Department procedures.
- Non-Preventable: The City employee exercised good judgment and used every possible means to avoid the collision.
- Other: The City vehicle is damaged while properly performing a task necessary to protect citizens or their property; or the City vehicle is properly parked and/or unattended; or damage is caused solely by striking birds, rocks or debris thrown up

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by other vehicles or by road tar or spray.

- Other: Mechanical failure not within the control of the driver.
- Other: Responsibility cannot be determined

Within 30 days of being assigned the investigation, the supervisor will forward the memorandum and relevant files and reports to the first level command officer in the driver's chain of command in BlueTeam. If the supervisor who investigates the collision is not the driver's immediate supervisor, the immediate supervisor may submit a memorandum to the first level command officer if they have information which would assist the command officer in making a decision as to a finding and discipline.

L 7005 INVESTIGATING OFFICER'S RESPONSIBILITIES:

Revised 02-20-17

A Form CHP 555-MRE will be completed and the following information provided:

- FACTUAL DATA: This shall be completed showing all Department information as to drivers, locations, witnesses, times, vehicles, etc. Obtain driver's license information from the City driver. Substitute Place of employment for residence.
- COLLISION NARRATIVE AND CHECK BOXES: When physical evidence and the statements of independent witnesses support an arrest or citation, describe those conclusions and subsequent enforcement actions in narrative form. If no enforcement was taken at the scene, leave this section blank. Check boxes will be marked by the investigating officers from their personal observation of the evidence and road conditions.
- STATEMENTS OF DRIVER AND OTHER PARTICIPANTS: The driver and passengers employed by the City of San Jose shall provide their accounts verbally to the investigating officer, regardless of agency. The accident report should reflect the names of the driver, other passengers such as ride-a-longs, civilians and prisoners. The investigating officer should record their statements on the Form CHP 555-MRE.
- DIAGRAM AND AREA OF IMPACT: Both are designed to record factual information and should be completed in detail.
- REVIEW WITH SUPERVISOR: Review the completed report with the assigned supervisor. Submit the report to the Records Unit at the close of the shift.

L 7006 RECORDS UNIT RESPONSIBILITY:

Revised 02-21-17

Upon receiving the Collision Report, the Records Unit will complete all appropriate indexing, reporting and filing procedures consistent with Duty Manual section S 3503 (Obtaining and Returning Citation Books).

All accident reports listing City vehicles which are equipped as authorized emergency vehicles shall note "Emergency Vehicle Involved" in the "Special Conditions" box on Form

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CHP 555-MRE. Additionally, Department members shall use the "RPT Ext 7 Emergency Police/Fire Vehicle" offense code on the face page of the automated Form CHP 555-MRE.

L 7007**COMMAND OFFICER RESPONSIBILITIES:**

Revised 03-01-24

The Area Commander who received notification of the collision will create an entry in BlueTeam assigning the investigation to the investigating supervisor by the end of the Area Commander's shift. The Area Commander will forward a notification in BlueTeam to the driver's immediate supervisor, if different than the investigating supervisor. The Area Commander will also forward a notification in Blue Team to the driver's Captain, and the analyst assigned to process vehicle collisions in the driver's bureau. If the Area Commander creating the entry is not in the driver's chain of command, they will forward a notification of the entry in BlueTeam to the first level command officer in the driver's chain of command.

The first level command officer in the driver's chain of command is responsible for reviewing the collision to ensure proper investigation and documentation, and to determine whether the classification is appropriate based upon establishment of cause. The first level command officer may conduct their own interview of the driver if necessary to determine whether or not they agree with the assigned supervisor's conclusionary report and classification. The first level commander may write a memo detailing the findings of the supplemental interview and forward it via BlueTeam through their chain of command. Before obtaining a supplemental statement from a driver who is a sworn Department member, the commander shall inform the driver of their rights in accordance with Duty Manual Section L 7002 – DRIVER'S RESPONSIBILITIES.

If the first level command officer agrees with the classification, they will use the dialogue box in BlueTeam to document that they concur with the classification, that the driver was informed of their rights in accordance with Duty Manual Section L 7002 – DRIVER'S RESPONSIBILITIES, and whether or not an additional interview was done. If the first level commander does not agree with the classification or believes that the conclusionary report is inadequate, they will return the investigation to the assigned supervisor in BlueTeam.

- **NON-PREVENTABLE AND OTHER COLLISIONS:** The first level command officer will forward the investigation through the chain of command via Blue Team to the Bureau Chief within 90 days of the Area Commander's initial entry into BlueTeam. The Bureau Chief will forward it via BlueTeam to the IA Commander.
- **PREVENTABLE ACCIDENTS:** The first level Command Officer will obtain a three-year history of the driver's preventable collisions from the IA Commander. The command officer will use that and all other available information to make a recommendation for any action to be taken by the Department. The command officer will document their disciplinary recommendation in the dialogue box in BlueTeam and forward the investigation through the chain of command via BlueTeam to the Chief of Police within 90 days of the Area Commander's initial entry into BlueTeam.

The Command Officer will then conduct an interview with the City driver as required by Duty Manual section C 1717 – COMMAND OFFICER'S RESPONSIBILITIES.

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The Command Officer will include the following elements in their report:

- **INVESTIGATION AND CONCLUSIONS:** This will be a summary of their investigation, interviews and collection of documentary material.
- **FINDING:** Determine if any sections of the Duty Manual have been violated. Any violation is handled as a case of misconduct and will be Sustained, Not Sustained, or Exonerated.
- **DISCIPLINARY RECOMMENDATION:** Evaluate all the information available and make a recommendation for any action to be taken by the Department. Support all recommendations by reference to facts obtained from the investigation.

The investigation, finding, and disciplinary recommendation will be forwarded in BlueTeam to the Chief of Police through the chain of command within 90 days of the Area Commander's initial entry into BlueTeam.

L 7008 BUREAU CHIEF'S RESPONSIBILITIES:

Revised 02-20-17

- Review all accidents occurring within the Bureau.
- Route Sustained Accidents to the Office of the Chief of Police.
- Route Non-Preventable and Other Accidents to the IA Commander.

L 7009 RESPONSIBILITY OF THE CHIEF OF POLICE:

- Review all Sustained Accidents.
- Route Sustained Accidents to the IA Commander for implementation of discipline.

L 7010 RESPONSIBILITY OF COMMANDER OF INTERNAL AFFAIRS UNIT:

- Log and file all Sustained Accidents.
- Maintain file of Accidents and Recommendations per Record Retention Policy.
- Instruct Deputy Chief of Driver's Bureau to implement discipline.
- Assist the investigating first level command officer by providing a three-year summary of preventable accidents and known attempts to correct driving deficiencies.

L 7011 COMMANDER OF TRAFFIC INVESTIGATIONS RESPONSIBILITIES:

- The Commander of Traffic Investigations or his designated representative shall be a member of the City Accident Review Board. They shall communicate City Board concerns and recommendations to the Chief or Deputy Chief involved. They shall act as liaison between the Department and the City Accident Review Board.
- Investigating all accidents presented by the IA Unit as per Duty Manual section C 1730 (Felony or Misdemeanor Offenses Involving Department members).



L 7100 - BOMB THREATS AND EVACUATION PROCEDURES:

When notified that a bomb or other explosive or dangerous device has been placed in or around a dwelling, the Department will respond with sufficient available resources to control the incident and protect life and property. Such response is coordinated so that Department actions are effective and ensure that the problem is resolved and order restored.

PROCEDURE

L 7101 BOMB THREATS DIRECTED AT POLICE FACILITIES:

The Department members receiving the bomb threat will perform the following tasks:

- OBTAIN DESCRIPTION OF BOMB: Attempt to obtain the following information about the bomb: the location, size, time of detonation, and appearance. When possible, use the "Bomb Threat Checklist" (Form 201-12).
- OBTAIN DESCRIPTION OF SUSPECT: If possible, obtain the characteristics of the suspect's voice, background noises, and stated group affiliation. When possible, use the "Bomb Threat Checklist" form.
- NOTIFICATION: Notify Communications and an immediate supervisor. Supply Communications with the information pertaining to the bomb and the suspect.

L 7102 INITIAL ACTION:

Revised 07-20-03

Communications members will notify the senior command officer on duty in the Bureau of Field Operations and the senior officer on duty in the Records Division that a bomb threat has been received. The information obtained from the suspect will also be supplied. The following tasks will then be performed by Department members indicated:

- THREAT EVALUATION: The senior command officer should attempt to determine the credibility of the threat and the extent of police action necessary. Once a bomb threat is received at a police facility, a variety of options are presented as to what actions to undertake. The senior command officer can elect to:
 - Ignore the threat
 - Conduct a limited search
 - Conduct an intensive search
 - Partial or selected evacuation and search
 - Total evacuation and search

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These actions should be based on a determination of the seriousness or believability of the threat. A blanket policy of total evacuation on every bomb threat would be unrealistic and highly disruptive.

The determination as to evacuation or to the intensity of the search can be based on several indicators.

- How old was the caller?
- Did the caller identify themselves as belonging to a known terrorist group?
- If a terrorist group was mentioned, was the name given correctly?
- Did the caller cite a specific reason for placing a bomb?
- Is there currently an incident involving some controversial police action which has been or is receiving wide media coverage?
- Have there been other recent bombings in the area or has the group associated with the caller been involved in recent bombings?
- Did the caller seem angry, intoxicated, calm or sincere?
- Was the threat specific or given during a conversation unrelated to the threat itself?

The senior command officer present will use personal judgment when determining credibility and seriousness and, when necessary or indicated, may elect to implement the following procedures:

█ [REDACTED]

█ [REDACTED]

- RESPONSE OF THE BOMB SQUAD: At least two members of the Bomb Squad are dispatched to the scene. While en route, the officer assigned will coordinate with the responding supervisor. Upon arrival, the assigned officer will contact, via land-line telephone, the dispatcher and obtain as much information as is available.

█ [REDACTED]

- RESPONSIBILITY OF COMMAND OFFICER NOTIFIED: The Senior Command officer notified in the Bureau of Field Operations will ensure that the following tasks are performed:
- Notification of Chief. The Office of the Chief of Police is notified and supplied with the information available.
- Discontinuance of Telephone Calls. When the threat is directed at a police facility, the

telephone switchboard operator is advised that all calls for such facility are discontinued until further notice.

- Establish Command Center. Unless otherwise directed by higher authority, the command officer notified will respond to the Records Desk where a Command Center is established.

The command officer will then contact the senior officer on duty in the Records Division and the Office of the Chief of Police to determine if the building should be evacuated.

L 7103

EVACUATION: AUTHORITY AND METHOD:

Revised 07-20-03

The Office of the Chief of Police has final authority to evacuate a police facility. When the Chief of Police or a representative is not available, the senior officer contacted in the Bureau of Field Operations assumes such authority. When evacuation is indicated, the following procedures are implemented:

- ANNOUNCEMENT: Orders to evacuate are announced by an officer assigned by the command officer from Bureau of Field Operations.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[REDACTED]

Department members also have a special problem in that they themselves may be the target of the threat, rather than the building. A bomb threat to the building may be employed as a ruse to lure a large group of police into an open area. Once there, the caller's main purpose may be realized, in that the evacuees are moved into a target area containing explosives or snipers.

Further, constant disruption of police services through forced evacuations of the Police Building would create an intolerable situation which could well be an end in itself.

These considerations should be carefully evaluated by the person giving the order for evacuation.

- COMMAND OF EVACUATION AREA: The Records Sergeant or an alternate designated by the command officer from the Bureau of Field Operations is in charge of the shelter area. Every effort should be made to maintain the evacuees in one place to facilitate recall back to the building or to have Department members readily

available to assist in identification should a suspicious object be found in their work area.

[REDACTED]

Department members working in the building may be used for these purposes. When Department members working in the building are not available, field units, other than those initially assigned, are used for security purposes.

[REDACTED]

In any case, exits from the buildings are dictated by common sense and the employee's location within the buildings at the time an evacuation order is given.

- RESPONSIBILITY OF EVACUATED EMPLOYEES: Prior to evacuating, each employee should briefly examine the immediate work area and report suspicious objects. Upon evacuation, employees should carry their personal items, such as purses, briefcases, lunch containers, thermos containers, etc., out of the building.

Office machines, typewriters and any electronic equipment should be turned off prior to leaving the building.

L 7104 SEARCH METHOD AND RESPONSIBILITY:

Revised 07-20-03

When the circumstances indicate that a search of the facility is necessary, the command officer assigned from the Bureau of Field Operations will contact the search team via land-line telephone and direct them to respond to the main lobby of the facility or other areas as determined by the circumstances. The Search Team Supervisor will then perform the following tasks:

- INITIAL SEARCH PROCEDURES: Report to the command officer assigned and ensure that an appropriate number of master keys are obtained from the Records Supervisor.

[REDACTED]

L 7105 COMMUNICATIONS DURING SEARCH:

Revised 07-20-03

Search teams will communicate by voice or by land-line telephone, NOT BY TWO-WAY RADIO.

L 7106 USE OF BOMB SQUAD OFFICER:

When suspicious objects are located, the location and description of the object is relayed to the Bomb Squad officer via the Search Team supervisor. Suspicious objects are not moved, opened or tampered with by Search Team members.

L 7107 REMOVAL OF SEARCH TEAM:

[REDACTED]

L 7108 CANCELLATION OF EVACUATION:

When the search has been completed and explosives or other dangerous devices removed, the Search Team Supervisor will contact the command officer from the Bureau of Field Operations and advise such command officer of the status of the incident. The command officer will then decide if the evacuation should be terminated and the facility reoccupied. The decision is communicated to the Records Supervisor and/or other officers in command of the evacuation holding areas.

L 7109 BOMB THREATS DIRECTED AT PRIVATE FACILITIES:

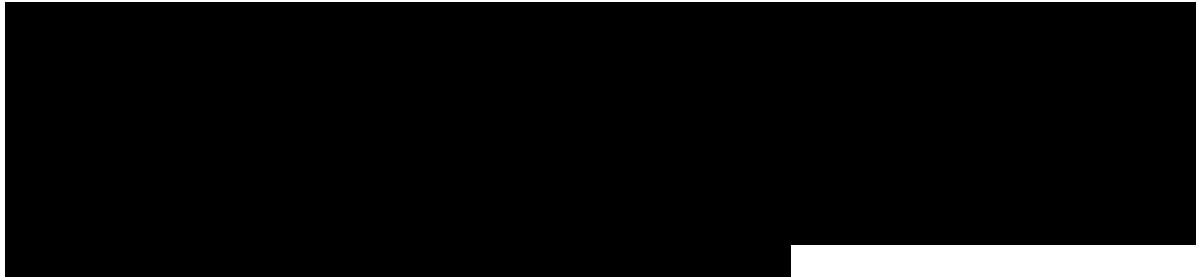
When Communications receives a report of a bomb threat involving a private facility, a field unit is dispatched to the scene. In all cases, the sergeant in command of the district of occurrence or, if unavailable, the nearest District Sergeant is notified.

L 7110 RESPONSE TO THE SCENE:

The assigned field unit will respond at normal response unless the situation dictates an emergency response or if directed by a supervisor. The District Sergeant assigned may direct other units to the scene and/or may also respond as determined by the nature of the threat, the availability of other units and the facility involved.

L 7111 RADIO TRANSMISSIONS:

Revised 04-17-03



L 7112 RESPONSIBILITY OF INITIALLY ASSIGNED UNITS:

Units assigned to respond to the scene of a bomb threat will refrain from discussing the reason for their presence with employees and the public. Officers will discuss the bomb threat only with the person in charge of the facility, the reporting party and the individual that received the threat, unless it is necessary to contact other persons to obtain information related to the threat.

The assigned officer(s) will obtain all facts and information related to the threat as soon as possible. Necessary information includes, but is not limited to, the following topics:

- Time of detonation, if stated
- Area where the alleged bomb was placed
- Motive or reason for placing the bomb
- Identification of the group or individual caller
- Description of the bomb and type of explosives used

- Prior history of bomb threats

In addition, the assigned officer(s) will inform the owner/manager that they must make the decision as to the seriousness of the threat and what action is to be taken. However, the officer(s) may suggest the following alternatives:

- Total evacuation and search
- Partial evacuation and search
- No evacuation, but conduct a search
- Disregard the threat

The assigned officer(s) will emphasize that the evacuation and/or search is a management decision and should be based on available information. The owner/manager will be advised that, if requested, officers will assist in conducting a search and will dispose of any explosive device found.

L 7113

EVACUATION:

[Redacted]

[Redacted]

[Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

[Redacted]

L 7114

SEARCH PROCEDURES:

[Redacted]

[Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

L 7115 TIME FACTOR:

If a time of detonation has been given and during the course of the search nothing suspicious is discovered, a recommended standard procedure is to clear the target area of all searchers fifteen minutes prior to the time of detonation. The target should not be reentered for at least fifteen minutes after the stated detonation time. If a detonation time was not given, the search should continue until the supervising officer at the scene concludes that the search should be discontinued.

L 7116 ACTION UPON LOCATING A SUSPICIOUS OBJECT OR EXPLOSIVE:

Revised 03-03-23

If a suspicious object or an alleged explosive is found, do not move it. Considering safety and without reapproaching the object, the Department member who located the device should attempt to photograph the item without using a camera flash (e.g., utilizing a cell phone on airplane mode). It is preferable that the Department member retreat to a safe distance and use vision enhancing technology, such as a telephoto lens or binoculars, to take the photograph.

The Department member who located the item should then notify the officer in charge of the scene. The officer in charge of the scene should immediately request that a member of the

Bomb Squad be dispatched to the scene. This request shall be made outside of the evacuation perimeter and not in proximity of the suspicious item. If an explosive device or suspicious object is found, the search should be discontinued, and the evacuation protocol implemented.

Evacuation distances are noted in the Emergency Response Guidebook (ERG), in the white pages, section titled "Improvised Explosive Device (IED) SAFE STAND-OFF DISTANCE."

L 7117 EVACUATION WHEN SUSPICIOUS OBJECT FOUND:

A general evacuation of the entire facility may or may not be in order, depending on the size of the building and the size of the found object. The prime consideration will, of course, be the safety of building occupants. (A favorite tactic of the terrorist is to explode a small bomb, drawing emergency services and spectators into the area, and then a short time later several larger bombs are detonated.)

L 7118 REMOVAL OF SUSPICIOUS OBJECTS OR ACTUAL DEVICES:

Under normal circumstances, all improvised explosive devices, suspected bombs, suspicious objects and recovered explosives are removed and destroyed only by trained bomb disposal technicians. (While it might appear that some bombs are simple in design and can easily be rendered safe by anyone, it is also true that even the simplest bomb or smallest amount of explosives can be rigged to detonate if disturbed in any way. It is always better to move "people" than to move a "bomb.")

L 7119 MINIMIZING EFFECTS OF DETONATION:

Revised 04-17-03

When an explosive device is discovered, the officer in command of the search area will, when safe to do so, ensure that windows and doors are opened to allow the blast wave to vent to the outside. Such officer will also ensure that electrical power and natural gas is shut off whenever possible.

L 7120 REQUESTING ADDITIONAL EQUIPMENT AND PERSONNEL:

The officer in command of the overall incident is responsible for determining the need for additional personnel or equipment (police, fire, ambulance or utility personnel).

L 7121 STATEMENTS AND CANCELLATION OF EVACUATION/SEARCH:

Only the officer in command of the overall scene will make statements regarding the incident. When statements are made, they are made in front of witnesses. Officers will not sign statements of any kind. When no explosive device(s) is found, a statement to that effect may be made. However, no officer(s) will state that the target area is clear and safe to be reoccupied. The officer in command will explain to the person in charge of the target facility that the decision to reoccupy is a decision that can only be made by managers of the facility involved.

L 7122 REPORTING THE INCIDENT:

All reports regarding bombings or bomb threats should include the following information:

- The exact words used by the caller
- Background noise

- Voice characteristics - sex, age, accent
- Organization or group that the caller represents
- What action was taken
- Name, title and position of the facility representative at the scene
- Name and badge number of officers at the scene

L 7123 RESPONSE TO EXPLOSIONS:

Added 03-03-23

Officers are occasionally called upon to respond to calls of an explosion. The nature of the circumstances prompting these types of calls can vary and officers must remain on high alert when responding.

Responding officers should adhere to the following procedures:

1. Consider factors such as the number of callers, the location of the call, the description of the explosion as provided by reporting party, statements from people in the area who may have witnessed it, etc.
2. Circulate the area with windows down (when possible) to utilize senses to detect unusual sounds or odors, etc.
3. Consider that secondary devices in situations involving intentional explosions may exist in an attempt to harm responding personnel.

EXPLOSIONS CAUSING PROPERTY DAMAGE - ACCIDENTAL:

If Department members discover property damage caused by an explosion that was accidental in nature (e.g., a transformer exploded), they shall make every attempt to notify the owner of the property. Department members should also consider contacting the Fire Department to inspect the source of the explosion to mitigate any fire danger.

If the property damage is caused by illegal activity (e.g., unlawful use of fireworks), officers shall conduct an investigation following standard Department practices and notify the Bomb Squad.

EXPLOSIONS CAUSING PROPERTY DAMAGE – INTENTIONAL:

If Department members discover property damage caused by an explosion that was intentional, they shall take the following steps:

1. Use caution and scan the area for suspicious items, such as secondary devices.
2. Attempt to determine what caused the explosion.
3. Interview any witnesses.
4. Attempt to locate, document, and collect any physical evidence, including surveillance video, and follow best standard evidence collection practices.
5. Notify the Bomb Squad.
6. Document the incident in a crime report.

EXPLOSIONS CAUSING MINOR INJURY:

1. Use caution and scan the area for suspicious items, such as secondary devices.
2. Stabilize the scene.
3. Provide basic first aid within the scope of the officer's training.
4. Request the Fire Department (Fire) and Emergency Medical Services (EMS).
Department members shall follow the medical recommendation of Fire and EMS.
5. Attempt to determine what caused the explosion.
6. Interview the victim and any witnesses.
7. Attempt to locate and documentary physical evidence, including surveillance video, following Department practices.
8. Notify the Bomb Squad.
9. Collect any physical evidence determined to be safe by the Bomb Squad.
10. Document the incident in a report.

EXPLOSIONS CAUSING MAJOR INJURY OR DEATH:

If a Department member responds to an explosion resulting in a major injury or death, they shall take the following steps:

1. Use caution and scan the area for suspicious items, such as secondary devices.
2. Stabilize the scene.
3. Provide basic first aid within the scope of the officer's training.
4. Request Fire and EMS. Department members shall follow the medical recommendation of Fire and EMS.
5. Contact the Bomb Squad and await further instruction.



L 7200 – ELDER AND DEPENDENT ADULTS:

Added 11-05-15

According to the National Center on Elder Abuse, approximately 14 million U.S. adults aged 65 and over and 19 million U.S. adults aged 18 to 64 have a disability. Unfortunately, some of these vulnerable adults are abused by family members, service providers, care assistants and others and many of these incidents go unreported. Law Enforcement has an obligation to respond to allegations of elder and/or dependent adult abuse, neglect and exploitation in a comprehensive method with a clear focus on the safety and well-being of the victim and the accountability of the offender.

PROCEDURE

Index of deleted/revised/amended Duty Manual sections affected:

Revised 11-05-15

- L 7200 Miscellaneous Procedures - deleted and amended to L 7200 Elder and Dependent Adults;
- L 7201 Miscellaneous Procedures – deleted;
- L 7202 Broadcasting Stolen Vehicle Information – deleted and replaced by L 5524;
- L 7203 Notification of Special Operations – deleted;
- L 7204 Duties of Commanders – deleted;
- L 7205 Notifications During In-progress Special Operations – deleted.

L 7201 ELDER AND DEPENDENT ADULTS ABUSE INVESTIGATIONS:

Added 11-05-15

Reportable elder and dependent adult abuse is defined as either one of the following: (a) physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with physical harm or pain or mental suffering; and (b) the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. (WI 15610.07)

In addition to this statutory requirement, Department members assigned to investigate incidents of abuse, endangerment or neglect of an elder or dependent adult shall utilize the Santa Clara County Elder and Dependent Adult Abuse Protocol, published by the Santa Clara County District Attorney's Office, as a guideline and reference. A link to the protocol may be found on the San Jose Police Department policies and procedures virtual library.

L 7202 DEFINITIONS:

Added 11-05-15

An elder is any person who is 65 years or older. (PC 368(g))

A dependent adult is any person who is between the ages of 18 and 64 years who has physical or mental limitations which restricts their ability to carry out normal activities or to protect their rights, including, but not limited to, persons who have physical or developmental

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disabilities or whose physical or mental abilities have diminished because of age and persons between the ages of 18 and 64 who are admitted as an inpatient to a 24-hour health facility, as defined in sections 1250, 1250.2 and 1250.3 of the Health and Safety code (PC 368(h)) and WI sections 15610.23(a) and (b)).

Dependent adults may have a caretaker responsible for their care and safety. A caretaker is any person who has the care, custody, or control of an elder or dependent adult, or who stands in a position of trust with an elder or dependent adult. (PC 368(i))

L 7203

REPORTING:

Added 11-05-15

Officers shall report any incident that reasonably appears to be suspected or actual abuse, neglect, self-neglect, endangerment, financial abuse, or non-accidental injury incidents involving an elder and/or dependent adult on a General Offense (GO) Report, in addition to other forms required to investigate or process the case, even if the allegation does not rise to the level of a crime.

In addition to standard evidence collection as documented in L 4400, officers should conduct all relevant interviews to include establishing a timeline of care and custody for the elder or dependent adult.

When a GO is generated to report a crime or to document suspected elder or dependent adult abuse, officers shall title the report as such to ensure proper routing to the Family Violence Unit. Officers should avoid using the report title "Information only" or "Suspicious Circumstances."

Failure to report suspected abuse is a misdemeanor and mandatory reporting is required by law. (WI 15630(h))

L 7204

CROSS REPORTING AND OUTSIDE AGENCIES:

Added 11-05-15

Instances of elder or dependent adult abuse, neglect or endangerment which occur in a private home or hospital require cross-reporting to Santa Clara County Adult Protective Services (APS). If the situation is urgent, APS has social workers who can respond 24-hours a day, 7 days a week. They can be reached at (408) 975-4900 or (800) 414-2002.

If the elder or dependent adult is located in a skilled nursing facility, assisted living or licensed residential care home, including rehabilitation centers, the incident shall be cross-reported to the Long Term Care Ombudsman at (408) 944-0567 or (800) 231-4024.

If suspected abuse occurred in a state mental health hospital or a state developmental center, the State Department of Mental Health shall be notified at (800) 704-0900.

Other agencies involved in the investigation of elder abuse are the Bureau of Medi-Cal Fraud (800) 722-0432 and the State Department of Health Services (916) 654-3565, the California State Department of Social Services Health and Human Services Agency-Community Care Licensing Division (408) 324-2112.

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In order to determine whether an elder or dependent adult is conserved, contact the Santa Clara County Superior Court Probate Investigations Unit at (408) 882-2761 during normal business hours or the on-call Deputy Public Guardian or Supervisor at (408) 577-2500.

If self-neglect is suspected or the victim is gravely disabled, unable to care for themselves and/or is a danger to themselves and no responsible caregiver is present, the officer can take the subject into custody on a WI 5150 hold and have them transported to VMC EPS. The officer shall contact APS immediately at (800) 414-2002, 24-hours a day. APS may be able to provide advocacy with hospitalization.

L 7205 NOTIFICATIONS:

Added 11-05-15

In the following instances, the investigating officer or their designee shall contact an investigator in the Family Violence Unit during normal working hours or the Family Violence Unit Commander or their designee, after hours:

- Investigative guidance is needed or requested
 - In-custody elder or dependent adult arrest, prior to booking the suspect
 - Severe neglect cases
- Victim has sustained a life-threatening injury and their injury is reasonably believed to be caused by abuse, neglect or endangerment

L 7206 PATROL PROCEDURES:

Added 11-5-15

Patrol officers are responsible for the initial investigation of all elder and dependent adult abuse cases. These cases may originate from a variety of sources, including Communications staff or other investigative units. In situations where an officer determines that an elder or dependent adult abuse crime has been committed, suspected, or alleged, the officer shall do the following:

- Primary consideration shall be given to the safety and security of the elder or dependent adult. If the victim is in need of emergency or immediate medical treatment, call EMS. Follow up at the hospital, if needed.
- Determine who is responsible for the care of the victim. Get as much information as possible since caretakers can be suspects in the abuse.
- Interview all possible witnesses including neighbors. Neighbors can often provide critical details in situations when an elder or dependent adult is unable to communicate well.
- When interviewing the victim, try to ascertain the state of mind and level of competency. Document any reliance on others in answering questions.
- Officers may refer to the Appendix A and Appendix B, pages 71-79, of the Santa Clara County Elder Abuse Protocol for a list of preferred interview questions for involved parties.
- Complete a GO with the type code PC 368, even if a crime is only suspected or alleged.

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-Photographs are essential for cases involving neglect and physical abuse. They can show the presence of or lack of injuries and the condition of the living environment. Photographs alone are usually not sufficient for describing the victim's environment. It may be necessary for the officer to describe in detail any unusual or foul odors, unusual or excessive noises, inoperable appliances or lack of running water and/or other utilities.

The identity of a reporting party, the reports generated by mandated and non-mandated reporters, and information contained in those reports are confidential and shall not be disclosed to the victim, a family member or any other person making an inquiry. Reports and information contained in the reports can only be disclosed to an agency, or an employee or official of an agency that has an authorized role in investigating the report of abuse. (WI 15633(b) and 15633.5)

It is a misdemeanor to violate confidentiality laws. (WI 15633(a))

L 7207 FRAUD/FINANCIAL ABUSE/THEFT CASES:

Added 11-5-15

Financial abuse occurs when the victim's funds or resources are taken or exploited. This includes stealing or misusing the victim's money, checks, credit, bank account(s), property, or real estate. This also includes various scams where seniors are targeted, such as lottery scams, telephone solicitations, and confidence tricks.

In addition to the steps listed in patrol procedures, if an officer determines or suspects an elder or dependent adult is being defrauded, the officer shall consider the following additional steps:

-Obtain a search warrant or lawful consent to collect and impound any relevant documentary evidence, such as checks, bank records, credit card statements, wills, trusts, power of attorney, deeds, promissory notes, stock certificates, brokerage accounts and tax returns. The consent should be documented in the GO.

-Photograph the front and back of each document prior to being collected.

-Obtain and confirm the following victim information:

- All financial institutions for checking and savings accounts
- A list of all credit cards
- A list of real property deed of trust
- Signatures on the above accounts

-Obtain a sample signature of the victim for comparison to evidentiary documents.

L 7208 RISK ASSESSMENT:

Added 11-5-15

Determine the elder or dependent adult's dependency upon the suspect and the need for the Santa Clara County Adult Protective Services (home or hospital) or Ombudsman (long-term care facility) to respond to the scene. Considerations for risk assessment include:

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- Determining the level of risk of ongoing harm to the victim.
 - Does the suspect have access to the victim?
 - Does the suspect live in the victim's home?
 - Determine any prior cases or ongoing investigations.

In situations where the elder or dependent adult is at risk for abuse, and the suspect is known, officers should contact the on-call magistrate for the possible issuance of an Emergency Protective Restraining Order (EPRO).

The Santa Clara County F.A.S.T. team (Financial Abuse Specialist Team) is initiated by contacting the Santa Clara County Adult Protective Services 24 hours a day, 7 days a week. The F.A.S.T. team is especially useful when an immediate action is needed in order to protect the victim's assets, such as savings, retirement or their home.

Whenever APS or the Ombudsman is contacted, document the social worker's name and agency's case information (if known) in the GO.

L 7209 FOLLOW UP INVESTIGATION:

Added 11-5-15

In general, cases involving elders or dependent adults will be routed to the appropriate unit when it can be determined the victim's age was not a motivation for the crime or the suspect may not have reasonably been aware of the victim's elder or dependent status.

The Family Violence Unit is responsible for investigating all felony abuse, neglect or endangerment crimes involving elders and dependent adults, except suspicious deaths, sex crimes, robberies or home-invasions, assaults (except by caretaker, caregiver or a relative who is living in or out of the home or special relationships). Financial abuse or theft will be handled by the Financial Crimes Unit.

Appropriate misdemeanor crimes involving elders or dependent adults will be routed to the Family Violence Unit and screened by a sergeant before being assigned to an investigator.

In all cases where an elder or dependent adult is a victim, cross-reporting will be made to APS or the Long-Term Care Ombudsman.

L 7210 APPLICABLE PENAL CODE SECTIONS:

Added 11-5-15

PC 368(b)(1): Causes or permits great bodily injury or death (Felony). This charge should include the following elements:

- inflicted or caused or permitted the infliction of unjustifiable physical pain, mental suffering, or endangerment of health
- under circumstances or conditions likely to produce great bodily harm or death (no one need actually be hurt)
- victim is an elder (65+) or dependent adult

-suspect knew victim was an elder or dependent adult

PC 368(c): Causes or permits injury to physical health (not GBI) and/or mental health (Misdemeanor). This charge is the same as 368(b), but the circumstances are NOT likely to produce GBI or death.

PC 368(d): Non-Caretaker theft or embezzlement, more than \$950.00 is a felony; less than \$950.00 is a misdemeanor.

PC 368(e): Caretaker theft or embezzlement, more than \$950.00 is a felony; less than \$950.00 is a misdemeanor.

PC 368(f): False imprisonment by violence, menace, fraud, or deceit (Felony)

PC 243.25: Battery on an elder (misdemeanor). This section should be used as an alternative to PC 368(c).

Either section PC 368(b)(1) or PC 368(c) may be applicable for neglect by others in cases where a responsible person refuses, or fails to fulfill, care-taking obligations.



L 7300 - DOMESTIC VIOLENCE:

Revised 03-09-21

Domestic violence is recognized as a large and recurring problem in our society. The Department has a responsibility to detect, document and resolve cases of domestic violence. The police response to cases of this nature shall stress the enforcement of laws to protect the survivor and shall communicate the attitude that violent behavior in the home is criminal behavior and is not tolerated. Each officer has an individual responsibility to assist survivors through a trauma-informed approach, offer and explain resources to the survivor, conduct appropriate investigative tasks, make arrests when allowed by law, and properly document the incident whenever suspected domestic violence is discovered or otherwise reported.

PROCEDURE

L 7301 DOMESTIC VIOLENCE - DEFINITION:

"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 herself, or another." (Section 13700(a) PC)

"Domestic violence means abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship." (Section 13700(b) PC). Same sex relationships are included.

All provisions of this policy, including mandatory arrest and booking of the perpetrator, and offering the victim an Emergency Protective Order, shall be applied to all juvenile cases of domestic violence. Domestic violence as defined by the Penal Code is violence perpetrated against emancipated juveniles only in cases where the victim is an unemancipated juvenile, a charge of 273.5(a) PC cannot be made. Officers should review the various Penal Code sections to ensure that appropriate charges are used when dealing with juveniles.

"Cohabitant means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (includes same sex 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 husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship."

"Dating relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations."

L 7302 TAKING POSITIVE ACTION:

The most positive action that can be taken in a domestic violence case when a law violation has occurred is the arrest of the suspect. Officers shall be aware of the various alternatives available in the area of domestic violence, as recommended in the Duty Manual and the

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current Countywide Domestic Violence Protocol for Law Enforcement, and consider these alternatives when resolving a domestic violence case. A physical arrest shall be made in every situation where an arrest is legally permissible, absent exigent circumstances.

L 7303

ARREST:

An arrest will be considered appropriate action to resolve domestic violence cases where there has been a law violation.

Officers will comply with California Penal Code Section 836 which authorizes an arrest in the case of a felony or a misdemeanor under certain circumstances. This authority to arrest is also listed in Duty Manual section L 2802 (Authority to Arrest).

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. 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.

When a person commits a misdemeanor assault or battery upon their spouse or former spouse, upon a person with whom they are is cohabiting or was cohabiting, or upon the parent of their child (273.5 PC requirements), an officer may arrest the person without a warrant where both of the following circumstances apply (per Section 836(d) PC):

- The officer has reasonable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
- The officer makes the arrest as soon as reasonable cause arises that makes them believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

Where there is insufficient probable cause for an officer to make a lawful or on-view arrest in domestic violence cases, officers shall inform the victim of their right to make a private person's arrest.

Officers shall not dissuade victims from making private person's arrests but will inform them when the elements for a lawful arrest do not exist.

When the assault is against a spouse, cohabiting partner, or when the victim and suspect are natural parents of the same child and the assault results in traumatic injury, officers shall arrest and book the offender for Penal Code Section 273.5. "Traumatic injury means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force." (Section 273.5(c) PC). A traumatic injury can be a complaint of pain and/or soreness, even without visible injury, caused by physical force such as, but not limited to, a slap, push or shove.

When the assault/battery is against a spouse, former spouse, cohabitant, former cohabitant, or the victim and suspect are natural parents of the same child, when no visible injury or complaint of pain exists, yet the victim or a witness wants to make a private person's arrest, officers shall accept the arrest and book the offender for Penal Code Section 242/243(e).

When the assault is against a fiancé, fiancée, or the victim is currently dating or has dated the suspect, officers shall arrest and book the suspect, if it is an on-view or private person's arrest, for PC 243(e)(1) for misdemeanors, or shall arrest for PC 243(d) for felonies.

L 7304 DUAL ARRESTS:

In an apparent "mutual combat" situation, the officer will try to determine who the "primary aggressor" is and arrest that person. An officer is not prohibited from arresting both parties. However, when a "primary aggressor" can be determined, the officer should arrest the primary aggressor. If self-defense was the cause of one person's injuries, a single arrest should be made.

The "primary aggressor" is not always the person who started the confrontation. When attempting to make this determination, consider the following:

- One party is actually in fear of the other
- One party escalates the level of violence (i.e., one party reacted to a slap by beating the other party)
- One party is physically larger than the other
- There is history of violence by one party against the other
- One party is usually the aggressor

L 7305 BOOKING OF DOMESTIC VIOLENCE SUSPECTS:

When a suspect is booked for charges that involve domestic violence, booking Department members and officers will document the notification in the General Offense Report (Form 200-2-AFR). This advisement will prevent the suspect from being cited and released.

L 7306 CITING IN DOMESTIC VIOLENCE CASES:

Officers will not cite and release suspects in domestic violence cases. Officers will follow the procedure outlined in L 7303 (Arrest) or will complete a General Offense Report (Form 200-2-AFR) as outlined in L 7307 (Domestic Violence Reporting).

L 7307 DOMESTIC VIOLENCE REPORTING:

Revised 11-22-21

A General Offense Report (Form 200-2-AFR) and an automated "Domestic Violence Supplemental" template shall be completed in all cases of domestic violence. An automated Domestic Violence/Sexual Assault/Human Trafficking Assessment template shall be completed in all cases involving domestic violence, sexual assaults and/or human trafficking. Refer to Duty Manual sections L 6000 INVESTIGATION OF SEX CRIMES and L 6018 HUMAN TRAFFICKING.

In arrest or non-arrest domestic violence cases, officers shall report all facts surrounding the incident, the statements of the participants or reporting party and witnesses and the action taken by the officer. Officers shall document if children were present in the residence at the time of the assault and interview the children, if appropriate. Officers will document if the survivor is pregnant. Officers shall ask the survivor if they were sexually assaulted by their domestic partner during the incident being investigated and any past incidents.

Officers shall 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. If unable to book the weapon (other than firearms) due to size or other extenuating circumstances, the weapons should be photographed.

If officers are unable to make an arrest because the suspect has left the scene, those facts shall be fully documented and explained in the Crime Report. Officers may also fill out a felony affidavit (if applicable) and put it on file in the Warrants Unit.

If a survivor discloses a sexual assault by a domestic partner contemporaneous to the domestic violence incident (e.g., the suspect batters the survivor and commits a rape or other sexual assault during the incident):

- The Sexual Assault Investigations Unit (SAIU) officer of the day shall be notified during business hours (0800-1700 Monday through Friday)
- The on-call sexual assault supervisor shall be notified outside of business hours or when the officer of the day is not available.

If a survivor discloses a sexual assault by a domestic partner, but from a different incident:

- Officers shall determine if the incident had been previously reported. If so, officers will write a Supplemental Report (Form 200-3A-AFR) to the original General Offense Report (Form 200-2-AFR) and complete an “automated Domestic Violence/Sexual Assault/Human Trafficking Assessment”-template.
- If the incident had not been previously reported, the officer will document the sexual assault information on the same General Offense Report (Form 200-2-AFR). An automated “Domestic Partner Sexual Abuse” template shall be completed. Notify SAIU as appropriate.
- The SAIU officer of the day shall be notified during business hours (0800-1700 Monday through Friday).
- The on-call sexual assault supervisor shall be notified outside of business hours or when the officer of the day is not available.
- Officers shall conduct the domestic violence and sexual assault investigation in cases perpetrated by the domestic partner regardless of whether the case was contemporaneous or not.
- Cases involving both domestic violence and sexual assault will be routed to SAIU for investigation.

If a survivor discloses a sexual assault or human trafficking by a person other than a domestic partner, but from a different incident:

- Create a separate case number and document the case separately.
- When there is a creation of a second case number, the Family Violence Unit will conduct the follow up related to the domestic violence incident and SAIU or the Special Victims Unit will conduct the follow up related to the sexual assault/human trafficking incident.

Medical personnel are mandated by law to report any incidents of domestic violence. If an officer responds to such a case, they shall collect the medical report completed by medical personnel and submit it to the Records Unit. If a report has not been written by medical personnel by the time the officer has completed their investigation, the officer shall inform the medical personnel of the proper case number and provide direction to mail the report to the Police Department.

L 7308 NOTIFICATION TO SURVIVOR:

Revised 03-09-21

Any officer responsible for the initial preliminary investigation of a domestic violence incident inform the survivor of the various forms of help available to them. Notification will be accomplished by supplying and explaining the Santa Clara County Domestic Violence Resource Card. When an officer is unable to directly supply such notification (i.e., unconscious person), either the next of kin will be notified (not the suspect) or the Domestic Violence Resource Card will be placed in the survivor's belongings. Officers responsible for the initial investigation will record the fact that a Domestic Violence Resource Card was given to the survivor. Department members shall provide advocacy referrals to survivors of sexual assault and domestic violence before leaving the scene. Refer to the Santa Clara Domestic Violence Resource Card for advocacy information. The resource card will provide referrals, 24-hour telephone support, and in-person advocacy.

The purpose of the advocate is to provide free, confidential services to all survivors and:

1. Provide emotional support and crisis counseling;
2. Provide interview and court attendance support;
3. Explain survivor's rights and criminal justice process;
4. Connect the survivor to resources with ongoing case management; and
5. Provide guidance on goals and needs.

L 7308.5 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO VICTIMS OF DOMESTIC VIOLENCE AND STALKING:

Added 05-29-17

The victim of domestic violence (273.5 PC) and stalking (646.9), or the victim's parent/guardian if the victim is a minor, may request their name not be disclosed under the California Public Records Act. Notification of the right to confidentiality, pursuant to Government Code Section 6254 and Penal Code Section 293, shall be verbally provided to the victim or the victim's parent or guardian if the victim is a minor. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

L 7309 IDENTIFYING DOMESTIC VIOLENCE REPORTS:

Every General Offense Report (Form 200-2-AFR) entered concerning domestic violence will have the "Family Violence" box marked.

L 7310 DOMESTIC VIOLENCE RESTRAINING ORDERS:

Duty Manual sections L 4100 through L 4112 cover all Domestic Violence Restraining Orders, Emergency Protective Orders (E.P.R.O.), and Domestic Violence Stay-Away Orders.

L 7311 ASSISTANCE TO SURVIVORS OF DOMESTIC VIOLENCE:

Revised 03-09-21

Officers have the responsibility of providing assistance to survivors of domestic violence and shall do so in the following manner:

- Administer first aid if appropriate and circumstances permit.
- Assist in obtaining appropriate medical attention if a survivor claims to have an injury, whether visible or not.
- Assist in making arrangements to transport the survivor to an available shelter if they express a concern for their safety or if the officer determines a need exists. Do not list the actual address of the shelter in the report; the name of the shelter will be sufficient to complete a "Crime Report."
- Stand by for a reasonable amount of time when a survivor requests police assistance while removing essential items of personal property.
- Explain legal options available to the survivor including the private person's arrest process, temporary and emergency restraining orders, stay-away orders, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
- Advise the survivor that the Santa Clara County Domestic Violence Resource Card lists 24-hour advocate hotlines, information for Family Justice Centers, local Victim/Witness Assistance and State of California Victim Compensation Board resources, as well as survivor rights.
- Use the Lethality Assessment tool, located in the Domestic Violence Field Reporting Guide (Form 204-24c), in every domestic violence investigation. Contact the Department's contracted advocacy group, when appropriate. As noted on the form, officers are encouraged to call the hotline whenever they believe the survivor is in a potentially lethal situation, regardless of the survivor's responses to the Lethality Assessment questions.
- Conduct the Strangulation/Suffocation Investigation by asking the questions found in the Domestic Violence Field Reporting Guide (Form 204-24c). If strangulation/suffocation occurred, provide the survivor with the Santa Clara County Strangulation Resource Card, advise the survivor that they may have internal injuries, and encourage them to seek medical attention.
- Advise the survivor of their rights outlined in Penal Code section 679.05, which allows them to have a domestic violence advocate and a support person present at any interview by law enforcement authorities, prosecutors or defense attorneys. (Note: An initial investigation to determine whether a crime has been committed and the identity of the suspect shall not constitute a law enforcement interview for the purpose of that section.)

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L 7312 NOTIFICATION OF INVESTIGATORS:

During business hours (0800-1700 hours, Monday through Friday) any officer responsible for the initial investigation of a domestic violence case will notify the Bureau of Investigations, Family Violence Unit, when one or more of the following circumstances are present:

- A records check confirms that there have been at least three (3) reported incidents of domestic violence involving the same victim and suspect within the past twelve (12) months.
- The injuries sustained by a person at the scene are serious in nature and require immediate medical attention by a physician.
- One or more of the parties involved is a high-ranking government official, a prominent member of the community, and/or employed by a law enforcement agency (24 hr. notification via Communications).
- Assistance is needed in resolving cases involving possible violations of family related court orders (i.e., E.P.R.O.s, Child Custody, Restraining, Stay-Away orders) and Child / Dependent Adult Stalking.

L 7313 CASES INVOLVING DEPARTMENT MEMBERS:

The supervisor or area commander on the scene of a domestic violence case involving a Department member will immediately notify the Commander of the Family Violence Unit.



L 7400 - INCIDENTS ON AIRPORT PROPERTY SJPD AIRPORT DIVISION:

The San Jose Police Department Airport Division is responsible for providing law enforcement services to the Norman Y. Mineta San Jose International Airport. Officers assigned to the Airport Division are responsible for responding to calls for service, the prevention and investigation of criminal activity, providing security for the main terminals and the secured areas within the airport, and regulating traffic and parking in and around the airport property. The Division also works with other City departments and tenants at the airport to ensure compliance with all of the mandated TSA security regulations.

PROCEDURE

L 7401 INCIDENTS ON AIRPORT DIVISION PROPERTY:

The following procedures will be adhered to for police services regarding incidents occurring on or about airport property.

L 7402 AIRPORT DIVISION AUTHORITY:

The Airport Division has primary responsibility for law enforcement services at the Mineta San Jose International Airport. This is necessary because of the strict Transportation Security Administration (TSA) guidelines which regulates activity on airport property. It is imperative that Department members recognize the need to coordinate any law enforcement activity on airport property with the Airport Division.

L 7403 INITIAL RESPONSE:

Airport officers shall be responsible for the initial response to any type of crime, aircraft emergency, bomb threat or other offense on airport property. In the event officers not regularly assigned to the Airport Division are dispatched as support at a crime or other event on airport property, the Airport Division officer present is responsible for directing the law enforcement action if no supervisor is present.

In the event that an Airport Division command officer or supervisor is unavailable, the on-duty Sergeant in the closest Patrol district to the airport will assume a supervisory role for Airport Division patrol officers.

L 7404 TRAFFIC ENFORCEMENT:

Traffic enforcement and accident investigation on airport property within the Aircraft Operations Area (AOA) shall be the primary responsibility of the Airport personnel. Traffic enforcement and accident investigation on streets adjacent to the airport, including Airport Blvd. shall be the primary responsibility of the Patrol district responsible for that specific geographic area.

L 7405 POLICE DEPARTMENT BUSINESS AT THE AIRPORT:

Officers not assigned to the airport conducting official business at the airport (undercover investigation or investigative follow-up), shall notify an Airport Division command officer or Airport Supervisor of the nature of their business and whether or not assistance is requested.

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This notification may be made in person or by telephone. This policy does not apply to uniformed patrol officers who may pass through the airport on routine patrol.

L 7406 AIRPORT DIVISION JURISDICTION:

Property for which the Airport Division shall have primary responsibility shall consist of the interior of the fence line for the Aircraft Operations Area and terminals. All building and parking lots outside of this AOA fence line will be the responsibility of the Patrol districts.

L 7407 VEHICLE OPERATION AT THE AIRPORT:

The portion of an airport's property designed and used for landing, taking-off or surface maneuvering of aircraft is called the "Aircraft Operations Area" or the "Ramp Area," and is shared by commercial airliners, commercial cargo aircraft, private aircraft and motor vehicles which service these aircraft.

Due to the danger present when motor vehicles and aircraft operate in the same ground space, TSA regulations governing the operation of vehicles on the ramp area of the airport are different in many respects to the rules of the road outlined by the California Vehicle Code. As a result, Department members will adhere to the following policies when driving vehicles on the ramp area of the airport:

- Members will not drive vehicles on the ramp unless they have an official Ramp Driving Permit issued by the Airport Division. Officers who need to drive on the ramp shall request the assistance of Airport Division officers, who will make arrangements to escort them onto the ramp.
- Under no circumstance will a member who does not have an official Ramp Driving Permit drive on any portion of the ramp used by aircraft to either take off or land.
- In the event of a major emergency involving an immediate threat to life or property, or an immediate pursuit of a criminal suspect is occurring, a sworn member may find it necessary to drive onto the ramp area without proper authorization. Under no circumstances, however, will the member drive onto any portion of the ramp used by aircraft to land or take off. In this situation, immediate contact should be made with the Airport Division to coordinate further action. The Airport Division will coordinate with the tower any activity that could jeopardize aircraft or Department members in the ramp area.

Notification of the reasons which led to any unauthorized entry by a member onto the ramp area will be made immediately following the incident to a member of the Airport Division of the rank of Sergeant or higher.

L 7408 SECURITY CHECKPOINTS AT THE AIRPORT:

The security checkpoints at the Mineta San Jose International Airport are staffed by employees of the Transportation Security Administration (TSA). The rules and regulations in effect at these checkpoints are governed by strict TSA regulations. These regulations prevent anyone, including officers either in or out of uniform, from passing through the checkpoints with a weapon. Only law enforcement officers who are traveling on official business, and who are in possession of a letter of authorization from the airline they are using, are allowed beyond the checkpoint with a weapon.

Should a need arise for a sworn member to go around the checkpoint without going through the proper screening procedures, such as a major emergency involving an immediate threat to life or property, or in cases involving the immediate pursuit of a criminal suspect, notification of the reasons why the member was unable to comply with checkpoint regulations are made immediately to an Airport Division officer of the rank of Sergeant or higher.

This policy also applies to on-duty Airport Division officers who are wearing their official Secure Identification Display Area Badges (SIDA). During routine patrol, Airport Division officers should not pass through the Terminal Security Checkpoints unless they are asked to by TSA and/or responding to a call for service.

**L 7500 - CRITICAL INCIDENTS:**

Department members by nature of the job assignment are routinely exposed to incidents that involve traumatic injury or death. These incidents are recognized as having a potential significant effect on Department members' mental, emotional and physical health. The Department has sought to minimize these effects by establishing a Critical Incident Stress Debriefing Program.

PROCEDURE**L 7501 CRITICAL INCIDENT STRESS DEBRIEFING:**

Revised 08-09-23

When a Department member of any rank or assignment is involved in a critical incident that has the potential for producing the type of significant emotional shock that may adversely impact the psychological well-being of an individual, the Critical Incident Stress Debriefing (CISD) Program is used. The CISD Coordinator is the supervisor assigned to the Wellness and Employee Support Team (WEST). WEST is assigned to the Bureau of Field Operations - Deputy Chief's Office. WEST's goal is to maintain a healthy work environment by providing support to members of the Department requesting assistance via referrals or one-on-one peer support.

After a particular critical incident, the event will be assessed for the necessity of a CISD). If it is determined that a CISD is necessary, then attendance is mandatory. The following procedures are followed when initiating CISD services:

- The initial CISD service is provided for all Department members directly involved in a critical incident such as an officer-involved shooting incident. CISD Coordinator authorization is required to obtain these services. The CISD Coordinator or appropriate unit commander will identify the Department members who were directly involved in a particular incident and ensure that each of them is notified of the date, time and place of the required debriefing meeting.
- The CISD Coordinator may be contacted via phone or email to initiate a debriefing. The CISD Coordinator's phone number is available in Communications. Phone numbers of debriefing staff volunteers are maintained by WEST.
- CISD should be completed for officers as soon as practicable after a critical incident concludes. Service to employees' families may be arranged at a time convenient for the family as needed on a case-by-case basis.
- Liaison: When an officer is involved in a critical incident, a command officer in the appropriate chain of command will ensure a Department representative is identified to be a liaison between the Department and the member. The representative may be a Department member or an individual from a specially trained volunteer list, available from the CISD Coordinator.

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L 7501.5 PSYCHOLOGICAL COUNSELING

Revised 08-09-23

Officers involved in an incident involving the use of deadly force shall undergo a counseling session with a licensed mental health professional specializing in law enforcement as soon as practicable. The Department will ensure that the officer(s) who used deadly force as well as other directly involved officers on scene are made aware of the counseling services available to them. The purpose of this session is to educate those involved regarding the potential psychological after-effects of a critical incident.

The counseling session shall not be related to any Department investigation of the incident. The session will remain protected by the privileged psychotherapist-patient relationship, and nothing discussed in the session will be reported to the Department.

The involved officers' families will also have the services of a licensed mental health professional specializing in law enforcement available to them to educate them regarding the potential psychological after-effects of a critical incident. The services shall not be related to any Department investigation of the incident, and nothing discussed will be reported to the Department. The consultation sessions will remain protected by psychotherapist-patient privilege as defined by law.

The Wellness and Employee Support Team will maintain the contact information for the licensed mental health professional on file and will be available to assist officers and/or their families in coordinating the sessions. The communication between the involved officer and the Wellness and Employee Support Team is a confidential communication, as defined in Government Code section 8669.4.



L 7600 – INTERAGENCY COORDINATION:

Department members will regard themselves as officers of the court, assisting in the fair and impartial administration of law. Members will treat the courts and court officers with respect, realizing that such is necessary to the maintenance of our system of due process guarantees.

PROCEDURE

L 7601 COURT PROCEDURES - ATTENDANCE AND DRESS REGULATIONS:

Department members will be punctual in attending court and will appear either in full uniform or in civilian clothes of businesslike appearance. The wearing of part uniform and part civilian clothes is not permitted. Officer's clothes will be neat and clean and will consist of one of the following:

- Male Officers:
 - Business suit and tie
 - Sport coat, slacks and tie
 - San Jose Police Department regulation uniform

- Female Officers:
 - Appropriate businesslike attire
 - San Jose Police Department regulation uniform

Exceptions to this regulation may be authorized only by a command officer.

L 7602 PREPARATION OF EXHIBITS:

Officers will have the cases in which they are concerned properly prepared and all property which is to be used as evidence suitably arranged for presentation in court.

L 7603 NOTIFICATION OF ARRIVAL:

Officers, when appearing in court, will notify the prosecuting attorney or assigned bailiff of their presence.

L 7604 NOTIFICATION OF NONATTENDANCE:

Revised 04-24-17

In all court cases, it will be the responsibility of each officer to make the appropriate notification when such officer is unable to make a scheduled court appearance. Non-emergency notifications will be addressed by returning the written court notice to the Witness Coordination Detail after it is reviewed and signed by the immediate supervisor.

For all non-emergency notifications, the officer shall respond via eResource with the reason for nonattendance; refer to L 7616 COURT NOTICE EXCUSES for acceptable criteria for

nonattendance. For notification of nonattendance to issuers at the District Attorney's Office, an electronic notification shall then be sent directly to the issuer via eResource. For notification of nonattendance to all other issuers (Traffic Court, Defense Attorney, City Attorney, etc.), the Court Liaison Unit shall then communicate to the requesting attorney or court of the officer's absence.

When non-attendance is due to an emergency, the officer will notify their immediate supervisor and the pertinent attorney of the reasons why the appearance cannot be made. In traffic court cases, where non-attendance is due to an emergency, the officer shall notify their immediate supervisor and the pertinent traffic court clerk of the reason why the appearance cannot be made.

In cases where there is no documentation of why the officer did not attend court, the Witness Coordination Detail shall send a non-attendance notice to the officer's immediate supervisor who will ensure that the non-attendance is within policy under DM L7616.

L 7605

CONFLICTING COURT APPEARANCE DATES:

Revised 04-24-17

When an officer receives two or more court notices requiring an appearance on the same day and time, the officer shall respond via eResource that they will not be attending one of the appearances due to a conflicting court appearance. Notification of nonattendance to an issuer at the District Attorney's Office shall then automatically be sent via eResource to the issuer. Notification of nonattendance to all other issuers (Traffic Court, Defense Attorney, City Attorney, etc.) shall be communicated by the Court Liaison Unit to the requesting attorney or court. Notification to the associated attorney(s) regarding the conflict shall be made at least 48 hours prior to the appearance.

Officers shall use the following guidelines to help determine which court case to attend:

- Felony trials in which testimony is given shall have priority over either misdemeanor or traffic court cases.
- Misdemeanor jury trials shall be given priority over traffic court cases if testimony will conflict with the traffic court case.
- If one appearance is in Criminal Court and one is in Traffic Court, the officer shall decline the Traffic Court appearance and request a continuance.

L 7606

TESTIFYING:

Revised 04-24-17

Officers shall testify with the strictest accuracy, and when cross-examined by the defense, shall answer with the same readiness and civility as when testifying in support of the charge.

Officers shall have with them a Miranda Warning Card (City Form 200-56) with them containing the same advisement used to advise the defendant of their rights. The court requires the officer's testimony specify the exact words used in the advisement.

L 7607**APPEARANCE IN CIVIL COURT:**

Officers are required to complete a "Civil Court Attendance" Report (Form No. 201-16) when served with a valid subpoena containing the seal of the issuing court and the signature of the Court Clerk or a Deputy Court Clerk. In the case of subpoenas for officers, the member receiving the subpoena will also verify that the person initiating the subpoena has deposited the required fee. Fees are paid in accordance with Section 68097.2 of the Government Code. The subpoena is then forwarded to the named officer in accordance with procedures in Duty Manual section L 4011 (Acceptance of Subpoenas – General).

Witness fees (\$35 per day) for civilians are to be paid to the Department at the time the subpoena is served. The professional staff member will immediately turn the fees over to the Fiscal Division. If fees are not paid at the time of service, the professional staff member will demand that they be paid prior to the appearance date. Civilians are not required to complete a "Civil Court Attendance" Report.

The Department member receiving the subpoena will maintain a record of the round-trip mileage from the point of departure to the court and back, and a record of the time taken to travel to the court, actual attendance time and return trip time. Reimbursement of mileage for personal vehicle use shall be requested by completing a "Mileage Reimbursement Claim" (Form 100-38).

The total mileage and time consumed will be indicated on the Civil Court Attendance Report Form in the designated spaces. The Department member will submit the Civil Court Appearance Form along with the subpoena to the Fiscal Division through the member's chain of command immediately following the court appearance.

- **OFF DUTY:** Officers who are required to appear in court in civil cases during off-duty hours will post their time on their biweekly time sheet in accordance with the current Memorandum of Agreement.
- **ON DUTY:** Officers who are required to appear in court in civil cases while on duty will make note of the court time in the "explanatory remarks" section of their biweekly time sheet. Officers may use City vehicles to attend Civil Court on duty.

L 7608**COURT ATTENDANCE RELATING TO OFF-DUTY EMPLOYMENT:**

Revised 04-24-17

Department members shall not respond to, appear in court, or appear in any other hearing on-duty, when not related to the City or in the course and scope of their duties. Only the Deputy Chief commanding the bureau to which the member is assigned may allow an exception. When a member is likely to be on-duty during such times, the member shall notify their supervisor so the member may be placed off-duty for the duration of the appearance.

L 7609**APPEARING FOR THE DEFENSE:**

Any Department member who reasonably anticipates being called to testify by, for or on behalf of the defendant in any criminal proceeding will notify the Office of the Chief of Police in writing as soon as practical, but in no event less than 72 hours prior to such officer's scheduled appearance. If the member first learns or anticipates such appearance less than 72 hours prior thereto, the member concerned will immediately notify the Office of the Chief

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orally in person or by telephone, followed by written notification. The notification called for will include the name of the defendant and the time and place of the hearing.

L 7610 PROMISES OR ARRANGEMENTS:

Members will not become involved in any promise or arrangement between a defendant and a victim with the intention of affecting the result of the defendant's trial.

L 7611 ARRANGING DISMISSAL OR LENIENCY:

Members will not seek to obtain the dismissal of a case or leniency for the defendant in any court unless done with the knowledge and consent of the District Attorney's Office.

L 7612 COURT NOTICE PROCEDURES:

Revised 04-24-17

All court notices for Department members shall be delivered via the eResource system. In order to assure proper service and return of court notices, the following procedure will be followed.

- RESPONSIBILITY OF WITNESS COORDINATION DETAIL: The Witness Coordination staff shall utilize the eResource system to monitor court notices and subpoenas sent to Department personnel. Witness Coordination staff shall conduct follow-up on unacknowledged notices/subpoena and assist Department personnel who may not have access to the eResource system to ensure notification is delivered.
- RESPONSIBILITY OF ORIGINATING UNIT: The investigation unit, in conjunction with the District Attorney's Office, shall be responsible for contacting civilian witnesses in the event of a dismissal or continuance.

L 7613 COURT NOTICES IN TRAFFIC CASES:

Revised 04-24-17

When the case involves a traffic violation, a court notice is sent only to the officer whose name appears first on the traffic citation. It is incumbent upon the officers to decide prior to the issuance of the citation who will appear in court.

Exceptions to the policy are to be resolved by the officer's Sergeant.

L 7614 APPEARANCE IN CASES INVOLVING RADAR:

Revised 07-01-22

With regard to lidar/radar violations, the court requires the appearance of the radar operator only. It is not necessary for the officer writing the citation to appear. Therefore, officers who are writing the citation will write their name and badge number on the first line of either the e-Cite or paper citation. If the name of the lidar/radar operator is different from the officer writing the citation, then the name and badge number of the lidar/radar officer will be printed or inserted on the second line of either the e-Cite or the paper citation.

L 7615 COURT NOTICE SERVICE:

Revised 04-24-17

Court notices and subpoenas shall be delivered electronically to Department members via the eResource system. Department members shall acknowledge receipt and respond to the notification via eResource. Responses to court notices from the Santa Clara District Attorney's office shall then be transmitted electronically to the sender via eResource, whether or not the officer will be in attendance; refer to L 7616 COURT NOTICE EXCUSES for acceptable criteria of nonattendance. Responses to court notices from all other issuers (Traffic Court, Defense Attorney, City Attorney, etc.) shall be communicated to the issuer by the Court Liaison Unit only in the event of nonattendance.

L 7616

COURT NOTICE EXCUSES:

Revised 04-24-17

Supervisors being requested to certify an excuse relating to why an officer witness cannot appear at a future hearing will use the following criteria to judge the validity of the request:

- Officer witness medically unfit (not ambulatory) because of illness or injury.
- Officer witness absent because of EMERGENCY LEAVE (military, funeral).
- Officer witness scheduled for out-of-town training and rescheduling is not practical. Attendance at CPT does not qualify as a valid excuse.
- Officer witness absent because of pre-planned leave and appearance would impose a severe hardship. A return-to-duty date must be noted on the court notice.



L 7700 INCIDENTS AT SAN JOSE STATE UNIVERSITY:

The State University campus is under the jurisdiction of the California State University Police Department, as described in Section 24651 of the California Education Code and Section 830.2(e) of the California Penal Code. The University Police Department is responsible for handling all crimes committed on property owned by the State of California and operated by the California State Universities. By agreement, the San Jose Police Department may be called upon to assist the university police in the handling of major crimes.

PROCEDURE

L 7701 INCIDENTS AT SAN JOSE STATE UNIVERSITY:

The following procedures will be adhered to regarding police service to the San Jose State University area.

L 7702 TRAFFIC ENFORCEMENT:

California State University police officers, hereafter called "university police" or "university officers" will enforce traffic regulations on campus. While traffic enforcement is not considered an operational objective of the University Police Department, university officers will enforce traffic regulations on streets adjacent to the campus and within the one mile concurrent jurisdiction should the violation warrant enforcement action. Parking violations on streets adjacent to the campus are the primary responsibility of the San Jose Police Department.

L 7703 TRAFFIC CONTROL:

Whenever traffic control or other assistance is needed for a scheduled event, notice for the request for assistance is given by the University Police Department to the San Jose Police Department at the earliest possible date prior to the scheduled event.

L 7704 ACCIDENTS:

All accidents occurring on the campus (parking lots, garage, etc.) of San Jose State University are handled by the University Police Department.

L 7705 IMPOUNDING VEHICLES:

Vehicles impounded by university officers on or adjoining the university campus are carried out under authority of CVC Section 22651. University Police Department Records personnel will enter the vehicles into CLETS as impounded.

L 7706 OFF-CAMPUS REQUESTS FOR SERVICE:

University officers may respond to citizen calls for service within the jurisdictional responsibility of the San Jose Police Department in areas adjacent to university property. All such requests are to be relayed or referred immediately to the San Jose Police Department via phone or radio. If the situation is resolved without need for a General Offense Report (Form 200-2-AFR) or there is little likelihood of future police intervention, San Jose Police may cancel their response when Communications is so advised by university officers. University officers will respond for back-up assistance upon request of the San Jose Police Department. University officers may respond to areas adjacent to university property to

observe incidents under investigation by the San Jose Police Department whenever the case may involve university property or students.

- L 7707 RESPONDING TO ON-VIEW CALLS FOR ASSISTANCE:**
University officers will respond to all on-view incidents (and on-view requests) off campus as per Section 830.2 of the California Penal Code and Section 24651 of the California Educational Code. When in the jurisdiction of the San Jose Police Department, university officers will take whatever action is necessary to preserve the peace, protect life and property, and preserve the crime scene for follow-up by San Jose Police Department. Upon arrival of San Jose police officers, university officers will turn over complete control of the situation to San Jose Police who is responsible for reports, follow-ups, etc.
- L 7708 CRIME INVESTIGATION:**
The California State University Police Department has responsibility for the investigation of all crimes occurring on property owned by the State of California and controlled by the California State Universities.
- L 7709 FOLLOW-UP INVESTIGATIONS BY SAN JOSE POLICE DEPARTMENT:**
Upon request, the San Jose Police Department will lend whatever assistance is necessary to the University Police Department with regard to criminal investigations.
- L 7710 INVESTIGATIONS BEYOND UNIVERSITY BOUNDARIES:**
University police are authorized under law to investigate crimes which have occurred on campus anywhere in the State of California. In the event the university police are investigating a crime and it is necessary to investigate beyond the one mile radius of the campus, the proper jurisdiction is notified as a courtesy. The San Jose Police Department will assist as much as possible with investigations extending into San Jose jurisdiction when requested by university officers.
- L 7711 OBTAINING WARRANTS:**
All complaints or warrants from the District Attorney's Office for misdemeanor and felony arrests are to be obtained by the California State University Police Department.
- L 7712 SERVING WARRANTS:**
San Jose police officers attempting to serve an arrest warrant, subpoena or any other writ on the campus will first contact the University Police Department and seek their assistance. San Jose Police Department is notified when university officers attempt to serve warrants, subpoenas or any other writs within San Jose Police Department jurisdiction.
- L 7713 ARRESTS MADE BY UNIVERSITY OFFICERS:**
When an arrest is made by a university officer, the arrestee is booked as a California State University Police Department arrest.
- University officers will transport and book all persons arrested by university officers. Should the transporting and booking process reduce the staff of the University Police Department to critical level, the San Jose Police Department is called and asked to assist in transporting and booking the prisoner for the university officers.

L 7714 INVESTIGATION OF CIVIL DISORDERS:

All street disturbances, riots, unlawful assemblies, civil disorders, etc., which depart the university campus are the responsibility of the San Jose Police Department. In the event the disturbance occurs off the campus but involves university students, the University Police Department may monitor the occurrence in order to be advised of the possibility of the occurrence moving onto the university campus. In the event this type of activity remains on campus, the University Police Department may request assistance, as necessary, from the San Jose Police Department.

SJPD commanding officers will then confer with University Police Department commanding officers and University Administration regarding the incident. SJPD will cooperate with the university police in carrying out the policy decided upon. SJPD will decide what tactics are employed to carry out this policy.

L 7715 INVESTIGATION OF VEHICLE CASES:

The University Police Department will investigate reports of vehicles stolen and recovered on State University property and immediately enter the appropriate information into CLETS and make appropriate notifications to the registered owner of the vehicle and the Department of Justice.

Vehicles stolen or recovered on city streets surrounding the university campus is the responsibility of the San Jose Police Department. The San Jose Police Department will enter the appropriate information into CLETS and make appropriate notifications to the registered owner of the vehicle and the Department of Justice.

At such times as university officers recover stolen vehicles on city streets surrounding the university campus, the University Police Department will immediately enter the appropriate information into CLETS and make appropriate notifications to the registered owner of the vehicle and the Department of Justice.

Vehicles may be removed by university officers from the city streets when blocking state-owned driveways or creating other hazards to university streets or pedestrians. In this event, appropriate information is entered into CLETS by the University Police Department.

L 7716 UNIVERSITY OFFICER-INVOLVED FIREARMS DISCHARGE:

Should a member of the University Police Department fire a weapon resulting in any injury or fatality, the District Attorney's Office is notified and requested to respond. The San Jose Police Department is notified and assistance is requested from IA Unit members should the incident warrant. Upon receipt of such notification and request, the on-duty SJPD watch commander will immediately contact the IA commander, or designee, who will then respond and assist the University Police Department. The SJPD watch commander will note the incident in the Watch Command Report.

L 7717 ENTERING CAMPUS ON OFFICIAL BUSINESS:

To assist in coordinating activities between the University Police Department and the San Jose Police Department, officers in uniform or in plainclothes going onto the San Jose State University campus on official business will adhere to the following procedure when possible:

- Notify the California State University Police Department on-duty watch commander at (408)924-2222, and indicate the nature and business.

L 7718 CRIME REPORTS AND RECORDS:

All crime reports taken by university police officers are made on California State University Police Department case numbers. Any criminal cases requiring coordination with the San Jose Police Department is forwarded to the appropriate Bureau of the San Jose Police Department marked: "For Information Purpose Only." All major crimes occurring on university property are reported to the San Jose Police Department on-duty watch commander for informational purposes only. Similar cases occurring adjacent to the university campus in the jurisdiction of the San Jose Police Department are reported to the University Police on-duty supervisor.

L 7719 JURISDICTION:

The university campus proper, south campus athletics facilities, the apartments at 1251 South Tenth Street, the San Jose State University Foundry, 1036 South Fifth Street, the Aeronautics building at 1120 Coleman Avenue, the International House at 360 South 11th Street and the University Club at 408 South 8th Street are the jurisdiction of the University Police Department.

University recognized sorority and fraternity houses surrounding the university are considered campus area, and jurisdiction is with the San Jose State University Police Department. Halfway houses or similar agencies occupying fraternity houses or larger dwelling houses in the area surrounding the university campus are the jurisdiction of the San Jose Police Department.



L 7800 - OFFICER TRAVEL ABOARD AIRCRAFT:

In order to conform to federal laws, procedures of the Federal Aviation Administration, and the policies of major airlines serving the Norman Y. Mineta San Jose International Airport, the Department maintains procedures which regulate the carrying of firearms on commercial aircraft.

PROCEDURE

L 7801 OFFICER TRAVEL ABOARD AIRCRAFT:

Revised 12-15-08

Officers traveling via commercial aircraft will carry firearms on or about their persons only when their specific mission requires they be armed on a particular flight. Unless otherwise authorized by TSA, to fly armed a law enforcement officer (LEO) must:

- Be a federal law enforcement officer or a full-time municipal, county or state law enforcement officer who is a direct employee of a government agency
- Be sworn and commissioned to enforce criminal statutes or immigration statutes
- Be authorized by the employing agency to have the weapon in connection with assigned duties
- Completed the training program "Law Enforcement Officers Flying Armed."

Before a LEO can fly armed, they must complete the following procedures:

- Have the operational need to fly armed.
- At least 24 hours before the day of travel, the LEO seeking to fly armed will bring a signed letter from the Chief's Office to OSSD Services who will transmit a properly formatted message, via NLETS, to ORI VAFAM0199.
- A NLETS receipt, with Unique Alphanumeric Identifier, is transmitted from the Transportation Security Operations Center (TSOC) to the LEO's employing agency.
- On the day of travel, the LEO checks in at the airline ticket counter, identifies themselves and presents the Original Letter of Authority from their Chief or Agency Head. The LEO fills out the armed traveler paperwork provided by the airline and proceeds to the Armed LEO Screening Checkpoint.
- At the Armed LEO Screening Checkpoint, the LEO provides the Unique Alphanumeric Identifier from the NLETS message and displays their badge, credentials, boarding pass, a second form of government identification, and required airline paperwork, commonly referred to as Person Carrying Firearms (PCFA) forms.
- The LEO will complete the LEO Logbook and proceed to their boarding gate.
- At the boarding gate, the LEO will provide airline personnel with armed traveler paperwork and inform the gate agent of their presence and status.

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- The LEO then will meet with the Pilot in Command, Federal Air Marshals, Federal Flight Deck Officers, and/or other Law Enforcement Officers onboard the flight as directed.

Officers will not attempt to board an aircraft, or pass through pre-flight screening, including magnetometer or similar devices, carrying a firearm without first notifying those officials conducting the pre-flight screening. The screening official is required to inspect the credential, badge and Government-issued photo ID of an armed officer in order to clear the officer through the screening checkpoint. No firearm, ammunition or other prohibited items are presented for x-ray or other screening unless the screening official gives specific instructions to do so.

L 7802 CHEMICAL WEAPONS:

Revised 10-30-20

Chemical weapons, such as tear gas, mace, OC spray, etc., are not taken on board passenger aircraft on the person or in baggage of an officer under any circumstances.

L 7803 BAGGAGE CONTAINING WEAPONS:

Revised 04-20-05

On or off duty, when transporting a weapon inside baggage or other container, officers will ensure that the weapon is unloaded and the baggage is locked in a hard-sided container. The officer will retain the key or combination to such baggage lock and ensure that the baggage is placed on the aircraft so that it is inaccessible to other passengers.

When transporting ammunition, it must be packed inside its original packaging or a container specifically designed for transporting ammunition. If the ammunition is in a clip or magazine, it must be detached from the firearm and have a sleeve which covers the clip or magazine to prevent the ammunition from becoming dislodged during transport.

L 7804 CONSUMPTION OF ALCOHOLIC BEVERAGE:

All officers who board an aircraft while armed will abstain from consuming any alcoholic beverage during the duration of the flight.

L 7805 ESCORTING PRISONERS:

In addition to the above requirements, officers assigned to transport a prisoner via commercial airline will adhere to the following procedures:

- DISCLOSE IDENTITY: Prior to boarding the aircraft, disclose the identity of the escorted prisoner to a representative of the airline involved.
- INDICATE NATURE OF PRISONER: Notify a representative of the involved airline as to whether the escorted person is considered dangerous.
- REMOVE ALL WEAPONS OR DANGEROUS ARTICLES: Ensure that the prisoner does not have any article or property that could be used as a deadly or dangerous weapon and would be accessible to such prisoner while aboard the aircraft.

- ENSURE AVAILABILITY OF RESTRAINING DEVICES: Be equipped with adequate restraining devices to be used in the event that restraint of the prisoner is necessary during the flight.
- MAINTAIN CONTINUOUS SURVEILLANCE: Ensure that the prisoner is at all times kept under surveillance.
- ABSTAIN FROM CONSUMPTION OF ALCOHOLIC BEVERAGE: Do not allow the prisoner to drink any alcoholic beverage while aboard the aircraft.



L 7900 - COOPERATION WITH OTHER CRIMINAL JUSTICE AGENCIES

The Department will maintain a close working relationship with other law enforcement or law enforcement related agencies and make available information concerning techniques, procedures and statistics developed or used by the Department.

PROCEDURE

L 7901 DISSEMINATION OF INFORMATION:

Authorized Department members, when possible, will disseminate to interested outside agencies the documentation of research projects, experiments or programs implemented by the San Jose Police Department.

L 7902 ENFORCEMENT AND/OR INVESTIGATIONS IN OTHER JURISDICTIONS:

Department members may conduct activities outside the corporate limits of the city after first obtaining approval of competent authority and in cooperation with the agency having jurisdiction.

EXCEPTION: When an enforcement action begins within the corporate limits of the city but extends uninterrupted into another jurisdiction, officers may continue the enforcement action.

L 7903 RETURN OF ARRESTED SUSPECTS:

When an arrest is made in another jurisdiction within the state, the arresting officer is authorized to return the arrested person to the jurisdiction of the city. When an arrest is to be made outside the state, officers will adhere to the Duty Manual section L 3900, (Return of Wanted Persons).

L 7904 ARRESTS FOR INCIDENTS OCCURRING WITHIN THE COUNTY:

When an arrest is made within or adjacent to San Jose in which the arrested party is responsible for a crime that just occurred in another jurisdiction within the county, the suspects will immediately be turned over to the agency in which the crime was committed.

L 7905 USE OF DEPARTMENT HELICOPTER BY OUTSIDE LAW ENFORCEMENT AGENCIES:

The Helicopter Unit may be available for use by outside agencies to respond to high priority emergency situations. Department aircraft will not respond to any location outside the City of San Jose to assist another agency without prior consent of the on-duty BFO watch commander or, in their absence, the on-duty Communications watch commander.

L 7906 REFERRAL TO PROPER JURISDICTION:

In those situations where the legal remedy of the complaint lies outside the jurisdiction of the Department, Department members will politely advise the complainant of the fact and refer such complainant to the proper authority.

L 7907 OFFICE OF THE DISTRICT ATTORNEY:

Members of the Department will cooperate with the District Attorney's Office at all times in the discharge of their duties. Requests by the District Attorney's Office for evidence such as statements and other material will be complied with promptly and efficiently.

Reports regarding criminal cases will not be released to the Public Defender's Office without prior permission from the District Attorney's Office.

L 7908 STATE NARCOTICS DIVISION:

The policy of this Department is to cooperate with the State Narcotics Division so that violators are prosecuted quickly and efficiently. To this end, officers investigating narcotic cases will exchange information with the State Narcotics Division when practical.

L 7909 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:

Members of the Police Department will notify the Department of Alcoholic Beverage Control of violations of the Alcohol Beverage Control Act and coordinate their efforts with the personnel of that department. Members of the Department will not merely refer matters to the Department of Alcoholic Beverage Control, but will investigate and instigate the prosecution of violators in cooperation with the Department of Alcoholic Beverage Control.

L 7910 POSTAL INSPECTION SERVICE:

When necessary to report emergencies relating to postal service operations, Department members will contact the "postal inspector in charge" through the San Francisco telephone information operator.

Postal security will be contacted whenever the emergency involves one or more of the following:

- Robbery of postal facilities or on-duty employees of the postal service
- Burglaries or attempted burglaries of postal facilities or equipment
- Bombings or bomb threats against postal facilities or equipment
- Fire involving postal facilities or equipment
- Postal vehicle accidents involving death or serious injury or loss of U.S. Mail
- Any other major catastrophe involving postal operations

A General Offense Report (Form 200-2-AFR) will then be completed detailing the incident and actions taken.

L 7911 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT:

Revised 03-13-18

The responsibility for enforcement of civil immigration laws rests with the U.S. Immigration and Customs Enforcement. In accordance with the March 6, 2007 City Council "Resolution of Support of Public Safety and Immigrant Rights" (Resolution No. 73677), members of the Police 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. Otherwise law-abiding, undocumented immigrants should not fear arrest or deportation for coming forward to members of the Police Department to report a crime as a victim or a witness. At the same time, the Department will continue to cooperate with the U.S. Immigration and Customs Enforcement in matters involving serious crimes, the protection of public safety, and as required by statute, federal regulation, or court decisions. The policy of the Police Department in relation to undocumented immigrants is as follows:

- 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.
- Notwithstanding, nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state or local government entity.

L 7911.1 U-VISA REQUIREMENTS:

Added 05-19-16

California Penal Code 679.10 imposes certain requirements on law enforcement agencies when responding to U-Visa certification requests from noncitizen victims of crime. Penal Code 679.10 requires certifying agencies to complete the certification within 90 days of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed within 14 days of the request. Importantly, Penal Code 679.10 also states:

- For purposes of determining helpfulness, there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
- A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.
- The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.
- A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the

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Form I-918 Supplement B certification.

- A current investigation, the filing of charges, and a prosecution or conviction is not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.
- A certifying entity that receives a request for a Form I-918 Supplemental B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with Section 9795 of the Government Code.

L 7911.2 PROCEDURES FOR U-VISA APPLICATION, CERTIFICATION AND TRACKING:

Added 05-19-16

The Court Liaison Unit (CLU) will be the primary U-Visa coordinator. Requests for U-Visa certifications or assistance in applying for U-Visa certifications will be forwarded to the CLU for processing and tracking.

Responsibilities of OSSD and Information Center Officers:

- Route any U-Visa related mail to the CLU for processing, special attention U-Visa Coordinator.
- Accept all in-person applications for U-Visas and route all applications to CLU, special attention U-Visa Coordinator.
- If applicants have additional questions, refer them to the CLU at (408)-537-1296. Applicants may also be referred to SJPD.ORG for additional detailed information on the U-Visa program and application documents.

Responsibilities of CLU Supervisor:

- Confirm there is a crime report documenting the qualifying crime. If there is no police report documenting the qualifying crime, the application should not be accepted. However, the victim should be given instruction on how to make a police report if none exists. Supporting material should not be accepted with the U-visa application. Victims should be advised that supporting material can be presented to the United States Citizen and Immigration Service (USCIS).
- Determine the current status of the case.
- If the case was initially forwarded to the DA's office, the U-Visa certification may be forwarded to the U-Visa Clerk, (Attention: U-Visa Clerk).
- If the case has not been filed by the Office of the District Attorney, assign the certification request to the appropriate investigative unit.
- If the case was not assigned to an investigative unit, review the police reports and complete U-Visa certification.
- Follow-up with assigned investigative unit if a U-Visa certification is not returned within 90 days.

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- Track the number of victims that requested certifications, the number of certifications signed and the number of certifications denied for annual audit.

Responsibilities of Assigned Investigative Unit Supervisor:

- Complete the certification within 90 days of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed within 14 days of the request. (Only persons in a supervisory role are authorized to sign).
- Forward completed certification to CLU for processing within 90 days.

Instructions for completing the certification and Form 918 Supplemental B declaration can be found on the United States Citizenship and Immigration Services website: <https://www.uscis.gov/sites/default/files/files/form/i-918instr.pdf>.

L 7912

UNITED STATES SECRET SERVICE:

The United States Secret Service is responsible for the protection of the President and other persons associated with the Presidency, as well as foreign dignitaries who may be visiting in the United States. Members of the Department will cooperate with agents of the Secret Service during investigations that involve Secret Service protectees.

The policy of the Department in coordinating investigations involving threats against Secret Service protectees is as follows:

- Officers investigating threats against a Secret Service protectee will gather the basic details of the incident and notify Communications to contact the Secret Service as soon as practical. Whenever possible, the investigating officer should utilize the telephone to avoid broadcasting the details of the investigation over the police radio. The Secret Service has an agent on-call 24 hours a day who can be contacted via Communications.
- When contacted by the on-call Secret Service agent, the investigating officer will brief the agent on the incident and ascertain if the agent will be responding. The investigating officer will then notify the district supervisor and watch commander and advise them of the situation and whether or not an agent is responding.
- The investigating officer will complete a General Offense Report (Form 200-2-AFR) and ensure that it is routed to the Secret Service and the San Jose Police department Intelligence Unit.
- No Department member will make any statements or press releases involving a threat against a Secret Service protectee.

Officers will adhere to the above procedures when investigating threats against any of the following individuals who are designated Secret Service protectees:

- The President, the Vice President (or other officer next in order of succession to the Office of the President), the President-elect, the Vice President-elect and the immediate families of all of these individuals;
- Former Presidents and their spouses for their lifetimes, except that protection of a spouse will terminate in the event of remarriage;

- Children of former Presidents until age 16;
- Visiting heads of foreign states or governments and their spouses traveling with them;
- Other distinguished foreign visitors to the United States;
- Official representatives of the United States performing special missions abroad;
- Major Presidential and Vice Presidential candidates, and within 120 days of the general Presidential election, the spouses of such candidates.

L 7913

MILITARY DESERTERS:

Department members will assist military government authorities in locating deserters only after the government official has arrived at the scene. Should a deserter surrender themselves to an officer or at the PAB lobby, the Department member will call the appropriate 24-hour phone number available at the Warrants Unit. The necessary contacts to have the appropriate branch of the service respond to collect the prisoner can then be arranged.

Line Operations/Procedures

L 8000 – L 8900



San Jose Police Department Duty Manual



L 8000 - POLICE/FIRE COORDINATION:

Officers assigned to the scene of a fire are responsible for coordinating their efforts so as to prevent any interference with the operations of the Fire Department. In addition, officers will perform those tasks necessary to ensure that loss of life and property is minimal.

PROCEDURE

L 8001 POLICE/FIRE COORDINATION - RESPONSIBILITY:

At the scene of fires, the ranking firefighter is in overall charge and will determine when the emergency situation is terminated. The ranking police officer will establish liaison with the ranking fireman and will assume responsibility for the supervision of all officers. Police involvement will consist primarily of crowd and traffic control and security of property and equipment.

In the event of a fire of major proportions, the sergeant assigned to the district of occurrence will assume responsibility for directing officers.

L 8002 INVESTIGATION OF FIRES:

Investigation of the origin of fires is the responsibility of the Fire Department, Arson Unit. An officer who is assigned to, or discovers any suspicious fire, arson or attempted arson while investigating any other crime will notify the Fire Department as soon as is practical. Mandatory notification should be made via Communications. A General Offense Report (Form 200-2-AFR) will be completed and forwarded to the Arson Unit via OSSD, Records.

Arson investigators, at their discretion, are responsible for the conduct of the investigation.

L 8003 RESUSCITATION CALLS:

The ranking Fire Department officer is in charge at resuscitation calls if both the Police and Fire Department respond. The ranking officer will take charge if a crime is involved, but the Fire Department will still administer first aid.

L 8004 NON-CRIMINAL CASES:

The ranking officer will command in non-criminal cases when the Fire Department decides no emergency first aid is necessary and the incident does not involve a fire.

L 8005 FALSE FIRE ALARMS:

Officers in the field will cooperate with the Fire Department in attempting to apprehend false fire alarm perpetrators.

L 8006 DUTIES WHEN FIRE DISCOVERED:

When a Department member discovers a fire, or is made aware of the existence of a fire, such member will perform the following tasks:

- **NOTIFICATION**: The initially assigned officer will ensure that the Fire Department and district supervisor are notified.
- **EVACUATION/RESCUE**: The first arriving officer will attempt to evacuate and/or rescue persons who are in danger as a result of the fire. In any event, officers will, when necessary, evacuate persons from nearby endangered structures.
- **SEALING OF AREA**: The officer in command of police Department members will ensure that the area of the fire scene is sealed off and that persons in the area are kept a safe distance from the scene.

L 8007

USE OF FIRE DEPARTMENT MEMBERS:

When an incident requires the use of Fire Department personnel, the officer in command of the police operation, will notify the on-duty Fire Department Battalion Chief in the district of occurrence and request assistance. The officer in command and the on-duty Battalion Chief will confer and determine whether the fire personnel will respond to the scene, stand by at a Fire Department facility, or not respond at all.

If there is reason to believe that the situation is an emergency and the circumstances require the immediate response of Fire Department personnel, such officer will request Fire Department response through Communications via radio or other available means. When appropriate, the requesting officer will advise Communications to notify the district-of-occurrence supervisor or, when not available, the area-of-occurrence lieutenant that Fire Department units have been requested.

When requesting the services of the Fire Department, the Department member initiating the request will indicate to Communications the location to which fire Department members should respond, the name of the officer to contact at the scene, the potential danger to fire personnel, and a brief synopsis of the facts and circumstances surrounding the incident.

In any case, Department members will use sound judgment in determining the need for a response by Fire Department personnel.



L 8100 - OUTSIDE GOVERNMENTAL SERVICE AGENCIES:

The Department will maintain a close working relationship with other governmental/service agencies and make available information concerning matters of mutual concern as authorized by established procedures.

PROCEDURE

L 8101 OUTSIDE GOVERNMENTAL/SERVICE AGENCIES - GENERAL PROVISIONS:

Members of the Department will cooperate with other city, county, state, federal or service agencies whenever the issue or information requested pertains to an explanation of operational procedures, involves a program common to both this Department and another agency, or is required by statute or assignment. Such information will be furnished on request providing that the release of the information will not neutralize, inhibit or compromise operations of the Department, the safety or privacy of any person or the law.

When the requesting agency requires information that a Department member does not possess, or is not authorized to release, such member will refer the requesting agency to an appropriate subdivision of the Department. Questions pertaining to the following indicated topics will be referred as follows:

- STATISTICAL, BUDGETARY AND DEPARTMENTAL PLANNING: Information may be obtained through the Office of the Chief of Police during normal business hours.
- RECRUITMENT, TRAINING AND PERSONNEL: Information may be obtained through the Deputy Chief of the Bureau of Administration during normal business hours.
- MAJOR CRIMES AND NARCOTICS: Information should be obtained from the Deputy Chief of the Bureau of Investigations during normal business hours. On Saturdays and Sundays and other than business hours, information may be obtained from the on-duty Patrol Commander.
- GAMBLING, PROSTITUTION AND PORNOGRAPHY: Arrest information may be obtained from the Press Information Officer during normal business hours.
- FIELD OPERATIONS AND CRIME PREVENTION: Information such as major accidents or activities in progress should be obtained from on-duty command officers of the Bureau of Field Operations.
- DEPARTMENT POLICY: Information is released by the Office of the Chief of Police during normal business hours.
- CUSTODY INFORMATION, PHOTOGRAPHS AND CRIME REPORTS: Photographs of "wanted" persons are not released unless authorized by the unit to which the case is assigned. Department photographs and arrest records of persons in custody cannot be released. "Crime Reports" are available for the news media to view. This

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information, when authorized, may be released by the Operations Support Services Division Manager during normal business hours.

L 8102 PROBATION DEPARTMENT NOTIFICATION:

Officers having contact with persons on probation will report the circumstances of the contact in a Street Check through the Mobile Report Entry (MRE) system or in a General Offense Report (Form 200-2-AFR) and direct a copy of the report to the Adult Probation Department having jurisdiction over the person. A copy of the report may also be directed to the District Attorney's Office when extenuating circumstances warrant.

L 8103 TOW-CAR LIAISON:

The City of San Jose's Office of Planning, Building and Code Enforcement is responsible for maintenance of the Police Department tow-car list and for liaison activities with tow-car operators and/or members of the Tow-Car Operators' Association. Members will refer inquiries about the Department tow-car list or procedures to that office.

L 8104 REQUEST FOR PHOTOS FROM OUTSIDE AGENCIES:

When outside requests are made for copies of photos, the requestor will be referred to the Records and Identification Division, where a request will be prepared listing the services desired and an estimate of charges for those services.

L 8105 ORGAN TRANSPLANT SERVICES:

Officers who discover a Uniform Donor Card on a deceased person will immediately notify the Transplant Bank through Communications and bring the card to the attention of the Coroner's Office. Time is a critical factor in the donations of most organs and the Bank maintains a 24-hour telephone service at 1-800-563-6667.

L 8106 COMMUNICATION COMPLAINTS:

Deleted 02-22-01

L 8107 OBTAINING TELEPHONE COMPANY INFORMATION:

When necessary in emergency situations for the protection of life and/or property or in the process of criminal investigations, officers may obtain an unlisted, non-published telephone number or address from the Telephone Company by adhering to the following appropriate procedures:

- **REQUESTS FROM FIELD OFFICERS:** Field officers will request that the supervising dispatcher in Communications contact the Telephone Company Chief Special Agent. The requesting officer will supply their name, identification number, the case number, and a brief reason for the inquiry to the supervising dispatcher.

Communications members will then ensure that a "confirmation letter" is initiated confirming that the request was made for a law enforcement purpose. The letter will then be forwarded to the Telephone Company Chief Special Agent within 24 hours of the request.

- **REQUESTS BY OTHER PERSONNEL:** When the requesting officer is not in the field, the telephone operator is contacted and a request made to speak with the Chief Special Agent Representative on-duty. The requesting officer will supply their name, identification number, case number, and reason for the inquiry.

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The requesting officer will ensure that a "confirmation letter" is prepared and forwarded for signature to the Deputy Chief in command of the bureau. In any event, the letter is forwarded to the Telephone Company Chief Special Agent within 24 hours of the request.



L 8200 - DIPLOMATIC/LEGISLATIVE IMMUNITY:

Diplomatic and Consular Officers and State Legislators are accorded their respective privileges, rights and immunities as directed by international law, federal statute and state laws. These officials are treated with the courtesy and respect that befit their distinguished positions. At the same time, it is a well-established principle of international law that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.

PROCEDURE

L 8201 DIPLOMATIC/CONSULAR IMMUNITY - DEFINITION:

Diplomatic/consular immunity is broadly defined as freedom from local jurisdiction accorded to duly accredited Diplomatic Officers, their families and servants.

L 8202 LEGISLATIVE IMMUNITY - DEFINITIONS:

Legislative immunity is broadly defined as the immunity from arrest afforded members of the Legislature who are en route to an official session of the Legislature.

L 8203 DEFINITION OF PERSONS HAVING IMMUNITY:

The following persons have various degrees of immunity:

- **DIPLOMATIC OFFICERS:** Ambassadors and ministers are the highest-ranking diplomatic representatives of a foreign government. Other diplomatic titles are Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, and Attaché. These officials are based either in Washington D.C. or in New York City and are entitled to immunities as described below.
- **CONSULAR OFFICERS:** Consular Officers are Consuls-General, Deputy Consuls-General, Consuls and Vice Consuls. They are also official representatives of foreign governments. Consular Officers may be located in various large cities throughout the nation and are entitled to limited immunities as described below.
- **HONORARY CONSULS:** Often nationals or permanent residents of the receiving state are appointed and received as Honorary Consular Officers to perform the functions generally performed by Career Consular Officers. Such officers do not receive identification cards from the State Department of the type issued to Career Consular Officers, though they may exhibit reduced-size copies of the exequatur of diplomatic note evidencing recognition by the United States Government.
- **FAMILY/STAFF OF FOREIGN DIPLOMATS OR CONSULAR OFFICERS:** The family members, staff or servants of a diplomat or Consular Officer are broadly defined as those individuals who are immediate family members (wife, children, parents) or working directly for the Diplomatic/Consular Officers. Such persons must not be nationals or permanent residents of the United States to claim the authorized immunity or privileges.

- MEMBERS OF THE LEGISLATURE: A legislative member is any person duly elected to the California Legislative Federal Congress.

The above named officials have all been issued various official identification papers or cards. Officers contacting such officials can ascertain their respective status and title by requesting their official identification which will indicate status and title. The above officials and persons will be treated with appropriate respect by members of the Department. All appropriate steps will be taken to prevent any attack on their person, freedom or dignity within the following authorized limits.

L 8204 LIMITS ON ENFORCEMENT ACTION:

The privileges, rights and immunities afforded diplomatic, consular or legislative officials are established by international law, federal statutes and state law. Such laws and statutes determine what law enforcement actions are authorized. However, the privileges, rights and immunities vary from Diplomatic Officers, Consular Officers and Legislative members and their respective families. When an incident involves such persons, adhere to the following restrictions or enforcement actions.

L 8205 DIPLOMATIC OFFICERS AND ASSOCIATED PERSONS, PREMISES AND PROPERTY:

Foreign Diplomatic Officers, their families, official staff and servants who are not nationals of, or permanent residents in, the receiving state are protected by unlimited immunity from arrest, detention or prosecution with respect to any civil or criminal offense. Diplomatic Officers should not be arrested or detained for any offense.

- EXCEPTION: When a Diplomatic Officer, or a member of the Diplomat's family or staff, is a danger to themselves or others, or is exhibiting violence towards an officer, then officers may temporarily detain such person at the Police Administration Building until a responsible person from the diplomatic official's office, family or staff arrives and assumes responsibility for the Diplomat's safety and welfare.

Associated with this personal diplomatic immunity is the inviolability enjoyed by the premises of the mission of the sending state and the private residence of a Diplomatic Officer and the property, papers and correspondence of such a person.

L 8206 CONSULAR OFFICERS AND ASSOCIATED PERSONS, PREMISES AND PROPERTY:

Foreign Career Consular Officers are not liable to arrest or detention pending trial except in the case of a grave crime (felony offense that would endanger the public safety) and pursuant to a decision by a competent judicial authority.

Family members, staff and servants of a Consular Officer cannot claim immunity. However, consideration should be given to the special nature of this type of case. A violation should be handled, when possible, through the seeking of a complaint. The individual should be released once positive identification is made and relationship with the consular official is verified. If the relative is a juvenile, they should be released to a parent.

Consular premises used exclusively for the work of the consular post cannot be entered without explicit permission of the head of the consular post, a designee, or by the head of the

diplomatic mission. This permission may be assumed in the case of fire or other disaster requiring prompt protective action.

The consular archives and documents are inviolable at all times and wherever they may be. The official correspondence of the consular post, and its functions, is likewise inviolable.

L 8207 HONORARY CONSULAR OFFICERS AND ASSOCIATED PERSONS, PREMISES AND PROPERTY:

These individuals are not immune from arrest or detention; they are also not entitled to personal immunity from the civil and criminal jurisdiction of the receiving state except as to official acts performed in the exercise of their consular functions. However, appropriate steps must be provided to accord to such officers the protection required by virtue of their official position.

Family members, staff and servants of Honorary Consular Officers cannot claim immunity. However, consideration should be given to the special nature of this type of case and the complaint/criminal citation process utilized when practical.

The consular archives and documents of a consular post headed by an Honorary Consul are inviolable at all times and places, provided they are kept separate from other papers and documents of a private or commercial nature relating to the other activities of an Honorary Consul and persons working with such an official.

L 8208 MEMBERS OF THE LEGISLATURE:

Persons who are elected members of the California Legislature or United States Congress should not be unduly detained or arrested when such officials are en route to a legislative session or meeting. However, when an offense is so serious as to warrant follow-up, an officer may gather sufficient data to complete a preliminary investigation and then submit a report for later review by appropriate superiors.

In addition, when the conduct of such an official endangers the lives or safety of any person, the officer may take custody of the official and transport to a preprocessing facility to confer with such officer's immediate superior.

L 8209 METHODS OF HANDLING SELECTED INCIDENTS, VIOLATIONS OR MINOR OFFENSES BY CONSULAR OFFICERS:

Department members will adhere to the following procedures when appropriate and practical:

- **MOVING TRAFFIC VIOLATIONS:** When a Department member stops a Consular Officer for a moving traffic violation, the officer will ascertain that the detained person is a Consular Officer and that such person possesses the proper credentials; the officer should then exercise discretion based on the nature of the violation and either release the person with a warning of the danger of the person's actions or proceed with issuance of appropriate citation. Mere issuance of a traffic citation does not constitute arrest or detention in the senses referred to above.
- **DRIVING WHILE UNDER THE INFLUENCE:** The primary consideration in this type of incident should be to see that the Diplomatic/Consular Officer is not a danger to themselves or the public. Based upon a determination of the circumstances, the following options are available:

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- Take the official to the station or a location where the official can recover sufficiently to drive safely.
- Take the official to a telephone so that a relative or a friend can be contacted in order to respond to the scene and take responsibility for the official's welfare and safety.
- Call a taxi.
- Take the official home.

In such incidents, the diplomatic official should not be handcuffed, subjected to any sobriety test, or manhandled in any way unless such an official is violent and such behavior endangers the safety of any person. At best this is a sensitive situation. The diplomatic official will be treated with respect and courtesy. It should be impressed upon such an official that the primary responsibility of the detaining officer is to care for the Diplomat's safety and the safety of others.

L 8210 REPORTING OF INCIDENTS:

When a diplomat, consular or legislative official is contacted, Department members will report the contact in accordance with the following appropriate procedure.

L 8211 NOTIFYING THE OFFICE OF THE CHIEF OF POLICE:

When an enforcement action is taken involving a diplomatic or legislative official, the officer initiating the action will report the details of the enforcement action taken on a memorandum and forward the report through the chain of command to the Office of the Chief of Police. Such report will be completed prior to securing from the tour of duty during which the enforcement action occurred.

L 8212 NOTIFYING THE OFFICE OF THE MAYOR:

When a Diplomatic/Consular Officer, family member or diplomatic staff member is arrested or otherwise detained at a police facility, the Office of the Chief of Police is notified verbally as soon as possible by the officer in command of the incident. The Office of the Chief of Police is responsible for notifying the Office of the Mayor when such notification is determined as necessary.

L 8213 NOTIFYING FEDERAL AGENCIES:

When a Diplomatic/Consular Officer's family or staff is involved in a serious incident (murder, negligent homicide, etc.) the San Francisco Office of security, U.S. State Department, should be notified. When the incident involves a crime against the United States, the Federal Bureau of Investigation should be notified.

Notification is made ONLY after contacting the Office of the Chief of Police and then only as directed by the Office of the Chief of Police.

L 8214 ISSUANCE OF LOCAL IDENTIFICATION:

The Department maintains procedures for the issuance of City identification when requested by local consular officials. When a request is made for such identification, the Department member receiving the request will direct the consular official to the Office of the Chief of Police.

L 8215

COMMUNICATION AND CONTACT BETWEEN CONSULAR OFFICIALS AND CITIZENS OF A FOREIGN COUNTRY:*Revised 05-27-21*

In accordance with federal law and the provisions of California Penal Code section 834c, officers, upon arrest and booking or detention for more than two (2) hours of a known or suspected foreign national, shall advise the foreign national of their right to communicate with an official from the consulate of their country.

Officers shall ask the detained person of their foreign national status. If the detained person is a foreign national, including a Lawful Permanent Resident (green card holder), the officer should ask the person to identify their country of citizenship and ask the foreign national if they would like the appropriate consular officer notified. A person who is a United States citizen and a national of another country may be treated exclusively as a United States citizen when in the United States. For purposes of consular notification, officers should make no distinctions based on whether the foreign national is in the United States "legally" or "illegally." The officer should note the corresponding responses to each question in the "Consulate Notification" section of the PPC Intake and Screening Form.

The Department considers satisfactory notification of a foreign consulate to be accomplished under this provision when one of the following is accomplished:

- The arresting or transporting officer completes a Pre-Processing Center Embassy/Consulate Fax Notification form and faxes the notification to the arrested/booked or detained foreign national's consulate.
- If unable to make fax notification, the arresting or transporting officer makes telephone contact with the appropriate foreign consulate for the arrested/booked or detained foreign national.

Documentation of these notifications will be accomplished by completing and attaching the Pre-Processing Center Embassy/Consulate Fax Notification Form to the corresponding General Offense Report (Form 200-2-AFR).

A list of countries requiring consulate notification, without regard to an arrested or detained foreign national's request to the contrary, can be found in Penal Code section 834c(d). In cases of mandatory consular notification, officers shall advise the person arrested and detained of the required notification to their consulate. In addition to the written documentation of notification, the watch commander shall be informed by the arresting or transporting officer whenever a consulate is notified under the requirements of this section.

Upon their request, consular officials are permitted to visit a national of their country who is under arrest or detention to communicate with them and to arrange for their legal representation. Department members shall give consular officers and diplomats visiting a detained foreign national the same access privileges as attorneys visiting a client.

When a law enforcement agency becomes aware of the death of a foreign national, notification to consular officers should be made by the appropriate state or local authority (i.e., coroner, medical examiner, or law enforcement official) investigating the death. Department investigators should coordinate with the Coroner's Office to ensure notification is made.

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When a law enforcement agency becomes aware of the serious injury or serious illness (i.e., in a coma or hospitalized with a life-threatening injury) of a foreign national, notification to consular officers is encouraged, but not required. Patrol officers should coordinate with hospital staff to ensure notification is made.

If a ship or airplane registered in a foreign country wrecks or crashes in the United States, the investigative agency should ensure notification of the consular officers of the country in which the airplane or ship is registered. Department investigators should coordinate with the National Transportation Safety Board to ensure notification is made.

L 8216 OPERATIONAL PROCEDURES FOR PERSONS SEEKING ASYLUM IN THE UNITED STATES:

When confronted with one or more foreign nationals seeking asylum in the United States, officers will contact their immediate supervisor. The reason for contact will not be transmitted over the radio.

The individual will then be placed in protective custody and taken to the Police Department by the officer, to be released only to the officer's immediate supervisor, command officer, or a member of the U.S. State Department.

The Chief of police is notified immediately through the chain of command. The immediate supervisor will contact the State Department and arrange secure transportation to a location designated by a representative of the State Department. There is no radio traffic associated with this transportation unless an emergency situation develops. No statement should be given to the press and all inquiries should be referred to the State Department.

As soon as practical, all officers associated with the incident will prepare a memorandum. The memoranda are collected and reviewed by the area commander and sent directly to the Office of the Chief. The Office of the Chief will forward the memoranda to the State Department.



L 8300 - PRIVATE SECURITY AGENCIES AND INCIDENTS:

In order to conform to state law, the Department maintains procedures which define and regulate private security companies. These regulations define and regulate private security uniforms and equipment, as well as the carrying of weapons by persons employed by various private security agencies. These regulations are on file at City Hall in the Business/Treasury Department as well as available through the Police Permits Unit.

PROCEDURE

L 8301 PRIVATE SECURITY AGENCIES - GENERAL PROVISIONS:

Persons operating as private security guards carrying firearms in the course of their employment, other than a sworn police officer, are required to have in their possession a valid guard registration card (not an application for registration, pink copy), a valid, un-expired firearm qualification card and valid baton certificate issued by the Department of Consumer Affairs, Bureau of Security and Investigative Services. In addition, when such persons are required to be registered as a security guard and carry a firearm and/or baton, they shall wear a uniform which complies with the requirements of B&P Code section 7582.27. Such persons may be required to operate under a state licensed private patrol operator with a qualified manager. Regulations establishing these requirements are found in the following sections:

- BUSINESS AND PROFESSION CODE:

Regulation, Licensing and Registration 7582 -7582.28

Private Patrol Operators 7583 - 7583.42

Firearms and Baton Training 7585 -7585.20

Expiration and renewal of License 7586 - 7586.5

- PENAL CODE:

CCW 12025

Loaded Gun 12031(D).

- SAN JOSE MUNICIPAL CODE:

Chapter 6.50

L 8302 ALARM COMPANY OPERATION/AGENT - DEFINITIONS:

An alarm company operator means and includes any person operating a business for any consideration (money, barter, services, payment of any kind) who is engaged in the installation, maintenance, alteration or servicing of alarm systems. "Alarm company operators" do not include businesses which merely sell from a fixed location or manufacture alarm systems, unless such businesses also service, install or respond to an alarm at the protected premises.

Alarm agents are defined as persons employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing or servicing an alarm system. The term "alarm system" means an assembly of equipment and devices arranged to

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signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Note that this definition excludes fire alarm agents.

L 8303**CERTIFICATION OR LICENSING REQUIRED TO CARRY A FIREARM:**

The following employment situations require the indicated certification and/or licensing in order to legally carry a firearm in the course of employment.

- ALARM COMPANY OPERATORS: Alarm company operators have no authority to carry a weapon unless they fit into the category of an alarm agent in uniform and waiting to respond to an alarm, or an alarm agent in or not in uniform and responding to an alarm.
- ALARM AGENTS: Alarm agents, while responding to an alarm, must have state issued "firearms qualification card" and "registration card" in their possession whether or not they are uniformed.
- SECURITY GUARDS: Security guards, including contract or in-house security guards and armored vehicle guards, must be in a state and Municipal Code approved uniform while carrying a firearm and/or baton. In addition, they must have in their physical possession a state issued guard registration card and "firearms qualification card" or valid baton certificate. (The pink copy of an Application for Registration is not valid when carrying a weapon.)
- PRIVATE INVESTIGATORS AND PATROL AGENTS: Private investigators and private patrol agents who carry a firearm must also carry a state issued "firearms qualification card" and have another identification card as a license of the specific industry.
- COMMON CARRIERS, BANKS OR OTHER FINANCIAL INSTITUTIONS: All persons employed as security personnel for common carriers, banks or other financial institutions must obtain and possess when carrying a firearm a state issued "firearms qualification card."

There is no requirement that such persons register their position with the state.

L 8304**ENFORCEMENT ACTION:**

When contact is made with private security personnel, officers will, when practical, examine the credentials, certificate and/or licenses of such personnel in order to ensure that the aforementioned state and San Jose Municipal Code requirements are being adhered to by the private security industry. When a violation does occur, officers will take the following action:

- ISSUANCE OF CITATION: Officers may issue a criminal citation for a violation of the appropriate Penal Code, Business and Professions Code or San Jose Municipal Code section.
- ARREST: Arrest is an option to be determined by the circumstances.
- REPORTING INCIDENT: Officers will complete a "Crime Report," whether or not a citation is issued or arrest is made. Officers will detail the circumstances of the case and route the report to the Police Permits Unit. In the event of a uniform violation, Officers will take photos and attach them to the appropriate reports. A copy should be

routed to the State Department of Consumer Affairs by not circling the "other" routing category and printing "Consumer Affairs" below the category circled.

- **SEIZURE OF INVOLVED WEAPON**: When a violation occurs that involves the carrying of a loaded firearm in public, the officer investigating the violation will seize and book the involved weapon as evidence of the violation.

L 8305 RESPONSIBILITY OF RECORDS UNIT MEMBERS:

When a "Crime Report" has been received marked for routing to the "Consumer Affairs" Department of the State, the report will be forwarded to the following address:

Department of Consumer Affairs
Consumer Information Division
1625 N Market Blvd STE N112
Sacramento, California 95834

L 8306 THEFT REPORTS BY PRIVATE SECURITY:

In order to preserve the right of the defense to view evidence and ensure the admissibility in court of the pertinent information, officers will obtain a copy of any theft report completed by private security personnel whenever such reports are available. Such copies will be turned in by the officer to OSSD where they will be scanned and attached to the corresponding General Offense Report (Form 200-2-AFR). When informed by private security personnel that a theft report will be filled out after the officer has left the scene, officers will advise security personnel to mail a copy of the private security report to OSSD, Records.

Reports by private security personnel will be considered as an additional and supplementary report to the Department member's Crime Report.



L 8400 - CONTRACTS:

Department members will adhere to establish procedures when initiating or becoming involved in drafting contracts resulting from the exercise of their assigned duties and responsibilities.

PROCEDURE

L 8401 GENERAL PROVISIONS:

All Department members will adhere to the following procedures when involved in agreements and contracts.

L 8402 CONTRACT FORMULATION PROCEDURE:

To ensure that all agreements and contracts are legal and conform to priorities and policies of the City of San Jose and the Department, the following procedures will be adhered to by all Department members.

REQUIRED ELEMENTS: Agreements and contracts shall contain all of the following elements prior to fiscal review:

- Definition of the scope of services to be provided.
- Specific performance measures
- A detailed compensation schedule

FISCAL REVIEW: Agreements and contracts are to be forwarded to the Bureau of Administration for fiscal review prior to any commitment.

AGREEMENT FORM AND SUBMITTAL: Agreements are in writing and must include an explanation as to what the Department or City will gain from the agreement. This report will be submitted to the Bureau of Administration before it is finalized. A memorandum form may be used for this purpose.

OBTAINING APPROVAL: The signature of the Chief of Police or Assistant Chief is required on any informal or formal agreement or contract that commits the Department to a specific course of action. When seeking approval, a Department member will submit the request for agreement or contract through their respective chain of command.



L 8500 - INCIDENTS ON SAN JOSE UNIFIED SCHOOL DISTRICT PROPERTY:

The San Jose Unified School District Police Department (S.J.U.S.D.) was formed by the authority of Section 39670 of the California Education Code which empowers the governing board of a school district to form such a department. The officers employed by such a district as police officers are further vested with peace officer status by Sections 39671 of the Education Code and 830.4(g) of the California Penal Code. By agreement, the San Jose Police Department may be called upon to assist the San Jose Unified School District Police Department

PROCEDURE

L 8501 INCIDENTS AT SAN JOSE UNIFIED SCHOOL DISTRICT:

The following procedures will be adhered to for police services regarding incidents occurring on S.J.U.S.D. property. Field contact with the San Jose Unified School District Police can be arranged via Communications, upon request.

L 8502 TRAFFIC CONTROL AND ENFORCEMENT:

The primary function of the San Jose Unified School District Police Department is to protect District property. For this reason, traffic control and enforcement are left to the San Jose Police Department.

EXCEPTION: Traffic problems which are created as a result of a district function, i.e., graduation, sporting events, etc.

L 8503 TRAFFIC ACCIDENTS:

All accidents that involve personal injury or some criminal act; e.g., hit-and-run, driving under the influence, reckless driving, etc., that occur on city streets are investigated by the San Jose Police Department. All other accidents are treated as private property accidents, and a School District police officer will stand by to keep the peace, if necessary, while the involved parties exchange information.

EXCEPTION: Private property accidents involving the following circumstances are investigated by the San Jose Police Department:

- A death or injury occurred.
- Hit-and-run involved.
- City vehicle or property involved.
- County, state or federal vehicles or property involved.

L 8504 IMPOUNDING VEHICLES:

In any case that requires the impound of a motor vehicle as evidence, the San Jose Unified School District Police Department will request the assistance of the San Jose Police Department from the onset, and the incident is handled by the San Jose Police Department. The San Jose Police Department is responsible for the completion of all reports. The San

Jose Unified Police Department is responsible for notifying the San Jose Police Department Auto Desk of any vehicles stored by their agency.

L 8505 OFF-CAMPUS REQUESTS FOR SERVICE:

All calls for assistance involving criminal activity on a city street or property other than District property are to be referred to the San Jose Police Department. School District Police Department personnel will handle calls for assistance involving school district property. The School District police officer will evaluate the situation upon their arrival and will determine if the need for assistance from the San Jose Police Department exists. When in-progress calls for assistance are received, the San Jose Police Department will respond until the need no longer exists.

L 8506 ON-VIEW CALLS FOR SERVICE:

When a violation of the law, not on District property, occurs in the presence of a School District police officer, the San Jose Police Department is notified immediately. The School District police officer will stand by to keep the peace, if necessary, and turn the entire matter over to the San Jose Police Department officer upon his arrival. The School District police officer will then provide whatever assistance is necessary, e.g., reports, information, traffic control, etc., as requested by the San Jose police officer.

L 8507 FELONY CASES - RESPONSIBILITY:

In those felony cases where detailed investigation is required, (i.e., rape, murder, etc.) the assistance of the San Jose Police Department is requested. The School District police officer is responsible for the following:

- To secure and protect the crime scene.
- To collect names and other data to identify witnesses.
- To take whatever steps are necessary to protect the school property and community if a threat thereto exists, until the arrival of a San Jose police officer.

Upon the arrival of a San Jose police officer, that officer will take charge of the investigation. The San Jose police officer will assume full responsibility for the collection of evidence and the completion of all reports. The School District police officer will render whatever assistance is requested by the San Jose police officer.

The San Jose Police Department is responsible for the transportation and booking of suspects from the felony cases they investigate.

L 8508 CRIME REPORTS:

The San Jose Unified School District Police Department will provide the San Jose Police Department with a copy of all reports made by its officers involving any felony crime, any arrest, whether by citation (Notice to Appear or Juvenile Contact Report) or physical in-custody detention, and whenever necessary, because of possible action by the San Jose Police Department. These reports are to be completed before the end of the School District police officer's shift. All reports are filed with the San Jose Police Department as soon as possible.

Reports of an informative nature are sent to the San Jose Police Department's Operation's Support Services Division for routing to the appropriate bureau, division or unit for whatever action they deem necessary.

L 8509 BOOKING DRUGS OF ABUSE AS EVIDENCE:

Revised 01-21-20

All drugs of abuse obtained by San Jose Unified School District police officers are booked into the San Jose Police Department through the San Jose Police Property Room. The School District police officer will complete the necessary forms as required by the San Jose Police Department. In the event that safe handling prophylactics are not readily available to contain and transport the drugs, the School Officer will request an available CSO or Patrol unit to respond to their location with the necessary safety items.

L 8510 CRIMINAL COMPLAINTS:

- ADULTS: The San Jose Police Department Court Liaison Team normally will obtain all complaints from the Office of the District Attorney in those cases where investigation has been turned over as noted in Duty Manual section L 8507 above. The San Jose Unified School District Court Liaison Unit will handle those cases initiated and investigated by its officers.
- JUVENILES: The San Jose Unified School District Police Department will process its own complaints through the Juvenile Probation Department, unless it is determined beforehand that the San Jose Police Department has an interest in the youthful offender. In this case, all reports are turned over to the San Jose Police Department for processing.

L 8511 ALARMS:

The San Jose Unified School District Police Department will respond to all alarms on School District property.

It is the responsibility of the School District police officer on the scene to determine if a need for assistance from the San Jose Police Department exists. Only after this determination has been made, will the San Jose Police normally be asked to dispatch a unit.

L 8512 SAN JOSE UNIFIED POLICE OFFICER FIREARMS DISCHARGE:

Revised 08-16-22

When a San Jose Unified police officer discharges a firearm, either accidentally or in the performance of a police duty, except at an approved range, the incident is handled in accordance with Duty Manual section L 2633 (Responsibility When a Firearm Is Discharged). The San Jose Police Department is in charge of the investigation, assisted as necessary by officers from the San Jose Unified Police Department

- Not Resulting in Injury or Death: When a firearm is discharged but does not result in injury or death, the incident is handled according to Duty Manual section L 2601 (Use of Force, General Provisions).

- Resulting in Injury or Death: When a firearm is discharged resulting in injury or death to any person, the incident is handled according to Duty Manual section L 4700 (Officer Involved Shootings).



L 8600 - CARRYING A CONCEALED WEAPON LICENSE (CCW):

Revised 12-29-22

The Chief of Police is given the statutory discretion to issue a license to carry a firearm to residents within the City of San Jose (Penal Code section 26155). The CCW policy will provide a written process for the application and issuance of such licenses. Pursuant to Penal Code section 26160, this policy shall be made accessible to the public.

PROCEDURE

L 8601 ISSUANCE OF CCW LICENSE:

Revised 12-29-22

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

In accordance with California Penal Code sections 26150 – 26255, in order to obtain a License to Carry a Pistol, Revolver, or Other Firearm Capable of Being Concealed Upon the person, qualified applicants must complete the steps outlined in the CCW Policy published on the Department's public website.

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

1. The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry the firearm.
 - a. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code section 26200).
 - b. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
2. 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.
 - a. Each license shall be numbered and clearly identify the licensee.
 - b. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.
3. The license will be valid for a period not to exceed two years from the date of issuance (Penal Code section 26220).
 - a. A license issued to a state or federal magistrate, court commissioner, or judge will be valid for a period not to exceed three years.

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- b. A license issued to any reserve peace officer as defined in Penal Code section 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code section 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.
4. 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 section 26210).
5. The licensee shall notify the Department in writing within 10 days of any change of place of residency.

L 8602 APPLICATION PROCESS:

Revised 12-29-22

The application process for a license to carry a firearm shall consist of three 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 by the Chief of Police. The application shall be obtained and submitted online at the Department's website. The three phases of the application process are:

Phase 1: Submit an application for a license to carry a concealed firearm, pay initial fees, provide a list of references, and participate in an interview with the Chief of Police or authorized designee. The applicant shall be fingerprinted and pass a criminal background check.

Phase 2: Applicants successfully meeting and completing Phase 1 will be referred to a Department authorized psychologist for psychological evaluation.

Phase 3: Applicants successfully completing Phase 1 and Phase 2 will be required to complete a 16-hour CCW firearms course from a Department approved instructor, in compliance with Penal Code section 26165. Applicants must pay all remaining fees before the issuance of a license.

All applicants are notified in writing of the results of their application for a CCW. In California it is wholly within the discretion of the issuing authority whether or not a license is issued.

L 8603 FINGERPRINT CARDS:

Deleted 12-29-22 see L 8602

L 8604 PAYMENT OF FEES:

Deleted 12-29-22 see L 8602

L 8605 PSYCHOLOGICAL SCREENING:

Deleted 12-29-22 see L 8602

L 8606 TRAINING:

Deleted 12-29-22 see L 8602

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L 8607 APPLICATION PROCESSING AND REVIEW:

Deleted 12-29-22 see L 8602

L 8608 RESTRICTIONS ON POSSESSION:

Revised 12-29-22

The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. The following general restrictions, applicable to all licensees, prohibit the licensee from:

1. Consuming any alcoholic beverage while armed
2. Falsely representing themselves 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 their license or firearm for inspection upon demand of any peace officer
8. Loading the permitted firearm with illegal ammunition
9. No permitted weapon is allowed where weapons are prohibited by law
10. No permitted weapon is allowed at locations where a sign is posted prohibiting weapons
11. No permitted weapon is allowed at any City of San Jose operated building, facility, or workplace
12. CCW permit shall not be copied or altered in any manner or form

The Chief of Police or authorized designee reserves the right to inspect any license or licensed firearm at any time.

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.

L 8609 AMENDMENTS TO LICENSES:

Revised 12-29-22

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 of Justice.

In the event that any amendment to a valid license is approved by the Chief of Police, a new license will be issued reflecting the amendment. An amendment to any license will not serve

to extend the original expiration date and an application for an amendment will not constitute an application for renewal of the license.

L 8610 LICENSE REVOCATION:

Revised 12-29-22

Any license issued pursuant to this policy may be immediately seized by any police officer and returned to the San Jose Police Department, Office of the Chief of Police, for any of the following reasons:

1. The licensee has violated any of the restrictions or conditions placed upon the license.
2. The licensee becomes psychologically unsuitable to carry a firearm.
3. The licensee is determined to be within a prohibited class described in Penal Code section 29800, Penal Code section 29900, Welfare and Institutions Code section 8100, Welfare and Institutions Code section 8103, or any other state or federal law prohibiting a person from owning or possessing a firearm.
4. The licensee engages in any conduct which involves a lack of good moral character for the original issuance of the license.
5. 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 section 26210).

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

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

L 8611 LICENSE RENEWAL:

Added 12-29-22

Renewal applications will be accepted no sooner than 90 days prior to the expiration of any valid license to carry a firearm. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal. An applicant who fails to apply prior to the expiration of the license will have to apply for a new license. Renewal applicants will be required to complete a 4-hour CCW firearms refresher course from a Department approved instructor, in compliance with Penal Code section 26165.

L 8612 DEPARTMENT REPORTING AND RECORDS:

Added 12-29-22

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

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1. The denial of a license
2. The denial of an amendment to a license
3. The issuance of a license
4. The amendment of a license
5. The revocation of a license

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

L 8613

CONFIDENTIAL RECORDS:

Added 12-29-22

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 section 6254(u)(2)).

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 their family shall not be considered public record (Government Code section 6254(u)(1)).



L 8700 - INCIDENTS ON SAN FRANCISCO BAY- NATIONAL WILDLIFE REFUGE:

Refuge Public Safety Officers are vested with peace officer powers by Section 830.4(14) of the California Penal Code when enforcing applicable state or local laws on property owned or possessed by the U.S. Government. By agreement, the San Jose Police Department may be called upon to assist the Refuge Public Safety Officers within the jurisdiction of our City.

PROCEDURE

L 8701 INCIDENTS ON SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE:

The following procedures will be adhered to for police services regarding incidents occurring on Federal Refuge property.

L 8702 OFF-REFUGE REQUESTS FOR SERVICE:

All calls for assistance involving criminal activity on a city street or property other than refuge property are referred to the San Jose Police Department. Calls for assistance involving refuge property are handled by refuge personnel. The refuge officer will then appraise the situation upon their arrival and determine if a need for assistance from the San Jose Police Department exists.

L 8703 ON-VIEW CALLS FOR SERVICE:

Violations of the law that require police action occurring in the presence of a refuge officer not on refuge property are immediately reported to the Police Department. The refuge officer will then stand by to keep the peace, if necessary, and turn the entire matter over to the police officer upon their arrival. The refuge officer will then render whatever aid necessary, e.g., reports, information, traffic control, etc., as requested by the officer.

L 8704 FELONY CASES - RESPONSIBILITY:

In all felony cases, the assistance of the San Jose Police Department is required. The refuge officer is responsible for the following:

- Securing and protect the crime scene.
- Collecting names and other data to identify witnesses.
- Taking whatever steps are necessary to protect the refuge property and community if a threat thereto exists until the arrival of a San Jose police officer. Upon the arrival of a San Jose police officer, that officer will take charge of the investigation. The San Jose officer will assume full responsibility for the collection of evidence and the completion of Department reports. The refuge officer will render whatever aid is requested by the police officer.

The San Jose Police Department is responsible for the transportation and booking of all felony suspects.

In any matter requiring follow-up by the police, the refuge officers will call for assistance from the beat officer. The beat officer will then be responsible for determining further action or disposition.

L 8705

OTHER INCIDENTS - RESPONSIBILITY:

The San Jose Police Department is responsible for handling incidents of the following nature:

- All felonies
- Alcohol and controlled substance violations which require lab testing and/or extensive investigation.
- Homicides and accidental deaths after initial investigation or joint response of the agencies.
- Runaways and juvenile custody matters.
- Taking custody and transporting of persons detained for outstanding wants or warrants.
- Assist (back-up) Refuge Public Safety Officers when the nature of the arrest/contact would so warrant.

The Refuge Service is responsible for handling incidents of the following nature:

- Calls for service received from the Department involving incidents occurring on the refuge. This response will be alone or with a member of the San Jose Police Department, depending on the nature and/or urgency of the complaint.
- Hunting and fishing violations, both federal and state (50 CFR; CALIFORNIA TITLE 14).
- All violations of 50 CFR, Part 25, Administrative Provision; Part 26, Public Entry and Use; and Part 27, Prohibited Acts, EXCEPT 27.81 (alcoholic beverages) and 27.82 (controlled substances), which are handled under procedures of the San Jose Police Department.
- All acts of petty theft and vandalism to U.S. Government property.
- All other thefts and break-ins to buildings, structures, vehicles, boats and other equipment belonging to the U.S. Government. Assistance from local jurisdictions is requested when a preliminary investigation reveals evidence which would warrant a complete and full investigation.
- Local ordinances and other state laws
- Initial response to traffic accidents and other accidents (i.e., boating and aircraft). Assistance from the Department is requested for blood alcohol or other sobriety determination.

EXCEPTION: Private property accidents involving the following circumstances are investigated by the San Jose Police Department:

- A death or injury occurred
- Intoxicated driver involved

- Hit-and-run involved City vehicle or property involved
- County, state or federal vehicles or property involved

Theft of personal property from contractors, visitors and others using the refuge are investigated initially by Refuge Public Safety Officers; reports are submitted to local departments.

L 8706 CRIME REPORTS:

The Refuge Service will provide the San Jose Police Department with a copy of all reports made by its officers involving an arrest whether by citation (Notice to Appear or Juvenile Contact Report) or physical in-custody detention. These reports are completed before the end of the refuge officer's shift. All reports are filed with the Police Department as soon as possible.

Reports of an informative nature are sent to the Police Department's PAB lobby for routing to the appropriate bureau, division or unit for whatever action they deem necessary.

L 8707 BOOKING PROPERTY OR EVIDENCE:

All San Jose case property or evidence obtained is booked into the San Jose Police Department through the San Jose Police Property Room. The officer booking property will complete the necessary forms as required by the San Jose Police Department.

L 8708 IMPOUNDING VEHICLES:

In any case that requires the impound or storage of a motor vehicle as evidence or for safekeeping while a search warrant is being obtained, the Refuge Service will request the assistance of the Police Department from the onset.

L 8709 CRIMINAL COMPLAINTS:

- STATE AND LOCAL LAW VIOLATIONS: The San Jose Police Department will process and obtain complaints through the Office of the District Attorney or Juvenile Probation Department.
- FEDERAL LAW VIOLATIONS AND STATE WILDLIFE LAW VIOLATIONS: The Refuge Service will process and obtain complaints through the appropriate process.

L 8710 COMMUNICATIONS:

Field contact with refuge officers can be arranged via Communications upon request.



L 8800 – NON-CRIMINAL MATTERS:

Officers, as mandated by state law, will participate in the State "Victims of Violent Crime Program" by informing qualified persons of the availability and provisions of the program.

PROCEDURE

L 8801 VICTIMS OF VIOLENT CRIME PROGRAM - GENERAL PROVISIONS:

The State of California has appropriated funds for compensating "Victims of Violent Crimes" and "Good Samaritans" who render assistance in crimes and rescue for their non-reimbursed medical expenses, wage loss or other expenses incurred as a result of injury, including benefits to survivors of those killed. Upon the recommendations of the Attorney General, the State Board of Control adjudicates the claims at public hearings. The claimant need not personally appear, and claims may be honored even in cases where there is no successful prosecution.

L 8802 RESPONSIBILITY FOR ESTABLISHING ELIGIBILITY:

Officers need not be concerned with establishing the eligibility of a victim. The legitimacy of a potential claim will ultimately be determined by the State Board of Control in conjunction with recommendations and investigation by the Attorney General's Office.

L 8803 DEFINITION:

A victim of violent crime is defined as any person who sustains physical injury as a direct result of any public offense. The law excludes vehicle accident under normal circumstances but includes assaults with motor vehicle or injuries sustained as a result of any hit-run collision or incident involving driving under the influence of alcohol or drugs. Victims also include dependents of those so injured.

L 8804 NOTIFICATION:

Any officer responsible for the initial preliminary investigation of any criminal activity will notify physically injured victims of the Victims of Violent Crime Program.

Notification will be accomplished by supplying the victims with a "Report Receipt" form (Form 200-45) which summarizes the necessary information. When an officer is unable to directly supply such notification (i.e., unconscious person), either the next of kin will be notified or the "Report Receipt" will be placed within the victim's personal effects.

In addition, victims or next of kin of victims will be informed of the availability of a "Victims of Violent Crime" Liaison Officer who will assist them in acquiring further information and/or procedures and forms necessary to initiate a claim.

L 8805 "VICTIMS OF VIOLENT CRIMES" LIAISON OFFICER:

The Deputy Chief in command of the Bureau of Investigation is the Department's Liaison Officer. The Deputy Chief so assigned will ensure that a designee is available at all times to provide this "liaison" service.

L 8806 RECORDING NOTIFICATION:

The officer responsible for the initial preliminary investigation will record the notification on the form used to report the incident (Crime Report, J.C.R., Supplementary Report).

When a "J.C.R." or "Supplementary Report" is used, the notification effort will be indicated in the first sentence of the body of the report (i.e., victim advised of aid program 2200 hours this date).

L 8807 DELAYED NOTIFICATION:

When notification cannot be made in consort with the preliminary investigation, the officer assigned to report the incident will indicate what effort was made and request in the first line of the body of the report that a copy be routed to the Department Liaison Officer for review and, if necessary, notification by mail.



L 8900 - SECURITY OF FACILITIES:

To ensure the safety of ALL PERSONS (employees and others) at police facilities, the following system is established. Any person entering/remaining in any Police building or facility shall identify themselves and wear approved identification on the outermost garment.

PROCEDURE

L 8901 SECURITY OF FACILITIES - DISPLAYING OR PROVIDING IDENTIFICATION:

Revised 02-24-23

All individuals other than uniformed Department members (e.g., Police Officers, Community Service Officers, Public Safety Radio Dispatchers), are required to wear an official police badge or identification card on their out clothing at all times while in any police building, restricted area, or facility including the garage area.

L 8902 WEARING OF AUTHORIZED IDENTIFICATION CIVILIAN DEPARTMENT MEMBERS:

A Department member will wear their badge or identification card so it is plainly visible. Exceptions may be granted by a member's supervisor in which case a visitor's card is issued.

VISITORS: All visitors are issued and required to wear in a visible location, on the person, a Visitor's Pass before proceeding past the Information Center counter.

NEWS MEDIA PERSONNEL: Information Center personnel should normally allow news media personnel to enter the Police Administration Building when the media-representative visibly wears a press pass. They are not permitted into restricted areas (Records, Pre-processing, etc.) unless a supervisor allows it and the person(s) is/are escorted.

L 8903 ISSUANCE OF VISITOR'S PASS:

Issuance of a "Visitor's Pass" is the sole responsibility of the Information Center members, and no other Department members will issue a pass unless approved by a supervisor. All other issuing guidelines will be followed.

L 8904 ISSUANCE AND RECORDING PROCEDURES FOR VISITOR'S PASS:

Refer to the Information Center manual.

Any officer temporarily assigned to the information center will:

- Be informed of procedures from other normally assigned officers;
- Review the unit manual, specifically the sections dealing with building security and visitors (in the "Procedures" section).

L 8905

SECURITY PROCEDURES:*Revised 06-27-17*

Proper security is critical to employees, visitors, and the structures/buildings. Department members shall adhere to the following procedures:

- **CHALLENGING:** Information Center members shall challenge all individuals, including Department members, not in uniform and not visibly wearing an ID card or police badge who attempt to enter past the front lobby.

All Department members shall challenge any individual not displaying an authorized identification card or badge who is observed in an area past the front lobby, including the Police and Communications building (PAC) and associated grounds. When the challenged individual cannot produce an authorized identification card or badge, the Department member initiating the challenge shall escort the individual back to the front lobby for proper disposition.

- **METAL DETECTOR SCREENING OF VISITORS:** No weapons are allowed in any police facility except when carried by a duly appointed peace officer or in accordance with California Penal Code Section 171b. Prior to granting visitors access to the secured portion of the Police Department through the main lobby (e.g., Permits Unit, Fingerprint Unit, Warrants Unit, OSSD, restrooms, etc.), the assigned Information Center officer receiving the request for access shall advise the visitor that they will be processed through a metal detector where their person will be screened for weapons. The screening officer shall then ensure the visitor successfully passes through the metal detector and does not possess any weapons prior to entry; if the visitor does not successfully pass through the metal detector, the officer shall conduct a search of the visitor for weapons with the handheld wand metal detector and/or by conducting a cursory search of the visitor's person. If the screening officer is unable to determine the cause of the visitor failing to successfully clear the metal detection screening, or the visitor refuses the metal detector screening and/or the cursory search or wand search, the screening officer shall deny the visitor entry into the building.

Exceptions: Persons visiting the Department for a prescheduled appointment with the Chief's Office shall not be subject to screening, unless a screening is requested by the Chief's Office. Additionally, persons visiting a sworn Department member may be exempt from screening with authorization from the sworn Department member (e.g.- a witness being interviewed may be exempt from screening with the approval of the detective, or a citizen touring the police facility may be exempt from screening with the approval of the Department member/reserve officer giving the tour).

- **INSPECTION OF PERSONAL PROPERTY:** Department members assigned the task of issuing Visitor Passes shall require a visitor's property, if brought into the secure portion of the Department, be searched for weapons before admittance past the front lobby. If the visitor refuses to allow a search of their property, the screening officer shall deny the visitor the right to bring the property into the building.

Exceptions: Persons visiting the Department for a prescheduled appointment with the Chief's Office shall not have their property searched prior to entry, unless a search is

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requested by the Chief's Office. Additionally, persons visiting a sworn Department member may be exempt from having their property searched with authorization from the sworn Department member (e.g.- a witness being interviewed may be exempt from having their property searched with the approval of the detective, or a citizen touring the police facility may be exempt from having their property searched with the approval of the Department member/reserve officer giving the tour).

L 8906 FAILURE OF VISITOR TO ARRIVE:

When a visitor fails to arrive at a destination within 5 minutes of being admitted past the front lobby, a search for the visitor is initiated by the Department member receiving the visitor who is responsible for monitoring the time. Civilian members may request the assistance of an officer (uniformed or civilian attire) to assist in the locating of the missing visitor.

The Department member initiating the search will notify the Information Center at the front lobby. If available, Information Center members will assist in searching.

If the visitor is not located, the Information Center Commander or designee will be notified and shall initiate appropriate action. A supervisor from the area or unit expecting the visitor will also be notified.

L 8907 ENTRY VIA OTHER AREAS:

Department members will not allow any person to enter the Police Administration Building via side doors or exits unless a departmental identification card or badge is visibly worn. Unauthorized persons will be escorted off the grounds; to the Information Center or will be dealt with as appropriate. Be aware that the person's intent may be innocent or malicious. Terrorism can and does occur; criminals have been known to conduct intelligence gathering activities at police facilities and compounds.

Line Operations/Procedures

L 9000 – L 9018



San Jose Police Department Duty Manual



L 9000 - MISCELLANEOUS PROCEDURES:

Department members have a responsibility to supply those services necessary to ensure that the public's welfare is maintained, and to cooperate with other city employees, subdivisions or outside agencies in matters of mutual concern. Therefore, the Department maintains various procedures to accomplish these responsibilities.

PROCEDURE

L 9001 MISCELLANEOUS PROCEDURES - GENERAL PROVISIONS:

In order to ensure efficiency and uniformity of action, Department members will adhere to the following procedures:

L 9002 CONTACT WITH MENTALLY ILL PERSONS:

It is the policy of the San Jose Police Department to utilize Crisis Intervention Team (CIT) officers to respond to calls for service involving known or suspected mentally ill individuals, when circumstances are appropriate. The use of CIT officers extends to any circumstance in which an individual is in psychological or emotional crisis and is in need of intervention due to the subject being a danger to self or others.

L 9003 REPORTING CONTACT WITH MENTALLY ILL PERSONS:

Revised 02-08-20

When an officer contacts a mentally ill person, and upon probable cause, takes the person into custody for a period up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment, a General Offense Report (Form 200-2-AFR), State of California Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment (Form DHCS 1801) and the Department's 72-Hour Hold Application Supplemental (Form 204-29) will be completed if any of the following circumstances exist:

- When person is transported to a facility designated by the County of Santa Clara and approved by the State Department of Health Care Services. Refer to L 9005 TRANSPORTATION OF MENTALLY ILL PATIENTS for a list of facilities.
- When person is booked into the Santa Clara County Jail.
- When person is transported to the hospital for medical treatment.

L 9004 IN-CUSTODY MENTALLY ILL PERSONS:

Revised 06-15-20

An officer who takes custody of a mentally ill person shall comply with the following:

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- If the mentally ill person is 65 years old or older or is a dependent adult, the officer shall immediately contact and advise Adult Protective Services as required by DM L 7204 – CROSS REPORTING & OUTSIDE AGENCIES.
- Each person, at the time they are first taken into custody under provisions of Section 5150 W&I, shall be provided by the person who takes such other person into custody the following information orally. The information shall be in substantially the following form:

"My name is _____ I am a peace officer with the San Jose Police Department. You are not under criminal arrest, but I am taking you for examination by mental health professionals at

(Name of Facility)

You will be told your rights by the mental health staff."

- If taken into custody at their residence, the person shall also be told the following information in substantially the following form:

"You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken."

L 9005

TRANSPORTATION OF MENTALLY ILL PATIENTS:

Revised 02-08-20

The transportation of mentally and/or medically ill patients is best accomplished by ambulance or similar vehicles designed for that purpose. Patients under the care and custody of medical and/or mental institutions are not to be transported by Department members from one such institution to another except in instances which, in the best judgment of the officer, are essential to the interests of justice.

Specific facilities designated by the County of Santa Clara and approved by the State Department of Health Care Services to provide 5150 W&I evaluations and treatment:

- Valley Medical Center (VMC) - 751 S. Bascom Ave., San Jose
- Emergency Psychiatric Services (EPS)- 820 Enborg Ct., San Jose
- El Camino Hospital -2500 Grant Road, Mt. View
- Good Samaritan Hospital - 2425 Samaritan Dr., San Jose
- Palo Alto Veterans Hospital - 3801 Miranda Ave., Palo Alto
- Stanford University Hospital - 300 Pasteur Dr., Stanford
- In those instances when an officer encounters an on-view 5150 W&I case, officers should utilize the following procedures:
- 5150 W&I EVALUATION/HOLD - NO INJURIES: Psychiatric patients who do not have an identified medical complaint or traumatic injury should be transported by officers directly to Emergency Psychiatric Services (EPS). If there are extenuating circumstances, an ambulance can be summoned but ETA's are generally extended.

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- 5150 W&I EVALUATION/HOLD - MEDICAL COMPLAINT/TRAUMATIC INJURY: If the patient needing a psychiatric evaluation also has a medical complaint and/or traumatic injury, the medical condition takes precedence in determining destination. When requesting an ambulance for transportation, officers should provide all information available regarding the health problem to Communications. Communications members will provide this information to the medical dispatcher, which will affect and determine the response code and type of responding resources. Unless exigent circumstances exist, the patient will be transported to Valley Medical Center.
- 5150 W&I EVALUATION/HOLD - IMMEDIATE LIFE-THREATENING INJURY: Patients with immediate life-threatening conditions should be transported to the nearest hospital emergency room, whether the hospital is listed above or not.

When the State of California Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment (Form DHCS 1801) and the Department's 72-Hour Hold Application Supplemental (Form 204-29) forms have been completed and provided to the transporting ambulance personnel, the officer placing the hold does not need to accompany or follow the patient to the hospital unless circumstances dictate otherwise (e.g., combative individual). In most instances, when an individual is admitted to the VMC Emergency Room (ER), the State of California Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment (Form DHCS 1801) and the Department's 72-Hour Hold Application Supplemental (Form 204-29) are left with ER staff. VMC security will transport the individual to EPS after clearance in the emergency room.

5150 W&I hold patients with private insurance may request transport to another facility, but the officer makes the final decision as to the appropriate destination of the patient. Officers should consider that hospitals not approved by the State Department of Mental Health do not have the staff necessary to perform 5150 W&I evaluations, and may result in the patient being released after medical treatment if the officer does not remain to transport the patient to EPS after medical clearance.

In criminal cases in which the suspect will be booked into County jail, the criminal process takes precedence over the psychiatric evaluation. In addition to completing pre-booking and felony affidavit forms for criminal charges, the State of California Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment (Form DHCS 1801) and the Department's 72-Hour Hold Application Supplemental (Form 204-29) forms must be completed to ensure the suspect will receive the appropriate psychiatric evaluation. This is especially important for those suspects who are at high risk of suicide and/or danger to others.

In addition to peace officers, anyone authorized by the Santa Clara County Director of Mental Health may place an individual on a 5150 W&I hold. These individuals include some, but not all Public Health Nurses, physicians, social workers and other mental health professionals. If there is a question as to the individual's authority to place a hold, the officer should request to see the person's Mental Health Department identification card, which identifies them as being qualified to place a 5150 W&I hold.

L 9006 THREATS BY MENTALLY ILL PATIENTS:

When a psychotherapist reports any threat made against another person by a mentally ill patient, and the psychotherapist is located within the jurisdiction of the San Jose Police Department, a General Offense Report (Form 200-2-AFR) will be completed regardless of the location of the victim. The Department member receiving the report will immediately notify the intended victim of the threat or communicate the nature of the threat by telephone or teletype to the law enforcement agency where the intended victim is located. The Department member will take whatever action is necessary to ensure the immediate safety of the victim. If the intended victim cannot be contacted, the Department member will immediately contact the appropriate investigative unit for direction and follow-up.

When the intended victim is located in another jurisdiction and the Department member makes contact by telephone, the name of the person contacted will be included in the report. When a teletype is sent to the outside jurisdiction, a copy of the teletype will be attached to the crime report. A copy of the crime report will be routed to the outside jurisdiction by the assigned investigative unit as soon as practical.

L 9007 CHILD RESTRAINT SEATS:

Department members transporting small children will determine which method (use of seat belt or use of a child restraint seat) is the safest alternative for transporting the child. If a seat belt cannot safely be used and a child restraint seat is necessary, the Department member will ensure that a child restraint seat is used. The Department member may request the parent or guardian on the scene to allow temporary use of a child restraint seat. If the parent or guardian is unable to provide one, a city owned child restraint seat will be obtained from one of the various locations.

L 9008 VEHICLE ESCORTS:

Officers will not provide escorts for private vehicle processions. The exceptions to the above are as follows:

- Motor vehicle processions for heads of state, state or federal government officials, and under other situations deemed appropriate by the Chief of Police;
- Official government-sponsored or sanctioned functions or events;
- Emergency situations when escorts are furnished to assist in preserving life, protecting public safety, or when expediting movements of supplies or Department members for any federal, state or local agency during a national, state or local emergency; and
- Parades permitted under Chapter 13.12 of the San Jose Municipal Code.

L 9009 FUNERAL ESCORTS:

Officers will not provide private funeral procession escorts except as outlined in Duty Manual section S 2800 (Death of Current and Retired Member or Any California Peace Officer).

L 9010 POLICE VEHICLE AUTHORIZED FOR FUNERAL ESCORTS:

Only two-wheel motorcycles and officers regularly assigned to ride them are used in funeral escorts. However, radar officers may be used in inclement weather.

L 9011 PRIVATE FUNERAL PROCESSION PERMITS:

Private funeral procession permits are issued by the Permits Unit when applicants have met all the necessary requirements. Generally, the permittee is allowed limited powers in directing traffic at intersections to allow the funeral procession to proceed as an unbroken chain. Specific guidelines and limitations are available in the Permits Unit.

L 9012 PRIVATE PROPERTY DAMAGE RESULTING FROM DUTIES:

Revised 02-26-03

When officers find it necessary to damage property in the performance of their duties, such officers will complete a preprinted memorandum titled "Repair of Private Property Damage" (Form 201-3). The form is available from each bureau. The memorandum requires the following information:

- Name, address, and phone number of the property owner.
- Circumstances leading to the damage.
- Complete description of the damage.
- Whether or not an Emergency Contractor responded.
- A supervisor must sign the form.

When an emergency Contractor responds to secure the property, the responsible officer will route a memorandum to "Police-Fiscal Unit, Attn: Board Ups" and "City Attorney's Office - Investigators".

When an Emergency Contractor is not summoned, officers need only route the memorandum to "City Attorney's Office - Investigators".

In all cases of damage, a General Offense Report (Form 200-2-AFR) will be completed and will describe the justification, type and extent of damage.

L 9013 PROCEDURES FOR TEMPORARILY SECURING PREMISES:

All officers requiring the services of an emergency repair contractor shall make every effort to request such services at the earliest possible time, making certain to advise Communications members of estimated supplies needed to effect repair. Fifteen minutes after the original request an inquiry may be made to ascertain if Communications has received contact confirmation. If no response confirmation has been made within the fifteen minute period, or if the notified contractor has not arrived at the job site after one (1) hour, the next contractor on the list may be requested.

L 9014 REPORTING THE USE OF EMERGENCY REPAIR CONTRACTOR:

Revised 04-01-01

Upon the arrival of the requested contractor, the requesting officer will record their badge number and the event number of the contractor's invoice form. Officers should confirm that the contractor has the correct address of the "board up" location on the invoice. Officers will document in detail the events surrounding the use of the "board-up" contractor in a General

Offense Report (Form 200-2-AFR). Every attempt should be made to identify the property owner in the details of the report.

L 9015 NON-POLICE ACTION REPAIRS:

Considerable discretion should be used in requesting non-police action repairs. Structures should only be secured in this fashion when there is reasonable threat to future life or property and only as a last alternative when no responsible party is or will be available within a reasonable period of time.

L 9016 ROUTING OF POLICE REPORTS:

When routing any police report, the Department member initiating the routing will adhere to the following appropriate procedures:

- Internal routing is now done through Versadex. Files will no longer be personally delivered. ROUTING EXTERNALLY: When routing police reports or documents of a confidential nature out of, the Police Department (or when routing such reports between externally located units or subdivisions), seal the report in an envelope and attach a completed "Routing Slip" (Form 100-41) to the envelope.

Department members are responsible for maintaining the integrity and confidentiality of police reports as established by the Duty Manual section C 1900, "Supplying Information – Department Operations."

L 9017 REPORTING INDUSTRIAL CAUSED DEATH OR INJURY:

When an officer is assigned to respond to an industrial accident which involves disfigurement, dismemberment, hospitalization over 24 hours or a fatality, the assigned officer will advise the district supervisor in the area of occurrence.

The district supervisor will then ensure a General Offense Report (Form 200-2-AFR) is completed, that the occurrence has been verified, and that Communications is notified of such verification.

Notification of the California State Division of Industrial Safety is the responsibility of Communications members.

L 9018 CRIMINAL CASES INVOLVING ANIMALS:

Revised 07-11-01

Criminal cases in which animals are cruelly or inhumanely treated, such as dog poisoning, cock fights, pit bull fights, and cruelty or neglect of animals, are handled by the Animal Care and Services (ACS) Division of the Department of Public Works (DPW). ACS officers are given peace officer powers in Section 607f of the Civil Code for the specific purpose of enforcing state laws relating to anti-cruelty to animals. ACS may be contacted via Communications or by calling (408) 794-7297.

Officers will assist Animal Care and Services in jointly investigating dog attacks on humans. Officers will also assist when it appears that there is a need for preserving the peace and preventing violence.

L 9019 NAME AND PRONOUN USAGE FOR TRANSGENDER OR INTERSEX INDIVIDUALS:

Added 02-09-21

Department members shall address transgender and intersex individuals using the names, pronouns, and titles of respect appropriate to the individual's gender identity, as expressed by the individual. Department members should be aware that individuals' names, pronouns, and titles may change between one interaction and the next and shall always use those used by the individual.

If it is unclear what gender the person identifies as, Department members may politely and discreetly (e.g., out of the immediate presence of others) ask individuals what name and/or gender pronoun they use. Members shall not challenge this identity or request names previously used unless necessary for investigative and/or legal identification purposes.

Department members shall not inquire about an individual's anatomy or medical history for the purpose of assigning an individual a gender based on anatomy.

L 9020 HIGH-RISK VEHICLE CONTACT DEFINED:

Added 03-26-21

A high-risk vehicle contact is one in which the occupants of a vehicle are detained and ordered to exit a vehicle while officer(s) have drawn or are exhibiting their firearms.

L 9021 HIGH-RISK VEHICLE CONTACT SUPERVISOR RESPONSE:

Added 03-26-21

A district supervisor shall respond to the scene of all high-risk vehicle contacts. The supervisor shall actively supervise and participate in the investigation.

L 9022 HIGH-RISK VEHICLE CONTACT DOCUMENTATION:

Added 03-26-21

All high-risk vehicle contacts shall be documented in either a General Offense Report (Form 200-2-AFR) or in a Street Check. The reason for the high-risk stop shall be described in either a Narrative or Supplemental Report (Form 200-3A-AFR) in the case of a G.O., or in the Notes in the case of a Street Check.

L 9023 INITIATING AND ENGAGING IN A FOOT PURSUIT:

Added 12-17-22

Department members may initiate and engage in a foot pursuit to aid in the detention or arrest of a subject when supported by reasonable suspicion or probable cause. During foot pursuits, Department members should assess the seriousness of the crime for which the subject is wanted with the danger to officers, the subject, and the public.

L 9024 ANTI-REPRODUCTIVE RIGHTS CRIMES DEFINITION:

Added 01-17-23

California Penal Code section 13776(a) defines an anti-reproductive-rights crime as a crime "committed partly or wholly because the victim is a reproductive health services patient,

provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or a class of persons or entities from becoming or remaining a reproductive health services patient, provider, or assistant.”

L 9025 ANTI-REPRODUCTIVE RIGHTS CRIMES TERMS:

Added 01-17-23

“Crime of violence” means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.

“Interfere with” means to restrict a person’s freedom of movement.

“Intimidate” means to place a person in reasonable apprehension of bodily harm to themselves or to another.

“Nonviolent” means conduct that would not constitute a crime of violence.

“Physical obstruction” means rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.

“Reproductive health services” means reproductive health services provided in a hospital, clinic, physician’s office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

“Reproductive health services patient, provider, or assistant” means a person or entity, including, but not limited to, employees, staff, volunteers, and third-party vendors, that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person’s request, to obtain or provide services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.

“Reproductive health services facility” includes a hospital, clinic, physician’s office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.

L 9026 ELEMENTS OF ANTI-REPRODUCTIVE RIGHTS CRIMES:

Added 01-17-23

Penal Code section 423.2 provides the following acts shall be considered Anti-Reproductive Rights Crimes when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- 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 patient, provider, or assistant, or in order to intimidate

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a person or entity, or a class of persons or entities, or from becoming or remaining a reproductive health services patient, provider, or assistant.

- 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 patient, 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 patient, provider or assistant.
- 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 patient, provider, assistant, or facility.
- Within 100 feet of the entrance to, or within, a reproductive health services facility, intentionally videotapes, films, photographs, or records by electronic means, a reproductive health services patient, provider, or assistant without that person's consent with specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant, and thereby causes the person to be intimidated. This provision does not apply to a person acting as a member of the news media as described in subdivision (b) of Section 2 of Article I of the California Constitution.
- In any manner or forum, including, but not limited to, internet websites and social media, intentionally discloses or distributes a videotape, film, photograph, or recording knowing it was obtained in violation of subdivision (g) with the specific intent to intimidate the person from becoming or remaining a reproductive health services patient, provider, or assistant, and thereby causes the person to be intimidated. For purposes of this subdivision, "social media" means an electronic service or account, or electronic content, including, but not limited to, videos or still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or internet website profiles or locations. This provision does not apply to a person acting as a member of the news media as described in subdivision (b) of Section 2 of Article I of the California Constitution.

L 9027

RESPONDING TO ANTI-REPRODUCTIVE RIGHTS CRIMES:

Added 01-17-23

When investigating crimes involving reproductive rights, Department members should:

- Remain sensitive to the victim's trauma and needs of the victim
- Complete a thorough investigation
- Ensure medical care is provided, when necessary
- Take appropriate enforcement action
- Preserve the crime scene and evidence
- Collect and process all evidence and search the scene
- Complete a General Offense Report (Form 200-2A-AFR) of the incident; and

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- Make notifications through the chain of command.



L 9100 - PARTICIPATION IN THE PUBLIC SAFETY PROCUREMENT PROGRAM (LESO PROGRAM):

Added 07-20-17

The National Defense Authorization Act authorizes the Secretary of Defense to transfer excess Department of Defense (DoD) property to federal, state, and local law enforcement agencies with special emphasis given to counter-drug and counter-terrorism efforts. The Public Safety Procurement Program (LESO Program) allows the San Jose Police Department to procure equipment from the DoD that otherwise would not be available due to budgetary constraints.

PROCEDURE

L 9101 LESO PROGRAM CERTIFICATION & OPERATION AGREEMENT:

Added 07-20-17

Program Certification is required annually and when there is a change of an agency's Chief Executive Official. Certification consists of the submission of a completed Certification Package, as well as a physical inventory of controlled property procured through the LESO Program. LESO staff will provide the Department with an email prompt and official inventory records (as listed in the Federal database) at least 30 days prior to the scheduled expiration of the Department's Agency ID.

The Department must complete a State Plan of Operation Agreement between the State and the Department in order to participate in the LESO Program. The agreement describes the responsibilities of the federal and state agencies, as well as the Department's responsibilities, related to the operation of the program and conditions of property acceptance. The agreement shall be signed and dated by the City Manager or a designated Deputy City Manager who executes agreements on behalf of the City Manager for the City of San Jose.

L 9102 DEPARTMENT AUTHORIZED SCREENERS:

Added 07-20-17

The Department is required to have a minimum of two (2) and maximum of four (4) screeners. Department screeners are assigned by the Department's Special Operations Division Captain and may be sworn officers and/or professional staff, full-time and/or part-time paid employees of the agency. Volunteers or contracted employees do not qualify for the program and cannot be assigned as screeners for the Department.

Screening for equipment can be done online through the Defense Logistics Agency's property search website. Authorized Department screeners can search for specific items or conduct a broad-range search. The system allows for a "want list" to be created in the system to facilitate the search.

Screeners may also visit designated Disposition Services Centers (also known as DRMO). Only two (2) authorized screeners may physically screen at any Defense Logistics Agency (DLA) Disposition Services site at one time.

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L 9103 RESPONSIBILITIES FOR THE PUBLIC SAFETY PROCUREMENT PROGRAM (LESO PROGRAM):

Revised 11-14-17

The Special Operations Captain shall be responsible for the following:

- Completing the annual Program Certification packet to allow the Department to continue participation in the LESO Program.
- Conducting an annual inventory certification and submitting a copy to the Executive Officer. Additionally, a report shall be submitted to the Executive Officer on items received by the program with an estimated value of each item and a copy shall be provided to the Fiscal Unit.
- Complying with all LESO Program requirements.
- Providing Fiscal Staff access to the Federal Excess Property Management Information System (FEPMIS); the member of Fiscal selected to have access to FEPMIS will be considered one of the Department's "Authorized Screeners."
- Obtaining budget approval within 48 hours, if shipping cost exceeds \$2,500.
- Determining if there are any additional costs involved with acquiring items (e.g., infrastructure, implementation costs) before requests are approved.

Fiscal Staff will be responsible for the following:

- Obtaining access to the FEPMIS system; the member of Fiscal selected to have access to FEPMIS will be considered one of the Department's "Authorized Screeners."
- Working with the City Attorney and City Manager's Office to obtain approval on items being requested from the LESO Program.
- Maintaining an approved inventory list or a list of items pre-approved for acquisition by the City Manager and posting the list on the SJPD Fiscal Intranet Website.
- Conducting annual audit reviews which consist of completed program certification, property inventory, and file reviews.

L 9104 ADDING ITEMS TO THE APPROVED INVENTORY LIST:

Added 07-20-17

Authorized SJPD staff requesting to add item(s) to the "Approved Inventory List" shall comply with the following:

1. Personnel requesting items from the LESO Program should first go through their Unit Commander.
2. The requestor shall send an email to the LESO Program email address
3. (SJPD1033Program@
4. sanjoseca.gov) with the needed justification to the designated LESO authorized screeners. The request must be approved by the requestor's Unit Commander.
5. All item(s), regardless of value, shall require approval from the Unit Commander and Deputy Chief.
6. The Deputy Chief shall forward the request to Fiscal Unit staff.
7. Shipping cost exceeding \$2,500 will require approval from the Fiscal Unit.
8. Fiscal Unit staff shall work with the City Attorney and City Manager for final approval. The City Manager will determine if approval is needed from City Council.

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9. Once approved, authorized screeners shall be notified and the item(s) will be added to the "Approved Inventory List." Items must be on the "Approved Inventory List" in order to be eligible for acquisition.
10. Designated LESO Program authorized screeners can proceed with the online requisition in the Defense Logistics Agency's website.
11. Once the item(s) are received, the BFO Commander shall forward the signed requisition tracking receipt and packing slips to the Fiscal Unit.

L 9105 URGENT REQUEST PROCESS:

Revised 11-14-17

Urgent LESO Program requests shall be defined as items having major cost savings, items with high turnover, and/or items seldom available.

Urgent LESO Program requests that are not included in the "Approved Inventory List" shall require approval from the Deputy Chief within 48 hours of the requisition request being submitted through the Defense Logistics Agency's website.

Steps 1-4 in section L 9104 ADDING ITEMS TO THE APPROVED INVENTORY LIST shall be followed.

If steps 1-4 are not completed within 48 hours, the screener must cancel the item(s) ordered.

L 9106 TRACKING INVENTORY:

Added 07-20-17

Items acquired through the LESO Program shall be tracked in the Federal Excess Property Management Information System (FEPMIS).

The Tracking Receipt Form must be completed and signed by the receiving Division Commander within 7 days. This shall include packing slips or other support documents. The Annual Inventory Audit shall be conducted in December of each calendar year by the Special Operations Captain or their designee(s). The audit may be in the form of physical property inventories and/or accountability paperwork reviews.

In addition, the Fire and Aviation Management website (<https://fam.nwcg.gov/fam-web/>) allows the Department to monitor and update its LESO Program inventory. The Department must have at least one person registered to actively maintain the Department's inventory in FEPMIS.

L 9107 PROPERTY DISPOSAL

Added 07-20-17

Property acquired through the LESO Program which becomes unusable may need to be removed from the Department's account on the Federal Excess Property Management Information System (FEPMIS). Based upon the property's demilitarization (DEMIL) code, the Department shall adhere to the following:

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- DEMIL A and Q (Integrity code of 6)- The DLA LESO will maintain a list of National Security Exemption restricted Demil A and Q6 items by National Stock Numbers that will be treated as controlled property. All items falling into this category that were acquired with a ship date of 7/1/13 will be treated as controlled property, and will not be archived from the DLA LESO inventory. Law enforcement agencies are not authorized to sell NSE restricted A and Q6 items. Only excess property with a Demil code of A that does not fall into the category of NSE restricted items will continue to be systematically archived from the DLA LESO inventory one year from ship date and title for the items will continue to pass to the LEA.
- DEMIL B, C, D, E, F, G, P, & Q (integrity code of 3)- These items require turn in or in some cases demilitarization. The State Coordinator must obtain the LESO's approval for equipment to be turned in and or local destruction.

The following procedures shall be followed by the Department member responsible for disposing of unusable property acquired through the LESO program:

- If the item is "DEMIL Code A," it will automatically be placed in an archived status on the FEPMIS upon meeting the one year mark. Once archived, the item(s) is no longer subject to annual inventory requirements.
- If the item(s) for disposal requires demilitarization, disposition instructions will have to be provided by the State Coordinator and LESO. The Fiscal Unit shall complete appropriate forms and submit the forms to the State Coordinator for approval. Once approval is received, the forms will be forwarded to LESO for turn-in or destruction approval. After completion of the appropriate action, the item (s) will be removed from the Department's inventory account on the FEPMIS.
- The Department is responsible for shipment of any DEMIL property back to the Disposition Services site.
- No disposal actions shall be taken without the prior approval of the State Coordinator. If the Department has questions concerning the DEMIL status of any item on their inventory, the Department should contact the State Coordinator for clarification.

L9108 PROPERTY TRANSFER

Added 07-20-17

Excess property received through the LESO Program can be transferred to another authorized law enforcement agency. If the Department has no further use for a piece of equipment, the Department should contact the LESO Program Office. The LESO Program Office will attempt to find another agency who can utilize the property. Before any transfer actions can be completed, the State Coordinator and the LESO must approve the action.

The agency who wants to transfer property must first contact a Department Authorized Screener or the Special Operations Captain, who shall then contact the LESO Program Office to determine eligibility. If the gaining agency is authorized to receive the property, the appropriate forms shall be completed and sent to the LESO Program Office for approval. If approved, the transferring agency and receiving agency shall coordinate delivery of the

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property. LESO shall update the appropriate inventory on each LEA's inventory list accordingly.

The Special Operations Captain or their designee shall coordinate transfer with the State Coordinator. Documentation shall be forwarded to the Fiscal Unit– Grants Team.

L 9109 AUDITS

Added 07-20-17

The LESO may conduct compliance reviews at any time. The audit reviews may consist of Officials from the LESO conducting physical property inventories and/or accountability paperwork reviews during their visit.

The Special Operations Captain shall conduct an annual inventory certification and submit a copy to the Chief of Police.

SJPD Fiscal staff may conduct an annual compliance review consisting of a completed program certification, property inventory, and records/ file reviews.

Single Audit Act: Property acquired through the LESO program is subject to provisions of the Single Audit Act of 1984 (Title 31 United States Code, Subtitle V, Chapter 75).

L 9110 TERMINATION OR SUSPENSION

Added 07-20-17

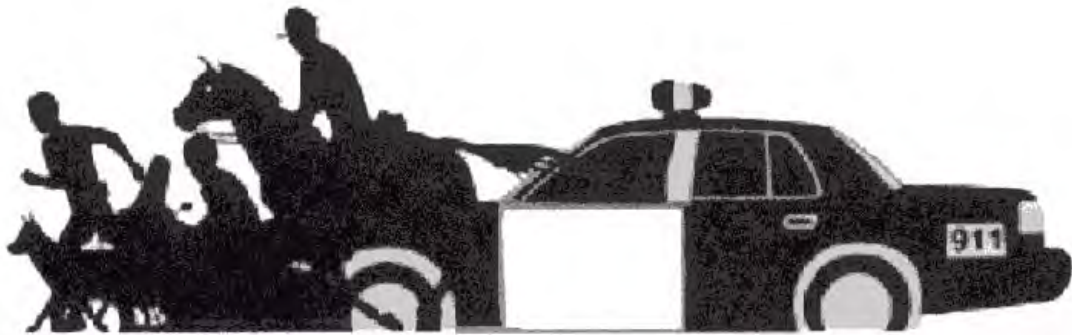
The Department or its designated representatives, who do not comply with the procedures outlined in the State Plan of Operation Agreement, can be suspended or terminated from the LESO Program by the State Coordinator. Depending on the violation, the State Coordinator may issue a temporary suspension (time frame will be set by State Coordinator) or a permanent termination from the program. Any termination or suspension action will be submitted in writing via letter from the State Coordinator to the Department and copies will be forwarded to LESO.

L 9111 PROHIBITED & CONTROLLED EQUIPMENT

Deleted 11-14-17

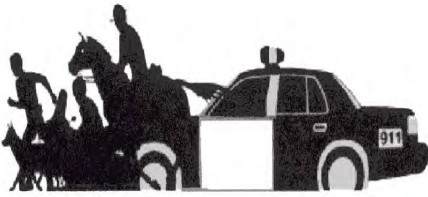
Reporting

R 1100 – 1900



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R 1100 - WRITTEN COMMUNICATIONS:

Effective written communication is one of the most important duties required of a Department member since it is the most widely used form of transmitting information. Such communications are used to inform Department members, criminal justice personnel, other authorized persons of the existence of circumstances, and conditions and facts that impact on their respective duties and responsibilities. Therefore, Department members will adhere to established procedures when initiating any written communication.

PROCEDURE

R 1101 GENERAL ELEMENTS - WRITTEN COMMUNICATIONS:

Written communication should be so complete and easy to read that a person without previous knowledge of the topic or incident under discussion can understand what is being communicated. To accomplish this objective, it is necessary to understand what constitutes an acceptable written communication and what it should contain. Therefore, Department members will become familiar with the following procedures and adhere to them as indicated.

R 1102 BASIC CRITERIA:

Department members will adhere to the following basic criteria, as indicated, when initiating a written communication.

R 1103 SPELLING/ABBREVIATIONS/PUNCTUATION:

Revised 05-10-13

Misspelling can change the meaning of a written communication. Improper or excessive abbreviation or misused punctuation can affect indexing of reports. Additionally, misspelled wording and misuse of abbreviations or punctuation can delay the processing of a report until clarification of meaning is obtained.

Consequently, errors of this nature often have far reaching effects and adversely reflect upon the Department's image. Therefore, Department members will remain aware of the proper spelling of words, will use proper punctuation, and will use only standard dictionary abbreviations and those authorized as follows:

- (ADW) Assault with a Deadly Weapon
- (AIB) Accident Investigation Bureau
- (AKA) Also Known As
- (A/O) Arresting Officer
- (APB) All Points Bulletin
- (BA) Blood Alcohol
- (BOL) Be on the Lookout
- (CB) Citizens Band
- (CHP) California Highway Patrol

- (CPR) Cardiac Pulmonary Resuscitation
- (CPT) Captain
- (DA) District Attorney
- (DOA) Dead on Arrival
- (DOB) Date of Birth
- (DOJ) Department of Justice (State of California)
- (DR) Driver
- (DUI) Driving Under the Influence
- (ETA) Estimated Time of Arrival
- (FI) Field Interrogation
- (GO) General Offense
- (GOA) Gone on Arrival
- (HBD) Had Been Drinking
- (HRS) Hours
- (JCR) Juvenile Contact Reports
- (JPD) Juvenile Probation Department
- (K-9) Canine Unit or Animals Used
- (LT) Lieutenant
- (MC) Motorcycle
- (MDT) Mobile Data Terminal
- (MERGE) Mobile Emergency Response Group and Equipment
- (MO) Method of Operation (NFD) No Further Description
- (NFI) No Further Information
- (NMI) No Middle Initial
- (PD) Police Department
- (POE) Point of Entry
- (POI) Point of Impact
- (POR) Point of Rest
- (PR) Property Report
- (P/U) Pickup
- (QOA) Quiet on Arrival
- (QOD) Quiet on Departure

- (R/O) Registered Owner
- (RP) Reporting Party
- (SC) Street Check
- (SGT) Sergeant
- (SJ) San Jose
- (SO) Sheriff's Office
- (UTL) Unable to Locate
- (V) Victim
- (W) Witness
- (WMA) White Male Adult (BMA, WFA, BFA, etc.)

When using an abbreviation, Department members will preface the abbreviation with the long form meaning the first time such abbreviation is used.

EXAMPLE: The suspect was transported to Valley Medical Center (VMC).

Thereafter, the abbreviation may be used without prefacing with the long form. When using an abbreviation pertaining to a person (RP, RO, SGT, etc.), the last name of such person will follow the abbreviation.

R 1104 RADIO CODES/SLANG TERMS:

Radio codes will not be used in any written communication unless the topic of the communication is a radio code itself. In addition, slang terms such as "He was all spaced out" will not be used in any report or written communication unless it is a quote.

R 1105 DUPLICATE NAMES:

When two or more persons of the same role have the same surname their given names should be included in the narrative. In cases where persons have the same surname and given name, they should be differentiated by generation (Jr. Sr., III) or middle initial in order to keep their identifies clear.

R 1106 PARAGRAPHING AND UNDERLINING:

Deleted 05-10-13

R 1107 LEGIBILITY:

Revised 01-04-02

When initiating a handwritten report, Department members will use capital block printing. Reporting members will also write reports with a black ballpoint or black felt tip pen. Pencil or blue ink pens will not be used.

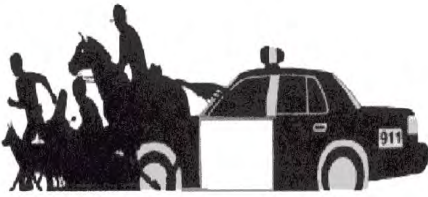
When initiating a computer generated report, reporting members will utilize the following style and format requirements:

Font: Arial or Times New Roman
Font Style: Regular
Font Size: 12 point
Case Format: Standard type utilizing upper and lower case (not all capitalized as in hand written reports)
Type Color: Black ink only

R 1108

ACCURACY AND BREVITY:

A most important attribute of any written communication is accuracy combined with brevity. Department members will include, in a concise method, all pertinent information available at the time the written communication is prepared. Short sentences are preferable. Commonly used and generally understood words will be used. Proper emphasis will be given to those critical elements related to the incident being reported.



R 1200 - CRIME RELATED REPORTING:

Effective crime reporting is one of the most important duties required of an officer. To be effective, specific information is necessary since such reports are used to inform Department members, criminal justice personnel, and other authorized persons of the existence of circumstances, conditions and facts which impact on their respective duties and responsibilities. Therefore, officers will adhere to established procedures when initiating any reports pertaining to a criminal act.

PROCEDURE

R 1201 GENERAL PROVISIONS:

The prime objective of any crime report is to present the truth in an impartial manner. Department members will be impartial by reporting all pertinent facts and/or circumstances pertaining to an incident. Members will avoid generalities, prejudice and personal opinions as much as possible. When a personal opinion is included, it will be clearly labeled as such and supported by facts.

R 1202 REPORTING REQUIREMENTS:

Department members will complete and submit reports in adherence to the following criteria:

- FELONY CRIMES: Report all incidents involving an actual or suspected felony violation regardless of whether any enforcement or investigative action is taken or anticipated.
- MISDEMEANOR/INFRACTION CRIMES: Report violations involving a misdemeanor or infraction whenever any enforcement or investigative action is taken or anticipated or when necessary to justify a lack of enforcement or investigative action.

Incidents that are unfounded or do not normally require a report need not be reported. However, the member making the decision not to report such an incident will be required to justify the decision at a later time when requested to do so by higher authority.

R 1203 COMPLETENESS:

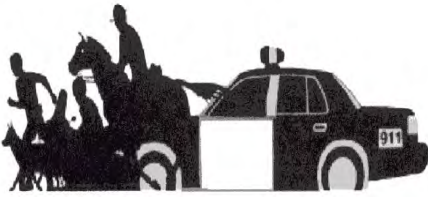
Revised 05-10-13

Department members will be complete and comprehensive in describing the incident or crime being reported by ensuring that the answers to the following six basic questions are contained in the report.

- WHO: Information about the victim, the suspect, witnesses, owners, and other involved persons will be included in the report. Examples of information required is as follows:
 - Full name
 - Alias (when appropriate)
 - Nicknames (when appropriate)
 - Home addresses and telephone numbers

- Business addresses and telephone numbers
- Race
- Age
- Occupation
- In situations in which the victim's identity should be protected (i.e., Domestic Violence, Sexual Assaults), and their surname could be revealed based on the surnames of other entities, both given names should be used. This allows the surnames to be redacted to protect the victim's identity, while still maintaining clarity of their roles and involvement.
- WHAT: Information about what occurred during the incident will be included in the report. Examples of information required is as follows:
 - What type of premises involved
 - What type of property, stolen/lost or found
 - What crime occurred
 - What vehicles were used
 - What evidence was found
 - What was said
- WHERE: The geographical location of specific aspects of the incident being reported will be exact and complete. Examples of information required is as follows:
 - Where did the crime occur (includes: general area, address, specific location at the address)
 - Where was the victim(s), witness(es), suspect(s), property and evidence located
- WHEN: The time and date that events occurred will be included in the report. Examples of information required is as follows:
 - When did the incident occur (estimate if not specifically known)
 - When did the Department or victim become aware of the incident
 - When was evidence statements or other leads obtained (be specific)
 - When did specific events occur in relationship to other events
 - When will witnesses/victims be available for follow-up interviews (specific times, dates and locations)
- HOW: The general manner in which the crime was committed will be included in the report. Examples of information required is as follows:
 - How was a structure entered
 - How was the fraud committed
 - How was property removed or obtained

- How did the suspect act, talk, walk, etc.
- WHY: While avoiding unsupported speculation, and as can best be determined from the available facts and evidence prompting the crime, the motivation will be included in the report. Examples of information required is as follows:
 - For crimes against persons, the purpose of the crime (revenge, rage, personal gain, self-gratification)
 - For crimes against property, the object of the crime (money or other items of value)

**R 1300 - REPORT FORMAT:**

Effective crime reporting is one of the most important duties required of an officer. To be effective, specific information is required when reporting various offenses. Such reports are used to inform Department members, criminal justice personnel, and other authorized persons of the existence of circumstances, conditions and facts that impact on their respective duties and responsibilities. Therefore, officers will adhere to established procedures when initiating any reports pertaining to criminal act.

PROCEDURE**R 1301 REPORT FORMAT:**

The report writing format consists of six separate sections used to document all pertinent facts in a General Offense Report (Form 200-2-AFR) These sections are Synopsis, Narrative, Statement, Injuries, Physical Evidence and Additional Information. Each section will require its own text document entry in the Versadex system (MRE or RMS).

R 1302 SYNOPSIS:

Revised 01-20-21

This section of the General Offense report is designed to provide the reader with a very brief overview of the incident or crime. To accomplish this,

1. Date, time, and location of event;
2. Substance to be Included:
 - a. The type of crime or activity involved; and
 - b. The actions which constitute the elements of the crime
3. Factual Circumstances to be Included:
 - a. Whether the suspect was known or unknown to the victim;
 - b. Whether the crime was gang related, if the Department believes such disclosure is appropriate;
 - c. Was force used, and if so, the type of force used (e.g., physical force, baton, electronic control weapon, etc.) and the circumstances that lead to the force used (e.g., challenge to fight, resisting arrest, etc.);
 - d. Whether any specialized resources (e.g., Air Support, K-9, MERGE, Bomb, or BOI units, etc.) provided assistance; and
 - e. Disposition of the suspect (e.g., arrested, cited, released, or at large)

This section is not designed to provide all of the details of the incident or crime. It is a summarization of the facts and information necessary to understand the event. Therefore, a more complex crime does not mean a longer synopsis. No names shall be included in a synopsis. Specific details or actions taken by officers would be documented in the narrative section of the report.

A synopsis is required on all General Offense reports.

Example - On 8-20-92, at 1000 hours, an armed robbery occurred at the 7-11 Store located at 5152 Monterey Road. An unknown suspect entered the store, pointed a handgun at the clerk and demanded money from the cash register. The clerk feared for his life and put the money on the counter. The suspect took the money and went out the front door, fleeing in an unknown direction. Officers located no other witnesses. The Robbery Unit was notified. The suspect is still outstanding.

Example - On 8-20-92, at 1130 hours, an armed robbery occurred at the Wells Fargo Bank located at 2170 Tully Road. Two unknown suspects entered the bank, pointed handguns at the tellers and demanded money from their drawers. The tellers feared for their lives, took money from their drawers, and placed the money on the counter. The suspects took the money, went out the west doors and left in a vehicle with no plates. There were ten witnesses from the bank. The Robbery Unit was notified and responded to the scene. The suspects and vehicle are still outstanding.

R 1303

NARRATIVE:

This section is designed to allow the writer to document all the necessary facts of an incident or crime in a straightforward, chronological manner. The writer should simply start at the beginning of an incident and write exactly what actions they took and the order in which they took them.

It is to be written using third-person, past tense sentence construction (i.e., The suspect ran southbound on Monterey Road). The exception to this is when an officer is referring to actions they took, in which case first-person, past tense sentence construction is to be used (i.e., I booked the suspect into the Santa Clara County Jail).

The primary officer will complete a Narrative text document detailing their actions and observations. All officers using the Automated Field Reporting (AFR) system will use a Supplemental text document to detail their actions and observations. Investigators using the Records Management System (RMS) should use a Narrative text document rather than Supplemental. This should be achieved via an assigned Follow Up.

R 1304

STATEMENTS:

Revised 08-18-05

This section includes the statement(s) of any victim(s), witness(es) or suspect(s). The statement should include the person's location at the time of the incident. Both the person's role in the event and name will be used (i.e. (W) Jones stated that he saw (S) Smith hit (V) Williams). Any suspect statement is to be preceded by a description of who read the suspect their Miranda rights and the suspect's responses to the waiver questions. Statement text documents should be related to the corresponding entity in Versadex.

R 1305

PHYSICAL EVIDENCE:

Revised 08-18-05

This section is used to describe any physical evidence gathered in a case. It will include a description of each item of evidence, who found it, where it was found, where it was booked

and who booked it. A connection should be given between the evidence and the suspect or victim. It is also important to provide a description of the crime scene where the evidence was located.

R 1306

INJURIES:

Revised 08-18-05

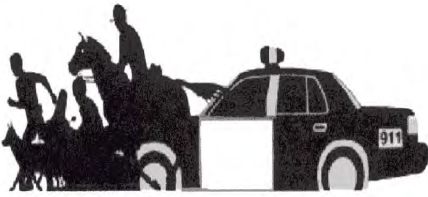
If anyone involved in the crime/incident incurred any injuries, the injuries are to be listed in this subsection. The injuries should be described in detail including how the injury was caused and any treatment given, offered or refused. This would include injuries to any victim(s), suspect(s), witness(es) or officer(s).

In instances in which an officer is killed or assaulted in the line of duty, the LEOKA section of the victim linkage will be completed.

R 1307

ADDITIONAL INFORMATION:

Any additional information or recommendations an officer may make which would assist a follow-up investigator are to be listed in this section.



R 1400 - DESCRIPTION OF PROPERTY:

An important element of crime related reporting is the supplying of a thorough description of stolen, lost, found or missing property. Therefore, officers initiating any report pertaining to such property will describe it in accordance with established procedures.

PROCEDURE

R 1401 DESCRIPTION OF PROPERTY - MINIMUM ELEMENTS:

When reporting stolen, lost, found or recovered property, when possible, obtain and record the below listed descriptive information:

- QUANTITY: Report the number, quantity, etc., of each type of property.
- TYPE: Report the specific classification (i.e., "television").
- TRADE NAME: Report the brand name of the article (i.e., "motorcycle").
- PHYSICAL DESCRIPTION: Describe the following minimum physical characteristics: Model - Style - Design - Shape - Size - Color -Material - Condition (include age)
- IDENTIFYING NUMBERS/MARKS: Report the serial number, unique marks or identifying damage will be reported.
- VALUE: Refer to Duty Manual section R 1402 titled (Valuation of Property) when determining value.

R 1402 VALUATION OF PROPERTY:

Department members will use the following guidelines when reporting the value of lost, stolen or found property.

R 1403 ESTIMATING VALUE:

The victim's estimate of value on lost or stolen property will be indicated in the Value field on the Property Report (PR). If the victim is unable to estimate a value of the lost or stolen property, a minimum of \$1.00 shall be entered.

EXCEPTION: Reporting members will adhere to the following procedures when reporting the value of the unsold or transit merchandise and U.S. currency or other negotiable documents.

- MERCHANDISE - UNSOLD OR IN TRANSIT: Goods taken from a store or a warehouse or stolen in transit will be valued at the invoice cost, not the retail sale value. The invoice cost is a matter of record. This represents the amount of loss suffered by the merchant or transfer agent.
- U.S. CURRENCY, NEGOTIABLE DOCUMENTS, AND CHECKS: Any denomination of U.S. Government issued currency will be reported at full value.

Negotiable documents, such as money orders, will be reported at face value.

Checks and promissory notes themselves have no value unless an actual property transfer resulted from the issuance of such documents. When a property transfer does occur, the loss is then determined by the value of the goods or monies so transferred.

R 1404 DESCRIPTION OF SPECIFIC ARTICLES:

The Property Report (PR) descriptor fields will be completed as thoroughly and specifically as possible in order to maintain accurate recording of property collected. A serial number is required in Versadex for all property entries. If there is none, or the serial number is not known, it should be documented as "UNKNOWN" via use of the F10 keyboard key. N/A or None are not acceptable entries for the serial number field.

R 1405 FIREARMS:

Deleted 05-10-13

R 1406 WATCHES:

Deleted 05-10-13

R 1407 RINGS:

Deleted 05-10-13

R 1408 CHAINS, NECKLACES:

Deleted 05-10-13

R 1409 DIAMOND SET ARTICLES:

Deleted 05-10-13

R 1410 MISCELLANEOUS JEWELRY:

Deleted 05-10-13

R 1411 SILVERWARE:

Deleted 05-10-13

R 1412 TELEVISIONS, TAPE DECKS, RADIOS:

Deleted 05-10-13

R 1413 CAMERAS:

Deleted 05-10-13

R 1414 CLOTHING:

Deleted 05-10-13

R 1415 U.S. CURRENCY, CHECKS, SECURITIES:

Deleted 05-10-13

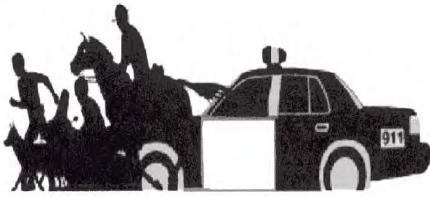
R 1416 CREDIT CARDS:

Deleted 05-10-13

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R 1500 - PURPOSE AND USE OF - SPECIFIC REPORTS:

Revised 03-29-17

The Department utilizes various report forms to communicate specific information about a criminal act or other incident. An officer working in a secondary employment capacity shall still utilize hard copy General Offense Reports (Form 200-2) with the exception of the Force Response report and Domestic Violence Supplemental

Report, which must be automated. Therefore, Department members shall familiarize themselves with such forms and use them for the appropriate purpose intended.

PROCEDURE

R 1501 PURPOSE AND USE OF SPECIFIC REPORTS - GENERAL PROVISIONS:

Department members will become familiar with the following forms and when they are to be utilized.

R 1502 GENERAL OFFENSE REPORT (FORM 200-2-AFR):

This form will be used to report the facts, circumstances, events and actions taken surrounding most offenses or attempted offenses against persons or property. The form will also be used to report suicides; personal injuries; industrial injuries; cases where a juvenile is listed as a suspect; cases involving Juveniles where investigative follow-up is required; theft of bicycles; arrests arising from teletypes, letters, or telephone contacts from outside agencies, and other occurrences where no other form is designated as an appropriate reporting document.

R 1503 ADDITIONAL PEOPLE DETAILS (FORM 200-2A-AFR):

This report type is used to report witness, reporting party, registered owner and other entity information.

R 1504 SUSPECT DETAIL (FORM 200-2B-AFR):

This form is used to document suspect entity information. This form is used to document the personal data of any person arrested or suspected of a crime. This form is also used to describe the arrestee's/suspect's vehicle information.

R 1505 VICTIM DETAILS (FORM 200-2C-AFR) (FORM 200-2C-AFR):

This form is used to document victim entity information for any person, business or vehicle involved in the General Offense Report (Form 200-2-AFR).

R 1506 NARRATIVE/SUPPLEMENTAL REPORT (FORM 200-3A-AFR):

This form is used to record narrative by the officer completing a General Offense Report (Form 200-2-AFR).

SUPPLEMENTAL REPORT

This form is used to record narrative by any patrol officer not completing the General Offense Report (Form 200-2-AFR).

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R 1507 STOLEN/LOST PROPERTY REPORT (FROM 200-3D-AFR):*Revised 05-10-13*

This form is used to report stolen and/or lost property. The officer will itemize each article and indicate the quantity.

Property reports must accompany one of the following "primary reports":

General Offense Report (Form 200-2-AFR)

Traffic Collision Report (Form CHP 555-MRE or Form CHP 555-03)

Driver Under the Influence Report (County form 909 A)

R 1508 CASE UPDATE REPORT (FORM 200-3C):*Deleted 05-10-13***R 1509 VEHICLE IMPOUND RIGHTS AND OBLIGATIONS (FORM 200-4A):***Revised 06-01-11*

This form will be given to any citizen when their vehicle has been impounded for any reason. The citizen will be advised that a fee will be charged before the vehicle can be released.

R 1510 TELETYPE CII INFORMATION REQUEST (FORM 200-7):

This form is used to request record information, photographs, fingerprints, and other information from the California Identification and Information Bureau. The Records Division will transmit the request and return the reply to the originator.

R 1511 TELETYPE INFORMATION TRANSMITTAL REQUEST (FORM 200-7A):

This form is used to either send information to, or request information from, another agency. The Records Division will transmit the information or request and return the reply to the originator.

R 1512 COMMUNICATIONS AND MAIN LOBBY CASE NUMBER CARD:

This form will be completed by Department members assigned to TRAC and the Main Lobby. The information will be completed on the card and the citizen making the report will be advised of the case number.

R 1513 IDENTIFICATION (I.D.) SHEET (FORM 200-11):

This form will be completed in the Fingerprints Unit when any citizen is to be booked on a criminal citation or any person required to register under 290 P.C. or 11590 H&S.

R 1514 PROPERTY TAG (FORM 200-13A):*Deleted 05-10-13**Public Version**Security Procedures Redacted Pursuant to California Government Code 7923.600**Page 728*

R 1515 EMERGENCY ADDRESS CARD (FORM 200-14):

This form is used to record pertinent information regarding persons to contact in case of an emergency at a business. The form may be completed by the officer or left at the business and mailed to the Records Unit.

R 1516 NOTICE TO APPEAR (FORM 200-15):

Revised 02-03-23

This form is used in lieu of booking of an eligible subject, pursuant to Duty Manual section L 3100 – CRIMINAL CITATIONS.

When the offense is a traffic violation, this form may be used to cite both juveniles and adults.

R 1516.5 WARRANT CITATION / NOTICE TO APPEAR (FORM 491):

Added 02-03-23

This form is used in lieu of booking an eligible subject, pursuant to Duty Manual section L 3100 – CRIMINAL CITATIONS.

R 1517 CONTINUATION OF NOTICE TO APPEAR (FORM 200-15A):

This form is to be used when the number of violations exceed the available space on the Notice to Appear (Form 200-15).

R 1518 CITATION AMENDMENT (FORM TR-100):

Revised 05-16-06

This form is used to amend the "Notice to Appear" form when necessary. It will be completed either by the issuing officer or the Court Liaison Officer after consulting with the issuing officer. The form will be completed and submitted as soon as practical. A copy of the form will be sent to both the defendant and the San Jose Superior Court.

R 1519 CITATION DISMISSAL REQUEST (FORM 200-15B):

This form is used whenever an officer believes a citation should be dismissed. The officer issuing the citation will submit the form in the following manner:

- COMPLETION OF FORM: The issuing officer will complete the form and explain in a concise, but complete, manner the reason why dismissal is being requested.
- ATTACH CITATION: The officer will attach all copies of the citation to the form (except the blue book copy).
- SUBMITTAL: The officer will then submit the form and attachments to such officer's immediate supervisor.

The immediate supervisor receiving the form will review the request and attachments and indicate on the form whether approval or disapproval is made. The immediate supervisor will then forward the request and attachments to the Court Liaison Unit Commander.

The original citation and copies will be submitted without altering, modifying or marking. When necessary, comments will be indicated on the citation dismissal form.

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R 1520 CITY OF SAN JOSE PARKING CITATION (FORM 200-15-1):*Revised 05-10-06*

This form is used to cite the registered owner of a vehicle which is parked in violation of the Municipal or Vehicle Code. This form will be used for all parking violations whether or not the operator or registered owner is present.

R 1521 MISSING PERSON REPORT (FORM 200-18):*Deleted 05-10-13***R 1520 SUBPOENA WORKSHEET (FORM 200-19):**

This form will be used primarily by Bureau of Investigations members who are unable to personally serve a subpoena. The form will be completed with the subpoena attached and routed to the Witness Coordination Detail of the Court Liaison Unit. The information will be entered in the Witness Coordination computer system for tracking. The worksheet will be taken to the Information Center on a daily basis for pickup by the contracted subpoena service.

R 1521 FIELD SOBRIETY TESTS NOTE CARD:

This form may be used by officers to record how a suspected drunk driver performed the field sobriety tests. The information may then be transferred to the DUI form.

R 1522 STREET CHECKS ():

The 2B (Field Interview Card) is no longer an official department document, and will only be used to assist officers in collecting data in the field to later be entered into Versadex. Street Checks are an effective policing tool. When completing this form, officers shall be specific and detailed as to the reason for each person interviewed by creating a text document for each Street Check.

The CAD event number for the contact will be cross referenced to the Street Check using the Related Events function.

However, when the reason for the interview pertains to an investigation in progress, or the submitting officer believes that the circumstances are such that a particular investigative unit or person should be notified of the Street Check without delay, then the submitting officer shall ensure the Street Check is sent as a "notify" to the appropriate person or investigative unit by contacting OSSD.

R 1523 ABANDONED VEHICLE WARNING (FORM 200-27A):*Revised 11-16-17*

This form is used to report the existence of an abandoned vehicle and to notify the owner or person in possession of such vehicle that removal must occur within 72 hours or the vehicle shall be towed. The Department of Transportation Parking and Compliance Unit is responsible for towing abandoned vehicles. San Jose police officers and CSOs can tow "obviously" abandoned vehicles or vehicles that have been properly marked or determined to have been abandoned or stored on city streets in excess of 72 hours.

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R 1524 FALSE ALARM INCIDENT REPORT (FORM 200-29):

This form will be filled out by officers after response to a false alarm. The carbon copy will be left at the business/residence for owner's notification. The original will be turned in to Records for later issuance of administrative citation as needed.

R 1525 INCIDENT CARD (FORM 200-45A):

Revised 12-17-18

The Incident Card is used to supply information to:

- Victims and suspects who are present whenever a report is taken;
- Persons whose property has been booked for safekeeping;
- Persons who wish to retrieve property from their towed vehicle;
- Victims eligible for the "Victims of Crime" program (refer to the Santa Clara County Victim Witness Assistance Center, "Victims of Crime" program).

Additionally, an Incident Card shall be issued to any member of the public who requests one.

R 1526 DOMESTIC VIOLENCE RESOURCE CARD:

Revised 03-09-21

This form will be given and explained to a survivor of domestic violence at the time the report is completed by the officer

R 1526.5 STRANGULATION RESOURCE CARD:

Revised 10-22-21

This form will be given and explained to a survivor of strangulation and/or suffocation at the time the report is completed by the officer.

R 1527 SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS (FORM 200-45C):

Revised 01-10-23

This form will be given and explained to a survivor of a sexual assault at the time the report is completed by the officer.

R 1528 W&I CODE SECTION 8102 FORM (FORM 200-58):

This form will be completed by the officer when a person in violation of W&I 5150 has been booked into a psychiatric facility and the weapons of the person have been seized. The form will be completed by the officer upon commitment of the person at the medical facility and the white copy retained by the officer. The golden rod copy will be given to the person upon their release.

R 1529 REQUEST FOR TIME OFF (FORM 201-2):

This form will be completed by officers requesting an absence from work by using compensatory time off or vacation time. The form will be submitted to the officer's immediate supervisor for approval.

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- R 1530 NON-ATTENDANCE REPORT (FORM 201-7):**
This report will be completed whenever a Department member assigned to the Bureau of Field Operations calls in sick prior to the beginning of a scheduled work shift. The form will be routed to the briefing sergeant and the information included on the Watch List.
- R 1531 REQUEST FOR RIDE-ALONG WITH OFFICER (FORM 201-13):**
Revised 11-22-21
- Prior to the ride-along, the requestor will complete and sign the Ride-Along Program Agreement and Release of Liability form (Form 201-13). When appropriate, the parent/guardian of the requestor will complete and sign the form. Approval will then be granted by the officer's supervisor and the watch commander. The requestor should be given the yellow copy and the original white portion of each form will be routed to the BFO Administrative Unit.
- R 1532 REQUEST FOR PUBLIC APPEARANCE (FORM 201-14):**
This form is used when a civilian group is requesting a speaker at a meeting. One copy will be given to the person assigned to speak.
- R 1533 NOTICE OF VOLUNTARY FIREARM REGISTRATION (FORM BCII 4542):**
The Department will provide citizens with the Voluntary Firearm Registration Form from the Bureau of Criminal Identification and Investigations. The citizen will fill out the form and mail to the Department of Justice along with the appropriate fee as stated in the current City of San Jose Fees and Charges Resolution.
- R 1534 PHOTO ENVELOPE (FORM 202-24):**
This form is used when submitting undeveloped rolls of photographic film for processing.
- R 1535 REQUEST FOR CRIME PREVENTION SERVICES (FORM 202-30):**
This form is used by citizens or businesses requesting a particular crime presentation or program.
- R 1536 DOMESTIC VIOLENCE SUPPLEMENTAL TEMPLATE AND DOMESTIC VIOLENCE SEXUAL ASSAULT HUMAN TRAFFICKING ASSESSMENT TEMPLATE:**
Revised 10-22-21
- These templates are required and used as a supplement to the General Offense report in domestic violence cases. Domestic violence incidents are those in which abuse is committed against a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has had (or is having) a child, and a person with whom the person has had (or is having) a dating/engagement relationship; this includes same-sex relationships and juvenile suspects. These templates shall be completed as thoroughly as possible and submitted prior to the end of shift.

R 1536.5 DOMESTIC VIOLENCE FIELD REPORTING GUIDE (FORM 204-24C) AND DOMESTIC VIOLENCE/SEXUAL ASSAULT/HUMAN TRAFFICKING ASSESSMENT (FORM 204-26):

Revised 11-22-21

To assist officers during domestic violence investigations, the DV Field Reporting Guide (FORM 204-24C) and the Domestic Violence/Sexual Assault/Human Trafficking Assessment (FORM 204-26) have been created for note taking purposes. These guides will help ensure officers ask the necessary questions and take notes of the answers during their investigation, so the officers can accurately complete the automated Domestic Violence Supplemental and Sexual Assault Human Trafficking Assessment templates. As the guides are for note taking purposes only, they are not an official police report that needs to be retained and should not be submitted to the Records Division.

R 1537 SUSPECT IDENTIFICATION INFORMATION & DUE DILIGENCE FORM (FORM 202-43):

Revised 02-05-04

This form is used by investigators when they obtain arrest warrants. Its purpose is to supply the Warrants Unit with information in addition to that already listed on the warrant. (i.e., subject has a history of violence, subject owns a weapon, addition information related to the suspect's home address has been developed, special notification is desired, special processing or evidence seizure is requested).

The Suspect Identification Information form is a two-paged form that is also used for due diligence purposes. Any service attempt(s) will be noted by the appropriate officer in the Arrest/Bench Warrant Tracking section. The Warrants Unit will retain the original Form 202-43.

See Duty Manual section L 3728 (Coordination of Service / Bench Warrants...) regarding the coordination of serving outstanding arrest / bench warrants and the due diligence information that results.

R 1538 SEARCH WARRANT RETURN/RECEIPT (FORM 202-53):

This form will be filled out by the officer in command of the search. Upon completion of the search, an itemized list of all items seized during the search will be left at the location of the search along with a copy of the search warrant. The return/receipt will be returned to the court of issuance within ten days.

R 1539 SEARCH CONSENT (FORM 202-54):

This form may be used whenever an officer determines that a search of a residence, dwelling, vehicle, or other place or item is necessary and the person in control of the place or item to be searched is willing to give written consent to officers to perform a warrantless search.

The officer intending to conduct the search will then ensure that the person giving consent is made aware of the circumstances and that the search form is explained and made available in the appropriate language for the consenting party. The consenting party will sign the form in the presence of the initiating officer and one witness (officer or citizen), if available.

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Officers will describe completely the place or item to be searched (location, residence, vehicle, etc.).

- R 1540 INCIDENT OF TRAFFIC COMPLAINT FORM (FORM 202-56):**
The purpose of this form is to spot and remedy potential dangerous or hazardous traffic conditions within the City of San Jose. Action will be taken by the San Jose Police Department or the City of San Jose Streets and Traffic Department.
- R 1541 INTERVIEW SHEET (FORM 204-9):**
This form is used in felony cases and will be completed by either the arresting officer or the assigned investigator from the Bureau of Investigations. The officer completing the report will ensure that a photograph of the arrestee/suspect is obtained and attached to the form.
- R 1542 DISTURBANCE VIOLATION (FORM 204-17):**
This form will be used whenever officers respond to a disturbance and strongly suspect that subsequent calls will be received. Officers will complete the Disturbance Violation report and provide a copy to the responsible party. Officers will also verbally explain that if the Police Department responds for a second time to the violator's location in the next 12 hours, that the violator will be billed for the actual time and expenses required to restore order and quell the disturbance. All completed 204-17's are deposited in the box for the FAIR cards, and the Form 2 is submitted through normal channels.
- R 1543 HEAT SEALABLE EVIDENCE ENVELOPE (FORM 204-22A):**
This form is used to book narcotics contraband only. When using this form, it is not necessary to complete a "Property Tag."
- When the quantity of narcotics contraband is such that it will not fit into an "Evidence Envelope, heat sealable," the contraband will be placed inside a proper size plastic bag and booked at Central Supply on a 24-hour-a-day basis. The large identifying label will be affixed to the larger bag.
- R 1544 SAN JOSE NARCOTICS INFORMATION REPORT (FORM 204-23):**
This form is used to receive information from the public regarding suspected narcotics activity. The caller can remain anonymous while providing detailed information about suspects, location and vehicle associated with suspected narcotic activity. This report will be routed to appropriate bureau for follow-up.
- R 1545 OBJECTIVE SYMPTOMS REPORT (FORM 204-24):**
Revised 02-06-07
- This form is used during under-the-influence-of-controlled-substance investigations. The report allows the officer to document physical observations of the suspect at the time of arrest. A series of questions after admonition of rights will further document the suspect's physical and mental condition at the time of processing.
- R 1546 PCP INFLUENCE REPORT (FORM 204-24A):**
This form is used for a suspect(s) arrested for being under the influence of PCP. The officer will be able to document physical observations during and after arrest of suspect(s). The report also includes admonition of rights and interview questions that will further document

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suspect's physical and mental condition at time of processing.

R 1547 **COMMUNICABLE DISEASE EXPOSURE REPORT (FORM 204-25):**
This form will be completed by officers when exposed to a communicable disease. After completing this form, it will be placed in the blue reporting box located outside the door of the Assaults Unit on the third floor of PAB. If requesting a blood test, also attach a copy of the Crime Report detailing the facts surrounding the exposure. Supervisors are responsible for completion of this report. This report does not replace filing of Worker's Compensation Form 5020 and DWC-1.

R 1548 **INTAKE AND SCREENING (FORM 204-27):**
Revised 10-28-08 (Combined into new form 204-28)

R 1549 **INTAKE AND SCREENING (FORM 204-28)**
Revised 10-28-08 (Formerly Misdemeanor Strip Search Authorization)

No person accused of a misdemeanor may be strip searched unless their cases involve weapons, controlled substances or violence and a peace officer has determined that there is a reasonable suspicion based on specific and articulable facts that leads the officer to believe such person is concealing a weapon or contraband. In these cases, an Intake and Screening Form must be completed and signed by an on-duty Pre-Processing supervisor.

R 1550 **SECURITY NOTICE (FORM 206-21):**
This form is used to notify the business community of security problems discovered by patrol officers at business establishments. The form also contains phone numbers helpful to places of business. Department members are encouraged to use this card to foster good will to the community and help them realize some of the functions the Department provides without their knowledge.

R 1551 **TRANSMITTAL FORM (FORM 216-1):**
Department members submitting any written requests for consideration or action by the Office of the Chief of Police will attach a "Transmittal" form (Form 216-1) and route the material through the chain of command.

Forms are available in all divisions and forms supply office.

Immediate supervisors, intermediate supervisors and bureau commanders are required to individually make recommendations for appropriate action on each transmittal and cite reasons in support of their recommendations. Other City and departmental forms that require comments of supervision and command will not require the "Transmittal" form.

Regardless of the recommendation at any level, the transmittal to the Office of the Chief of Police will be completed.

This procedure does not preclude direct correspondence with the Chief of Police, written or verbal, on occasions of specific emergency or circumstances consistent with the Department's mission or purpose.

R 1552 TRAFFIC COLLISION REPORT - PROPERTY DAMAGE ONLY (FORM CHP 555-03):*Revised 07-13-18*

This form is used whenever a motor vehicle accident is not reported on a "Traffic Collision Report" (Form CHP 555-MRE). The primary purpose of the report is to provide each involved driver with information about the other driver and vehicles involved in the accident. Officers and CSOs will refer to Duty Manual section L 6901, Traffic Accidents, when determining appropriate use of this form. This form is necessary for the completion of the state SR-1 form, Report of Traffic Accident, and insurance forms.

R 1553 TRAFFIC COLLISION REPORT (FORM CHP 555-MRE):

This form is used whenever the "Traffic Collision Report" (Form CHP 555-03) is not used. Officers will adhere to Duty Manual section L 6901 (Traffic Accidents) when determining appropriate use of this form.

R 1554 TRAFFIC COLLISION REPORT (FORM CHP 555 PAGE 3 MRE):

This form is used to document witnesses to the accident, any passengers, and the extent of injuries received from the accident.

R 1555 TRAFFIC COLLISION REPORT (FORM CHP 555 PAGE 4):

This form is used to diagram the accident scene. All measurements will be approximate and not to scale unless stated.

R 1556 NARRATIVE/SUPPLEMENTAL (FORM CHP 556-MRE):

This form is used to document the officer's notification of the accident, summary, point of impact and cause of the accident.

R 1557 VEHICLE REPORT (FORM CHP 180):*Revised 03-23-20*

This form is to be used when reporting impounded vehicles. This form shall also be used to record vehicles associated with a missing person or felony vehicle want. Department Members shall notify the Auto Desk when completing this report and shall document the VIN number from the VIN plate whenever possible and shall not use vehicle owner information based upon the registration card found in the vehicle.

When a vehicle is towed or impounded, the inventory and narrative sections of the Form CHP 180 shall be completed. The tow company or storage facility operator shall be given the yellow copy of the form. The original and two half sheets are routed to the Auto Desk at the end of the Department member's shift via the Report Box.

When a vehicle is reported as stolen, the Department Member taking the report shall give the reporting party an Incident Card (Form 200-45A).

When a vehicle is reported and recovered at the same time, the General Offense Report (Form 200-2-AFR) shall be completed and routed to the Auto Desk. The Department Member shall indicate the stolen location and beat and recovery location and beat.

R 1558 DRIVER UNDER THE INFLUENCE (FORM CHP-202):*Revised 03-10-22**Public Version**Security Procedures Redacted Pursuant to California Government Code 7923.600**Page 736*

This form is used to report the facts and circumstances surrounding an incident involving an impaired driver; to indicate that the person involved was admonished of their rights; and to report when an impaired driver refuses to submit to a chemical analysis of such person's blood, breath or urine.

R 1559 ADMIN PER SE (FORM DS 367):

Revised 03-10-22

This form is used for all DUI drivers (unless under age 21). It is issued in all cases regardless of the driver's license status (suspended or never acquired a CDL). The driver's copy must be issued at the time of arrest/processing to begin the DMV suspension action on that case. In those cases where the driver has never had a license, the DMV will assign an X-number and initiate the suspension order.

R 1560 ADMIN PER SE (FORM DS 367M):

Revised 03-10-22

This form is used for all DUI drivers under the age of 21 with a BAC of .01 or greater. This form is NOT interchangeable with Form DS 367.

R 1561 OFFICER'S STATEMENT (FORM DMV DS 367):

Deleted 03-10-22

R 1562 PRE-BOOKING INFORMATION SHEET (COUNTY FORM 3214):

This form is used when booking prisoners at the Santa Clara County Jail. Officers will fill in all appropriate sections of the form. Shaded areas require specific codes which will be obtained by referring to the back side of the second (yellow) page.

Officers will also adhere to the following additional procedures:

- OFFICER "I.D. NO.": Officers will include in the box entitled "I.D. No." their four-digit badge number.
- ARREST CODE: Officers will obtain the arrest code for each violation charged and enter such code number on the Pre-booking Form in the box entitled "Arrest Code." Appropriate code numbers can be obtained at the booking facility.

Property will be inventoried by Sheriff's Department personnel.

The yellow copy of the Pre-booking sheet will be returned to the officer and will be turned in to Records.

R 1563 DRUNK IN PUBLIC (COUNTY FORM 3214 BACK OF YELLOW - ARRESTING AGENCY COPY):

Deleted 05-10-13

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- R 1564 JUVENILE CONTACT REPORT (COUNTY FORM 2259):**
 This form is used to make a disposition in a case involving a minor under the age of 18 years. This form will be completed in the following circumstances:
 To facilitate the placement of a minor in Juvenile Hall
 The citing of a minor for offenses other than those which require the issuance of a traffic citation
 The placement of a dependent minor into the Children's Shelter
 The release of a detained minor when further law enforcement action is not anticipated
- When multiple arrests are made, a separate form will be completed for each minor involved.
- When citing a juvenile, the officer issuing the citation will indicate on the citation whether parents were notified or not. The black box below the "Officer's Signature" box on the "Juvenile Citation" will be used for indicating whether notification was made or not. Additionally, a General Offense Report (Form 200-2-AFR) shall be completed in the MRE system to document all entity information related to the incident. The corresponding narrative can be written on EITHER the JCR or entered into Versadex as a text document. It does not need to be duplicated in both.
- R 1565 LINE-UP IDENTIFICATION FORM (FORM 200-12):**
Added 01-08-03
- This form will be completed in investigations where a photographic line-up is shown as described in Duty Manual section L 4603 (Photographic Identifications).
- R 1566 AFFIDAVIT FOR SETTING BAIL (FORM 438, COUNTY):**
 This form is supplied by Santa Clara County and is used in felony cases. The form is completed at the time of booking and is reviewed by designated Sheriff's personnel to determine the amount of bail. When completing the form, officers will ensure that all charges are indicated and will state if the charges are related to a single incident or are separate incidents committed at different times.
- R 1567 APPLICATION FOR EMERGENCY PROTECTIVE ORDER (COUNTY FORM EPO-001):**
Revised 11-02-15
- This form is used by officers when reasonable grounds appear that an immediate danger of domestic violence, child abuse or elder-dependent adult abuse exists and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, elder or dependent adult abuse.
- R 1568 PARENT/LEGAL GUARDIAN CHILD CARE ARRANGEMENT FORM (FORM 204-18):**
Added 03-12-03
- This form is used to document the parent/guardian's preferred childcare arrangements when the parent/guardian is severely ill or arrested.

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R 1569 EMPLOYEE INCIDENT REPORT (FORM SAFE002):*Added 04-18-02*

This form will be used when there is a legitimate blood borne pathogen exposure as described in Duty Manual section L 5605 (Members Exposed to Blood Borne Pathogens).

R 1570 ACCIDENT/INCIDENT INVESTIGATION FORM (FORM SAFE003):*Added 04-18-02*

This form will be used by the supervisor investigating a legitimate blood borne pathogen exposure as described in Duty Manual section L 5605 (Members Exposed to Blood Borne Pathogens).

R 1571 TABS/CURFEW INTAKE FORM (FORM 206-22)*Added 03-25-04*

This form is used to document contact with juveniles brought into the TABS center for truancy violations. One copy of the form is taken to the school the juvenile attends and one copy is provided to the Juvenile Probation Department for their disposition. The Department retains the third copy. The form is also used to document curfew violations and related dispositions.

R 1572 TASER USE - PHYSICIANS REFERENCE GUIDE (FORM 202-44):*Deleted 01-20-21***R 1573 FIREARM RELEASE CHECKLIST (FORM 202-61):***Added 02-29-04*

This form is used to document the lawful release or other lawful disposition of any firearm under the Department's control.

R 1574 AUTOMATED USE OF FORCE TEMPLATE:*Revised 07-27-21*

The automated Use of Force Template will be completed by each Department member using any reportable force as defined in Duty Manual section L 2644 (Definition of Reportable Force). The assigned supervisor/command officer who responded to the incident where the force response occurred will ensure the automated Use of Force Template is completed by the Department member(s) using the reportable force. The automated Use of Force Template shall be completed for every suspect that has force used upon them. The assigned supervisor/command officer who has the responsibility of signing off the report per L 2605 (Supervisor and Command Officer Responsibility) must read and approved the completed automated Use of Force report(s) prior to submitting the report(s) to OSSD.

Officer(s) will also complete an automated Use of Force Template in the event the suspect inflicts or attempts to inflict physical force upon the officer(s) and the officer(s) did not use force back. The automated Use of Force Template is completed by the officer(s) whether or not the identity of the suspect is known.

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Exception: When an Officer-Involved Incident occurs, the investigation shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement as well as the automated Use of Force Template will be completed by the Homicide Detective who conducted the interview.

An officer or investigator who receives updated injury information for an officer or suspect after an automated Use of Force Template has been completed, shall document the updated injury(ies) on an automated Use of Force Injury Update Template.

R 1574.5 FORCE RESPONSE REPORT FORM SUPPLEMENTAL (FORM FRS-001A)
Deleted 02-15-17

R 1575 EMBASSY/CONSULATE FAX NOTIFICATION FORM (FORM 204-27A):
Added 02-16-06

The Pre-Processing Center (PPC) Embassy/Consulate Fax Form (Form 204-127a) is used when a detained or arrested foreign national requests notification of their Consulate Office, pursuant to Penal Code section 834c. The form also serves as verification of compliance with PC 834c in those cases that require Consulate notification.

R 1576 ALLIED AGENCY VEHICLE PURSUIT REPORT (FORM CHP 187A):
Revised 02-15-06

This form documents a vehicle pursuit. It is the pursuit supervisor's responsibility to complete and submit CHP Form 187A in compliance with California Vehicle Code Section 14602.1

R 1577 RETURN TO WORK FORM
Revised 03-02-06

This form is required when an employee is recovered and ready to return to work after being off on disability. The employee will report to the Police Personnel Unit and obtain a "Return to Work" form returning the employee to full or limited work. A copy of the "Return to Work" form is to be given to the administrative unit of the bureau of current assignment and Workers' Compensation.

R 1578 NON-PURSUIT INCIDENT FORM (FORM 200-2C):
Added 06-01-07

In order to document "non-pursuit" events as described in Duty Manual section L 2120 (Reporting and Post-Pursuit Analysis).

R 1579 CONSENT FOR BLOOD DRAWING AND TESTING AND FOR BEING INFORMED OF THE TEST RESULTS (FORM 204-25A):
Revised 07-02-15

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This form is required when obtaining a blood sample, after an exposure, for the purposes of testing for blood borne pathogens as described in Duty Manual section L 5605.

R 1580 CERTIFICATION PURSUANT TO HEALTH AND SAFETY CODE SECTION 121060(A)(2) (FORM 204-25B):

Added 07-01-10

Supervisor's responsibility to complete when there is a potential or actual blood borne pathogen exposures as described in Duty Manual section L 5605 (Members Exposed to Blood-Borne Pathogens).

R 1581 CANVASS REPORT (FORM 200-2D):

Added 02-11-11

This form will be completed by Department members when conducting a canvass of specific locations associated to an incident. A separate form will be used for each address where contact is attempted.

R 1582 NOTIFICATION OF RIGHT TO CONFIDENTIALITY FORM (FORM 200-45V):

Added 05-29-17

The Notification of Right to Confidentiality Form (Form 200-45v) shall be used by officers to document the notification of right to confidentiality to victims of various crimes specified in Government Code Section 6254(f)(2), as well as the responses of victims provided the advisement.

For the victims of family violence related incidents (Penal Code Sections 273a, 273d, 273.5), hate crimes (Penal Code Sections 422.6, 422.7, 422.75), sex offenses (Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 647.6), and stalking (PC 646.9), the officer shall inform them, or the victims' parent/guardian if the victims are minor, that the San Jose Police Department shall not disclose their names, upon their request, to any person.

Pursuant to Penal Code Section 293 and Government Code Section 6254, the Department member shall verbally notify the victim of human trafficking, as defined in Penal Code Section 236.1, that the names and images of the victim and the victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, will be withheld from public disclosure and kept confidential at their request, until the investigation or any subsequent prosecution is complete. In addition, the victim will be advised the addresses of the victim and victim's immediate family will remain confidential permanently. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

Note: "Immediate family" means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

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R 1583 AUTOMATED FIREARM SEIZED AND RECOVERED TEMPLATE:*Added 01-10-24*

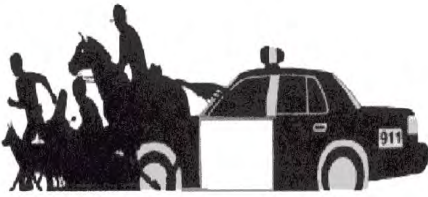
All firearms recovered as found property, safekeeping, or seized as evidence shall require an automated Firearm Seized and Recovered Template. Department members booking a firearm shall ensure that the automated Firearm Seized and Recovered Template is submitted with the General Offense Report (Form 200-2-AFR) or as a Supplemental Report (Form 200-3A-AFR).

The supervisor reviewing the General Offense Report or Supplemental Report has the responsibility to ensure that the automated Firearm Seized and Recovered Template is reviewed and submitted for each firearm recovered.

The automated Firearm Seized and Recovered Template should also serve as a guideline for important and necessary details required for successful prosecution. Department members completing the automated Firearm Seized and Recovered Template should utilize the verbiage from the template to better describe details, accessories, parts, or conditions which made a firearm illegal to possess. This verbiage should be transferred and documented in the Department member's report narrative to accurately describe why the firearm is illegal to possess or which specific crime was committed.

R 1583.5 AUTOMATED FIREARM SEIZED AND RECOVERED FIELD REPORTING GUIDE (FORM 205-1):*Added 01-10-24*

The automated Firearm Seized and Recovered Field Guide (Form 205-1) has been developed to assist officers with note taking purposes for completing the Automated Firearm Seized and Recovered Template. This field guide will ensure that officers have all the necessary details to complete the Firearm Seized and Recovered Template. This field guide should be not considered an official police report that needs to be retained and should not be submitted to the Records Division.



R 1600 - MISCELLANEOUS REPORT PROCEDURES:

Effective crime reporting is one of the most important duties required of a Department member. To be effective, specific information is required when reporting various offenses. Such reports are used to inform Department members, criminal justice personnel, and other authorized persons of the existence of circumstances, conditions and facts which impact on their respective duties and responsibilities.

Therefore, Department members will adhere to established procedures when initiating any reports pertaining to a criminal act.

PROCEDURE

R 1601 MISCELLANEOUS REPORT PROCEDURES:

Department members will become familiar with, and adhere to, the following procedures:

R 1602 USE OF 24-HOUR TIME:

Department members will use "24-hour time" in all police reports, inter-department correspondence and on all administrative reports and documents. The following table relates twenty-four hour time to standard time.

Standard Time	24-Hour Time	Standard Time	24-Hour Time
12:01 AM	0001	1:00 PM	1300
1:00 AM	0100	2:00 PM	1400
2:00 AM	0200	3:00 PM	1500
3:00 AM	0300	4:00 PM	1600
4:00 AM	0400	5:00 PM	1700
5:00 AM	0500	6:00 PM	1800
6:00 AM	0600	7:00 PM	1900
7:00 AM	0700	8:00 PM	2000
8:00 AM	0800	9:00 PM	2100
9:00 AM	0900	11:00 PM	2200
10:00 AM	1000	11:00 PM	2300
11:00 AM	1100	12:00 Midnight	2400
12:00 Noon	1200		

Partial hours are indicated by adding minutes to the hour, for example: 1:15 PM is 1315 hours.

R 1603 REQUIRED NUMBER OF REPORTS:

One report will be made for each incident which occurs during a specific time and at a specific location regardless of the number of victims or suspects.

EXAMPLE REQUIRING ONE REPORT: Two suspects enter a bank and commit a robbery of both the bank and three customers -- one report will be made listing the bank and three customers as victims.

When there are multiple victims or suspects involved in a single incident which occurred at a specific time and location, then such persons will be listed in the report under the "Summary" section of the report format.

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R 1604 REFERRALS TO THE DISTRICT ATTORNEY:

Citizens may be referred to the District Attorney when the following circumstances exist:

- CRIME REPORT FILED: The officer making the referral has completed a "Crime Report" and requested in the report that a copy be forwarded to the District Attorney.
- NO ARREST MADE: The incident did not result in an arrest of the suspect.
- COMPLAINT REQUESTED: The victim or complainant has requested the issuance of a complaint and has indicated a willingness to respond to the District Attorney's Office.

The reporting officer will advise the citizen requesting a complaint that the report will be filed with the Office of the District Attorney within 48 hours.

The requesting citizen will also be advised to contact the Office of the District Attorney after 48 hours in order to ensure the report has been received prior to responding.

R 1605 REPORTING VERBAL NOTIFICATION OF DRIVER'S LICENSE SUSPENSION:

When verbal notification is given to any person regarding the suspension or revocation of their driver's license, Department of Motor Vehicles (DMV) Form DL-310A will be completed when proof of service has not been established. The form will be routed to the Traffic Investigations Unit.

R 1606 METHOD OF COMPLETING REPORTS:

Revised 07-01-22

The following forms will be completed as indicated:

- GENERAL OFFENSE REPORT (FORM 200-2-AFR): Completed by the officer assigned to the incident. In the event of an arrest, completed as soon as possible after the arrested party has been booked or otherwise processed
- VEHICLE REPORT (Form CHP 180): Handwritten in the field on abandoned and impounded vehicles, and stolen vehicle recoveries where the victim is not able to pick up the vehicle
- PREBOOKING AND DRUNK IN PUBLIC REPORT (COUNTY FORM 3214): Handwritten at the time the suspect is booked or otherwise processed.
- EMERGENCY ADDRESS CARD (FORM 200-14): Handwritten
- NOTICE TO APPEAR (FORM 200-15 AND OTHER CITATION FORMS): Handwritten or completed at the time issued
- TRAFFIC COLLISION REPORT PROPERTY DAMAGE ONLY (FORM CHP 555- 03): Handwritten at the scene of the incident
- ABANDONED VEHICLE WARNING (FORM 200-27): Handwritten
- INTERROGATION REPORT (FORM 204-9): Handwritten at the time the information is obtained
- DRIVER UNDER THE INFLUENCE REPORT (COUNTY FORM 909A): Handwritten at the time the information is obtained
- JUVENILE CONTACT REPORT (COUNTY FORM 2259): Handwritten when completed in the field; may be typed when completed at the Juvenile Division offices

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R 1607 DICTATING REPORT PROCEDURE:

When dictating a report, Department members will adhere to the following procedures:

- **INDICATE NAME:** The member dictating the report will state their name and title at the beginning of the dictation.
- **INDICATE TYPE OF REPORT:** State which report form is to be used in transcribing the dictation.
- **SPECIAL INSTRUCTIONS:** State any special instructions such as intended receiver, etc.
- **RECORDING TIME AND CRIME:** Indicate the recording time and the type of crime (Not the code section but the type of crime in words, i.e., "Burglary").
- **DICTATION OF REPORT:** Dictate the report from a prior completed field copy. A logical order from top to bottom, left to right, is followed when dictating. When a "box" or section is not applicable, the term "N/A" is indicated.

In the narrative section, describe the incident in accordance with the Department's established format and other authorized reporting procedures (Duty Manual section R 1300 (Report Format)).

Upon completion, the member dictating the report will repeat their name and title and the special instructions.

R 1608 TERMINATION OF RECORDING PRIOR TO COMPLETION:

When dictation is terminated, for any reason, prior to completing the report, the member making the report will state that fact on the recording before discontinuing the dictation.

R 1609 PHONETIC ALPHABET:

Certain words or names will be spelled out while dictating. In order to differentiate between like-sounding letters, the phonetic alphabet will be used for this purpose.

A - Adam	H - Henry	O - Ocean	V - Victor
B - Boy	I - Ida	P - Paul	W - William
C - Charles	J - John	Q - Queen	X - Ray
D - David	K - King	R - Robert	Y - Yellow
E - Edward	L - Lincoln	S - Sam	Z - Zebra
F - Frank	M - Mary	T - Tom	
G - George	N - Nora	U - Union	

R 1610 DICTATING NUMBERS:

When dictating numerals, the reporting member will state each number twice: **EXAMPLE:** "Eleven, twenty-four" – "One, one, two, four" and "Fifteen, five, twenty-nine" – "one, five, five, two, nine."

R 1611 INDICATING ETHNICITY:

Revised 05-10-13

The following entries are used to designate ethnicity on reports:

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	<u>CODE</u>		<u>CODE</u>
B =	African American	C =	Chinese
F =	Filipino	H =	Hispanic/Latin American
I =	Indian/Native American	J =	Japanese
K =	Korean	O =	Other/Unclassified
P =	Pacific Islander	S =	Middle Eastern/East Indian
V =	Vietnamese	W =	European American
X =	Unknown		

	<u>RACE CODE</u>
H =	Hispanic/Latin American (includes Argentina, Puerto Rico, Columbia, San Salvador, Nicaragua, Mexico)
O =	Other (includes Eskimos)
P =	Pacific Islander (includes Guam, Hawaii, Samoa, Tonga, etc.)
S =	Middle Eastern/East Indian (includes Iran, Iraq, East India, Pakistan, etc.)
V =	Vietnamese (includes Cambodia, Laos, other Asian)

R 1612 USE OF SOCIAL SECURITY NUMBER:

Whenever a member of the Department asks an individual to disclose a social security account number, the individual as follows:

- That this disclosure is voluntary.
- That a refusal to disclose a social security number will not result in denial of any right, benefit or privilege provided to that citizen by law.
- That the social security account number may be used to verify the identity of the individual.
- That this data may be computerized in local, state and national files.

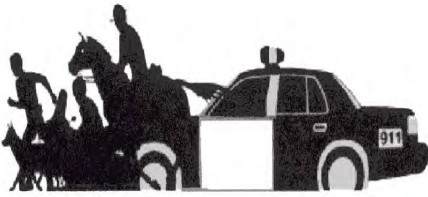
R 1613 REPORT WRITING FOR TRANSGENDER OR INTERSEX INDIVIDUALS:

Added 02-09-21

When writing a report involving a transgender or intersex individual whose legal name and/or legal gender do not correspond with their chosen name and/or gender identity, Department members shall use the individual's legal name and legal gender on the Entities Page. The chosen name shall be added as an AKA on the Entities Page. In addition, the first paragraph of the narrative shall include a statement identifying the individual as their chosen name and/or gender identity.

Example: Victim Terrance Smith is a transgender woman who identifies as "Tamera Smith" and she will be referred to as such throughout the remainder of this report.

Throughout the remainder of the report, Department members shall use the chosen and/or gender identity when referring to the individual.



R 1700 – CASE STATUS AND RECLASSIFICATION:

Effective crime reporting is one of the most important duties required of a Department member. To be effective, specific information is necessary since such reports are used to inform Department members, criminal justice personnel, and other authorized persons of the existence of circumstances, conditions and facts which impact on their respective duties and responsibilities. Therefore, Department members will adhere to established procedures when initiating any reports pertaining to a criminal act.

PROCEDURE

R 1701 CASE STATUS AND RECLASSIFICATION:

Revised 05-10-13

When a case is reclassified, unfounded, closed by the issuance of a complaint or cleared by the arrest of a suspect, these details will be made clearly indicating the action in a narrative text in the report. The appropriate Internal Status Code and Clearance Block information will be completed to accurately reflect the closure and clearance of the case. The following procedures will be utilized when determining the appropriate clearance status of a case.

R 1702 CASE CLEARED BY ARREST OR CITATION:

Added 05-10-13

A case can be “cleared by arrest or citation” when at least one person is arrested or cited.

EXAMPLES:

- Several suspects are arrested for one or a series of offenses, but only one person is arrested and charged, then the case may be “cleared by arrest or citation.”
- An arrest warrant is issued for the suspect; the case remains “not cleared” until they are arrested on the warrant at which time, the case is considered “cleared by arrest or citation.”
- A juvenile is cited or taken into custody to Juvenile Hall; the case is “cleared by arrest or citation.”
- A suspect has been arrested by the Department on a burglary case and it is discovered the suspect is also responsible for three prior burglaries. All four burglaries are “cleared by arrest or citation”
- A suspect is arrested for a crime but the District Attorney later refuses to issue a complaint, the case is still considered “cleared by arrest or citation.”

If the suspects are neither cited nor arrested and the case does not qualify for clearance by exceptional means, the clearance status must remain “not cleared” until such time as an arrest/citation can be made or the case becomes eligible for exceptional clearance.

EXAMPLE: The suspect is not initially arrested for a crime and upon review of the case, the District Attorney refuses to issue a complaint, the case is considered “not cleared.”

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- R 1703 CASE CLEARED BY ARREST:**
Deleted 05-10-13
- R 1704 CASE CLEARED BY ARREST, ACTION DEFERRED:**
Deleted 05-10-13
- R 1705 CASE CLEARED FOR LACK OF PROSECUTION BY THE DISTRICT ATTORNEY OR JUVENILE PROBATION OFFICE:**
Deleted 05-10-13
- R 1706 CASE CLEARED FOR LACK OF PROSECUTION BY THE VICTIM:**
Deleted 05-10-13
- R 1707 CASE CLEARED BY MODUS OPERANDI:**
Deleted 05-10-13
- R 1708 CASE CLEARED BY EXCEPTIONAL REASON:**
Revised 05-10-13

A case can be exceptionally cleared when it falls into one of the following categories. The list is not all-inclusive; there may be other circumstances in which the Department is entitled to an exceptional clearance. To determine whether a case may be cleared exceptionally, the following four questions must be answered “yes.”

- 1) Has the investigation definitely established the identity of the offender?
- 2) Is there enough information to support an arrest, charge, and turning over to the court for prosecution?
- 3) Is the exact location of the offender known so that the subject could be taken into custody now?
- 4) Is there some reason outside law enforcement control that precludes arresting, charging, and prosecuting the offender?

DEATH OF OFFENDER – A case can be cleared exceptionally with the death of the suspect, the method of death is irrelevant.

EXAMPLES: Suicide of the suspect; a double homicide in which two persons kill each other; a deathbed confession; the suspect is killed by police or citizen (justifiable homicide).

EXTRADITION DENIED – A case can be cleared exceptionally when the suspect is in custody in another jurisdiction and extradition is denied by that agency.

EXAMPLE: The suspect is in custody in another jurisdiction and the Department makes an attempt to retrieve them for local prosecution, but the other jurisdiction will not allow the release. The attempt to gain custody must be made.

EXCLUSION: The suspect is in custody in another jurisdiction and the local District Attorney denies the Department’s request to pick them up from the custody of the other jurisdiction, the case remains “not cleared.” If no attempt is made by the Department to gain custody of

the suspect, or the District Attorney refuses to issue a complaint, the case must remain “not cleared.”

JUVENILE VERBAL WARNING (NO ARREST) – A case can be cleared exceptionally when the punishment of a juvenile suspect is handled either orally or by written notice to parents in such instances involving minor offenses such as petty larceny. The juvenile is not arrested nor cited, and no referral is made to juvenile court as a matter of publicly accepted law enforcement policy.

EXAMPLE: The juvenile suspect’s school decides to handle punishment administratively rather than have the juvenile arrested or cited. A report is written for information purposes only.

OTH AGENCY ARREST/ALREADY IN CUSTODY – Suspect is already in custody, arrested either by another agency or by the Department on a prior case.

EXAMPLES: The suspect has been arrested by another agency within the county and the Department wishes to place local charges. The Department’s case can be cleared exceptionally.

TOT ANOTHER AGENCY (NEXT DOOR, CPS, LEA, ETC) – In lieu of prosecuting the suspect, the Department turns the case over to another agency for resolution or investigation.

EXAMPLE: The Department refers victims of domestic violence cases to Next Door Solutions and/or child abuse cases to CPS rather than seeking charges internally.
A case involving counterfeit currency violations is turned over the Secret Service for investigation and prosecution.
A serial case wherein the Department is investigating one incident and another law enforcement agency is investigating multiple and wishes to handle the investigation and prosecution altogether.

VIC REF. COOP IN PROSEC (NOT IN INVEST) – Victim refuses to cooperate in the prosecution of the suspect. The suspect must be clearly identified, their location known and the agency must already be in possession of enough information to support an arrest, charge the turning over of the case to the court for prosecution. A lack of victim cooperation in the investigation to the extent that the four questions listed above are not answered affirmatively, is not sufficient cause to clear a case exceptionally.

EXAMPLE: The victim has cooperated in the investigation to the extent of providing information about the incident but refuses to testify in court against a friend, family member or other individual, the reason for refusal is irrelevant. The individual is fully identified and the Department has sufficient evidence to support the arrest, charging and prosecution of the offender. The case can be cleared exceptionally.

EXCLUSION: The victim refuses to cooperate in the investigation to the extent that investigators are not able to positively identify the suspect or obtain enough information to seek an arrest. This situation does not qualify for exceptional clearance and must remain “not cleared.”

R 1709 CASE UNFOUNDED:

When investigation shows the case was fabricated, it will be unfounded.

R 1710 PROCEDURE FOR REPORTING STATUS CHANGES:

When a case is unfounded or cleared for any of the above reasons, a "Supplementary Crime Report" will be used. Preface the narrative portion of the report with the type of clearance or "unfounded" in all caps and underlined. It is unnecessary to repeat the heading at the end of the narrative.

R 1711 ISSUANCE OF DETENTION ONLY CERTIFICATES:

In cases where a person is arrested and released pursuant to PC 849 (a) and (b) (1) or (3) and no accusatory pleading was filed charging them with a criminal offense, the Operations Support Services Division will mail a signed Certificate of Release pursuant to PC 851.6 to the arrested party.

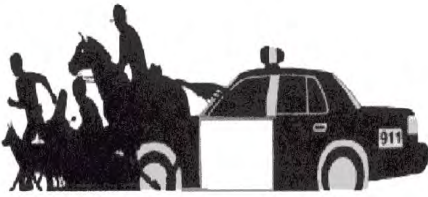
R 1712 DESTROYING THE FACTUALLY INNOCENT ARREST RECORD:

When a person is arrested or detained and is subsequently determined to be factually innocent, the person may petition the department to destroy any record of arrest pursuant to PC 851.8. The petitioner may pick up two copies of the petition "To Seal and Destroy Arrest Records" from OSSD. One completed copy will be returned to the Operations Support Services Division and the other copy will be taken to the District Attorney's Office. OSSD will affix the petitioners right thumb print on both copies. Operations Support Service Division will adhere to the following procedures:

- Determine if the petition qualifies; no accusatory pleading was filed and the case is closed.
- If the petition qualifies, it will be completed and sent to the District Attorney's Office for concurrence along with a copy of the Crime Report.

When the approved petition is returned from the District Attorney, all records of arrest including booking documents, associated computer entries, photographs and fingerprints will be sealed pending destruction three years from the date of arrest.

- Investigative reports and other evidence such as photographs taken at a line-up are exempt from sealing and destruction. Any reference to an arrest in those items must be stamped "exonerated" or permanently obliterated.
- Notify the Department of Justice and any other agency which arrested, helped arrest or was notified of the arrest that the record is to be sealed and subsequently destroyed.
- Issue a written declaration to the petitioner stating he is factually innocent and is exonerated.



R 1800 – REPORT REVIEW:

In order to clearly transmit information that is crucial to the administration of justice, reports submitted by Department members must be clear, concise and complete since such reports are read and analyzed by numerous members of the criminal justice system. Therefore, the Department will maintain procedures that ensure that reports are reviewed as necessary and corrective action taken when appropriate.

PROCEDURE

R 1801 REPORT REVIEW – GENERAL RESPONSIBILITY:

Department members who initiate reports that require review are responsible for contacting an immediate supervisor, or a supervisor assigned to review such reports, prior to submitting reports to the Records Division or other record keeping subdivision or agency.

Supervisors are responsible for becoming familiar with reports initiated by subordinates and, when necessary, for providing guidance and counseling in proper report writing methods and procedures.

R 1802 AUTHORITY AND RESPONSIBILITY OF SUPERVISORS:

Revised 05-10-13

All supervisors have the authority and responsibility to review all reports critically. Supervisors will remain aware of the quality of the reports submitted by their team members. All reports **MUST** be reviewed and approved by a sergeant.

Supervisors will make sure that reports associated with the event are properly completed. Supervisors will check the reports for proper chronology, readability and grammar. The reports are critically reviewed for excessive use of “canned” phrases (i.e., “The suspect assumed a combative stance” or “I took the suspect to the ground”). Supervisors will ensure that the report includes sufficient details to support the issuance of a criminal complaint. When reviewing reports, supervisors will ensure that the following topics are thoroughly covered if applicable to the incident.

- Legal authority for the officer’s activity (i.e., consent, reasonable suspicion and/or probable cause clearly articulated)
- Elements of the crime(s) are clearly articulated
- Statements from all witnesses to the event, including their location at the time of the incident. Both the person’s role in the event and name are used (e.g. (W1) Jones stated that he saw (S) Smith hit (V) Williams)
- How, when and where the “Miranda Waiver” was given and the exact manner in which the suspect waived or exercised his Miranda rights
- Location of evidence found, who located it and how the evidence was processed. A connection should be given between the evidence and the suspect or victim

- Injuries to any involved party to the incident, including officers, victims and suspects. The injuries should be described in detail, including how the injury was caused and any treatment given, offered or refused
- Investigative activity by Department members, e.g., canvassing, follow-up contacts, evidence examination, show-ups, APB's, Department and outside agency resources involved and/or contacted (ARM, CHP, Fire, District Attorney), affidavits filed, restraining orders, etc.
- Department members' training and/or experience which support unique expertise related to the incident
- Notification of sergeants, lieutenants and/or detectives

R 1803 BUREAU OF FIELD OPERATION'S DESIGNATED REPORT REVIEW PROCEDURES:

Revised 02-02-15

The supervisor reviewing the report should ideally be the officer's immediate supervisor. In the absence of the officer's immediate supervisor another supervisor SHALL review the report prior to the officer going off duty. The report is not complete until it has been approved by a supervisor.

A Report Review Supervisor will be designated for two hours at the end of each watch. The Report Review supervisor will be located in the Sergeant's Office and available to review, correct, and approve reports. If a Report Review Supervisor is unavailable, another supervisor must be notified to approve the report. Under most circumstances, supervisors are available 24 hours a day in the Pre-Processing Center and can be contacted at (408) 277-5370.

If a report is left in the approval queue after the officer who authored the report has gone off duty, the Designated Report Review Supervisor SHALL review the report and send an email to the officer who authored the report, the officer's sergeant, and the lieutenant in the officer's chain of command to immediately ensure the delinquent report has been corrected and resubmitted for approval; determine why the officer went off duty before having the report approved by a supervisor; and address any other concerns surrounding the completion of the report.

Reports shall only be "held" for a particular supervisor when Department members are directed to do so by such supervisor. Supervisors who direct officers to hold reports for their review will ensure those reports are approved before the supervisor goes off duty.

R 1804 CORRECTING AND RESUBMITTING DEFICIENT REPORTS:

Revised 02-02-15

Department members having deficiencies in their report writing are required to correct such deficiencies before going off duty. Officers will not go off duty without first making sure their report has been approved by a supervisor and sent to the transcription queue for OSSD to process. A report is not complete until it has been sent to the MRE approval queue and approved by a supervisor.

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R 1805

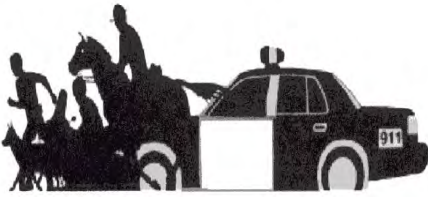
FORWARDING REPORTS AND INFORMATION:

Deleted 04-20-13

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R 1900 – NON-CRIMINAL RELATED REPORTING:

The functions and responsibilities assigned to the Department periodically require the completion, submittal and routing of Administrative reports. Such reports are used to inform Department and City personnel of the existence of circumstances, conditions and facts which impact on their respective duties and responsibilities. To ensure that Administrative reports are completed, submitted and routed in an approved manner, all Department members will adhere to established procedures pertaining to such reports.

PROCEDURE

R 1901 ADMINISTRATIVE REPORTS:

In order to ensure an orderly transmission of information to City or Department subdivisions or other agencies, Department members will adhere to the following appropriate procedures.

R 1902 USE OF CITY OF SAN JOSE MEMORANDUM:

When no other form is designated, Department members will use the "City of San Jose Memorandum" (Form 100-40) when corresponding within the Department and with other City departments or subdivisions. When using a memorandum to propose a change in existing policy/procedure, or when proposing the implementation of a new policy/procedure, the member initiating such a proposal will adhere to the following appropriate format:

- **BACKGROUND AND PURPOSE (REQUIRED):** Use to supply background information pertaining to the problem or topic being proposed. Include an explanation of why it is necessary to implement the proposal and how the proposal will accomplish what is intended.
- **ANALYSIS (OPTIONAL):** Use to report what analytical tasks need to be performed, or were performed, and what resulted from the analysis in terms of identifying costs, effectiveness, impact or any other data that is useful in reaching a decision as to the necessity and need to implement the proposal.
- **RECOMMENDATION (OPTIONAL):** Use to recommend one of several alternative plans or methods being proposed. The reason for the recommendation and a synopsis of the method of implementation is included.
- **PROPOSAL/ORDER (REQUIRED):** Use to definitely indicate the policy, procedure, order or change being established and written in a manner which, when approved, accomplishes the intended purpose as indicated in the "Background and Purpose" section. This portion of the memorandum is referred to when determining official policies, procedures and rules that govern the authority, responsibilities and actions of Department members.

The memorandum form may also be used to communicate information pertaining to Department members or operational matters. When using a memorandum for such a purpose and no change in policy, procedure or rule is being proposed, the member originating the memorandum need not adhere to the above format. The memorandum form may also be used to transmit information, or to elaborate and explain matters, when it is inappropriate to include such information on other forms.

R 1903 TRANSMITTAL FORM (FORM 216-1):

Department members submitting any written requests for consideration or action by the Office of the Chief of Police will attach a "Transmittal" form (Form 216-1) and route the material through the chain of command.

Forms are available in all divisions and forms supply locations.

Immediate supervisors, intermediate supervisors and bureau commanders are required to individually make recommendations for appropriate action on each transmittal and cite reasons in support of their recommendations. Other City and departmental forms that require comments of supervision and command will not require the "Transmittal" form.

Regardless of the recommendation at any level transmittal to the Office of the Chief of Police will be completed.

This procedure does not preclude direct correspondence with the Chief of Police, written or verbal, on occasions of specific emergency or circumstance consistent with the Department's mission or purpose.

R 1904 REPORTING SICK LEAVE:

Department members will report an incident of illness in adherence to the following appropriate procedures:

- **NOTIFICATION OF ILLNESS:** When a Department member is ill and intends to take sick leave, such member will ensure that contact is made with an immediate supervisor and report the illness within one hour of the start of the tour of duty during which the sick leave will be taken.
- **REQUESTING SICK LEAVE IN ADVANCE:** When sick leave is to be taken for a doctor's, dentist or other medical appointment, the requesting member will seek verbal approval from an immediate supervisor at least one day in advance of the appointment.
- **REPORTING ILLNESS:** When a Department member has lost time due to illness or medical appointment, such lost time is reported in accordance with the following procedure:
- **Sick Leave Request:** Three (3) consecutive days or less or medical appointments. Indicate the time lost on the "Bi-Weekly Time Report."
- **Sick Leave Request: Exceeding Consecutive Working Three (3) Days.** A physician's statement stating cause or reason for the sick leave must be secured by the employee. Indicate the time lost on the "Bi-Weekly Time Report" for the pay period involved and attach the physician's statement of cause or reason for the sick leave.
- **Reporting Illness During Tour of Duty.** Contact an immediate supervisor and report being ill prior to leaving an assignment. Upon return to duty, use one of the appropriate procedures above to report the illness.
- **Immediate Family Illness.** Consistent with the above reporting procedures, required absences of employees due to illness in the immediate family are allowed but shall be limited to three (3) consecutive days per occurrence. Immediate family shall be

defined as: mother, father, spouse, child, brother, sister, father-in-law, mother-in-law, stepfather, stepmother or stepchild.

- Validation of Sick Leave Requests. It is not intended that the use of sick leave be considered a benefit which an employee may use at their discretion; therefore, sick leave is allowed only in cases where the request for sick leave is reported promptly and the use of sick leave is verified in writing.

In addition, Department heads may investigate any request for sick leave or the facts stated in an employee affidavit or certificate whenever reasonable cause exists to doubt the validity of a sick leave request. Sick leave may be disallowed if: (1) it is not taken for authorized reasons, and (2) when the regulations as established by the City Manager are not adhered to by the employee.

The employee is responsible for certifying as to their illness and for securing corroborating certification as required.

Whenever a Department head finds and determines that sick leave has been requested or taken by an employee for reasons other than illness or injury as provided, they shall notify the City Manager thereof, and the City Manager shall disallow the use of sick leave by such employee and may take such other action as they may deem to be proper in the circumstances.

R 1905 REQUESTING TIME OFF:

When a Department member wishes to take compensatory time off, such member will contact an immediate supervisor and request the date and time desired.

The manner of request may be either verbal or submitted in written form as determined by the Bureau Chief concerned.

In any event, the member making the request is responsible for reporting the time taken on the "Bi-Weekly Time Report" for the pay period during which time off occurred.

R 1906 REPORTING COMMUNICATIONS TROUBLE:

When it is necessary to report a malfunction or problem involving vehicle communications equipment, the member experiencing the problem will complete a "GSA-Communications Trouble Report" (Form 2713/6) and submit the report to Garage Unit members. The member completing the report will also indicate the trouble in the garage log book designed for this purpose.

When communications equipment involves a handpack, inform Central Supply members of the trouble. Central Supply members will then be responsible for notifying Communications Repair members of the nature of the malfunction. A "GSA-Communication Trouble Report" is not necessary for handpack malfunctions.

R 1907 REPORTING BUSINESS EMERGENCY INFORMATION:

The "Emergency Address Card" (Form 200-14) will be supplied to any merchant or business person within the corporate limits of the City who desires that the Police Department have this information. Department members will encourage persons in the business community to

complete the form and return it to the Police Department since such information is mutually beneficial when an emergency occurs which involves a business establishment.

In addition, team supervisors will ensure that businesses within their respective area of responsibility are given the opportunity to complete and submit the emergency information indicated on the form.

R 1908 REPORTING LOST OR STOLEN CITY EQUIPMENT:

Lost or misplaced property will be reported to the Department on a memorandum directed through the chain of command. If the item has a serial number or any other identifying number, a General Offense Report (Form 200-2-AFR) will also be completed. Stolen equipment will be reported in a General Offense Report (Form 200-2-AFR) and documented on a Property Report (PR). In addition, the Department member will prepare a memorandum directed through the chain of command.

A copy of the memorandum, signed by the Department member's commanding officer, is returned to the Department member. The Department member is issued a replacement after presenting Central Supply with a copy of the signed memorandum.

R 1909 DEVELOPMENT AND APPROVAL OF DEPARTMENTAL FORMS:

Added 07-26-11

All proposals of forms intended for use by Department members will be referred to R&D for development and assignment of a control number. Proposals for modifications to existing forms will also be referred to the Research and Development Unit. No forms will be distributed or used by Department members until the process has been completed and proposed forms are posted to the Department's forms library located on the SJPD Intranet.

Staff Support Procedures

S 1000 – 4400



San Jose Police Department



S 1000 – FISCAL MANAGEMENT:

To ensure that City employees achieve their assigned responsibilities in an efficient manner, the City staff and Council have promulgated rules and regulations pertaining to such topics as sick leave, vacation time, holidays, overtime policies and other fiscal matters. All Department members are required to adhere to these rules and regulations.

PROCEDURE

S 1001 FISCAL MANAGEMENT – GENERAL PROVISIONS:

Fiscal procedures contained in the Municipal Code, Administrative Manual, resolutions approved by Council and Duty Manual sections A 2100 (Maintaining Organization) and A 2300 (Written Directives), the Memorandum of Understanding (MOU) are adhered to by Department members. In addition, members will adhere to other fiscal procedures developed by City and Department management that clarify existing rules and regulations.

S 1002 SUBMISSION OF WORK TIME REPORTS:

All employees are responsible for completing and signing a time report, recording all information necessary to properly report time worked and time taken off, and for proper and timely submission of the time report to an immediate supervisor for approval. Adjustments or corrections of previously approved time sheets will require supervisor approval.

S 1003 SUPERVISOR’S RESPONSIBILITY:

Supervisors are responsible for ensuring that each assigned subordinate receives a time report, completes it accurately, and that it accurately reflects the employee’s time usage.

Supervisors will then approve the time record and submit it to the Department’s timekeeper within the time schedule established by the Department (usually by the Friday before the end of the pay period).

S 1004 OBTAINING CLARIFICATION OR ADDITIONAL INFORMATION:

When clarification of a fiscal procedure is necessary, or a Department member is unable to locate a procedure pertaining to a specific fiscal management topic, the member concerned will seek direction from an immediate supervisor.

S 1005 RESPONSIBILITY FOR ACCURACY OF INFORMATION:

The supervisor contacted is responsible and accountable for the accuracy of any fiscal management information and/or direction provided to a subordinate.

S 1006 RESPONSIBILITY FOR AVAILABILITY OF INFORMATION:

The Department’s Fiscal Officer is responsible for maintaining the availability of written policies, rules, regulations and procedures pertaining to the fiscal management of the Department.



S 1100 – WEARING OF THE UNIFORM, NAMEPLATES, BADGES AND IDENTIFICATION CARDS, AUTHORIZED EQUIPMENT:

All officers are required to maintain a serviceable uniform regardless of assignment. Officers assigned to a patrol function will wear a full uniform when on duty, unless specifically exempted from doing so by the commander of the Bureau of Field Operations. Only approved uniforms and equipment are worn or used unless authorized otherwise by the Office of the Chief of Police. Department members are required to have in their possession any nameplate, badge or identification card authorized for use and will utilize such nameplate, badge or identification card in accordance

with established procedures. Department members will use only equipment authorized by the Chief of Police or as determined by other competent authority.

PROCEDURE

S 1101 WEARING OF THE UNIFORM – GENERAL PROVISIONS:

Revised 11-20-17

All Department members are required to maintain in clean and serviceable condition such articles of uniform, other clothing, and/or equipment as is prescribed and authorized for their rank.

The Chief of Police or their designee may exempt a Department member from the uniform regulations for religious accommodation if such exemption may be reasonably accommodated within the course and scope of the member’s job duties. The Chief of Police or their designee shall take into account any potential health, safety and/or operational concerns that the exemption may present to the member, the Department, and/or the public. The Chief of Police or their designee shall make the final determination regarding all requests for exemptions from the uniform regulations on a case-by-case basis.

S 1102 SPECIFICATIONS:

Uniform specifications as to style, brand, size and color may be obtained from the authorized Uniform and Equipment Specifications Manual.

S 1103 ALTERING STYLE OF UNIFORM:

The material and style prescribed for uniforms will not be modified or otherwise changed unless authorized by the Chief of Police.

S 1104 MIXTURE OF UNIFORM AND CIVILIAN CLOTHING:

Officers will not mix uniform and civilian clothes.

S 1105 WEARING OF UNIFORM OFF DUTY:

Officers will not wear a uniform, or parts of the uniform, when off duty except when going to or coming from work or when working an authorized off-duty assignment.

S 1106 WEARING OF SHIRTS:

The long or short-sleeve shirt is worn by all uniformed Department members consistent with seasonal conditions. The decision to wear either shirt is made by the individual officer affected. When wearing a long-sleeve shirt without a tie, a white crew neck undershirt, black dickey, black turtleneck or black mock turtleneck is worn. Only white undershirts are authorized for short sleeved shirts.

S 1107 WEARING OF TIES OR DICKEY:

When wearing a patrol jacket or raincoat, all uniformed officers will wear either a black regulation tie with tie bar or tie tack, black dickey, black turtleneck or black mock turtleneck as prescribed in the established specifications.

S 1108 WEARING OF JACKETS:

Sworn members may wear either an insulated patrol jacket or the dress jacket (Ike jacket) as authorized in the uniform specifications.

S 1109 WEARING OF SOFT HAT:

Wearing of the soft hat is optional, subject to the restrictions listed below. The soft hat is a part of the required uniform and may be worn except when it is appropriate or authorized to wear a helmet or baseball style cap. Regardless, members on vehicle patrol duty shall carry the soft hat and have it available.

- RESTRICTIONS: Each sworn member will wear the soft hat when assigned to one of the following events:
- When required to wear the dress uniform (i.e., funerals, awards, other special occasions)
- When required by the Chief of Police or a commanding officer

S 1110 WEARING OF HELMET AND GAS MASK:

Uniformed officers are required to have a serviceable riot helmet and gas mask available while on vehicle patrol. Other uniformed officers will maintain such equipment in their respective lockers.

S 1111 WEARING OF INSIGNIA:

The following insignia are authorized and will be worn when in uniform:

- CHIEF OF POLICE: Four gold metal stars near both collar points
- ASSISTANT CHIEF: Three gold metal stars near both collar points
- DEPUTY CHIEF: Two gold metal stars near both collar points
- CAPTAIN: Two gold metal bars connected by two cross arms near both collar points
- LIEUTENANT: One gold metal bar near both collar points
- SERGEANT: One three-striped chevron on each shirt or jacket sleeve
- TRAFFIC ENFORCEMENT UNIT MEMBERS: One "motorcycle wheel" emblem near both shirt collar points

When wearing jackets, Chiefs, Captains and Lieutenants will wear large insignia on the shoulder straps.

S 1112 WEARING OF SENIORITY SERVICE STRIPES:

Revised 06-15-06

Members are authorized to wear service stripes on long-sleeve shirts and jackets. Each stripe will denote five (5) years of service. Years of service as a full-time peace officer in any accredited municipal police department or sheriff's department may be counted when calculating the number of authorized service stripes. Wearing of service stripes is optional.

S 1113 WEARING OF DUTY BELT:

The duty belt will be worn in a manner which covers the trouser belt and can be secured to the trouser belt with a minimum of two (2) keeper straps.

S 1114 WEARING OF THE REGULATION BADGE:

Revised 09-17-20

The badge will be worn centered over the left breast on the outside of the outermost garment.

The display of a badge is necessary for the maintenance of accountability to the community we serve. Personnel will not cover the badge on their outermost garment.

NOTE: The purpose of this section is to maintain the Department's accountability to the community and is not intended to create a punitive circumstance when personnel inadvertently and momentarily cover the badge in the performance of their duty (i.e., temporarily covering a badge with a carrying strap or sling).

S 1115 WEARING OF THE REGULATION NAMEPLATE:

The nameplate will be worn centered on the right breast of the outermost garment.

S 1116 WEARING OF THE REGULATION SHOOTING BADGE:

The shooting badge may be worn by those Department members qualified. When worn, it is above the nameplate.

S 1117 WEARING OF COMMENDATION MEDALS, AWARDS, AND PINS:

Authorized commendation medals, awards and pins may be worn by those Department members qualified to do so. When worn, medals will be worn under the badge. All other awards and pins will be worn in designated locations near the name tag on the uniform shirt.

S 1118 WEARING OF BADGES WHEN IN PLAINCLOTHES:

Revised 09-17-20

Plainclothes officers who are engaged in enforcement activity or who are at the scene of a search and/or arrest will identify themselves by wearing their badge on their outermost garment in a visible location.

The display of a badge is necessary for the maintenance of accountability to the community we serve. Personnel will not cover the badge on their outermost garment.

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NOTE: The purpose of this section is to maintain the Department's accountability to the community and is not intended to create a punitive circumstance when personnel inadvertently and momentarily cover the badge in the performance of their duty (i.e., temporarily covering a badge with a carrying strap or sling).

S 1119 REQUIREMENTS WHEN OFF DUTY:

Revised 05-12-22

When off duty, officers will carry or have in their immediate possession their Department-issued identification card.

S 1120 WEARING OF IDENTIFICATION:

Deleted 05-10-13 (Combined with S 1121)

S 1121 WEARING OF IDENTIFICATION:

Revised 05-10-13

All persons entering any police facility will wear identification on the outermost garment. Types of authorized identification and manner of wearing are as follows:

- MEMBERS OF THE DEPARTMENT NOT IN UNIFORM: The official Department Identification Card or badge is authorized and is attached to the outermost garment in a visible location.
- VISITORS: All visitors will obtain an authorized "Visitor's Identification Tag" and wear the tag attached to the outermost garment in a visible location.

S 1122 WEARING OF UNIFORM WHILE ON MODIFIED DUTY:

Officers in a temporary or permanent modified duty / disability status shall not perform any duties (on or off duty) while attired in a San Jose police uniform.

S 1123 AUTHORIZED AND REQUIRED EQUIPMENT:

The following Department members will purchase, or otherwise obtain, the following authorized and required equipment necessary to perform their assigned duties:

S 1124 MINIMUM UNIFORM AND EQUIPMENT ARTICLES REQUIRED FOR ALL OFFICERS:

Revised 01-20-21

UNIFORM ARTICLES:

- Soft hat with emblem (in vehicle)
- Baseball-style cap (optional in vehicle)
- Shirt with authorized shoulder patches (long or short sleeve) (worn)
- White or black crew neck undershirt (worn)
- Trousers with authorized stripe (worn) Tie with regulation clasp or tack (SJPD badge emblem only) (worn with tie)

- Black dickey or turtleneck (worn as appropriate)
- Badge (worn)
- Name tag (worn)
- Appropriate rank or assignment insignia (when applicable) (worn)
- Trouser belt (worn)
- Black plain-toe footwear (worn)
- Black boots (optional)
- Authorized Utility Uniform with name, Department, and badge patches (in vehicle, worn when appropriate)
- Black leather boots (worn with Utility Uniform)
- Black leather gloves (optional)
- Blousing bands for uniform pants (worn with Utility Uniform – optional)

EQUIPMENT ARTICLES:

- Department-issued Body Worn Camera (worn – Captains and below)
- Duty belt (basket weave) (worn)
- Approved holster (worn)
- Revolver or semi-automatic handgun (as authorized) (worn)
- Ammunition with minimum of one cartridge case (basket weave - pouches, speed loaders, magazine case) (worn)
- Soft body armor (worn as listed in MOA agreement)
- O.C. spray (issued brand) and holder (basket weave) (in vehicle)
- Handcuffs (authorized type), handcuff case (basket weave) and key (worn)
- Baton ring and fastener (basket weave) (worn)
- 26" or 29" straight baton, approved side-handle baton, or expandable baton, 42" baton, or Kendo stick if assigned to the Horse Mounted Unit. Those officers trained in using the Yawara Stick may carry it to supplement their regular baton (one of the options will be worn)
- Flashlight – Department issued Pelican 7060 LED Rechargeable; 8 ½ inches (maximum length 15 inches – plastic). Metal flashlights, with a maximum length of 7 ¾ inches, a battery encasement of no more than 1 ¼ inches in diameter, and lighting power equal to or greater than that of the Department issued flashlight, are authorized. (in vehicle).
- Whistle (in vehicle)
- Watch (wristwatch or other time keeping device, i.e., cell phone) (on officer's person)
- Department identification/electronic key card (carried)

- Miranda card (Department-issued) (in vehicle)
- Department key (in vehicle)
- Writing instruments (black ink pen and/or pencil) (worn)
- Valid California driver's license (in vehicle)
- Helmet with attached face shield (issued) (in vehicle)
- Gas mask and holder (issued) (in vehicle)
- Electronic Control Weapon (issued or purchased) (worn – Lieutenants and below)

The above uniform and equipment are worn or carried in the vehicle by all officers performing a uniformed function, including off-duty employment requiring wearing a uniform, unless exempted from doing so by the Commander of BFO or when performing a function which requires using a substitute item of equipment. Refer to the Department's Uniform and Equipment Manual for the minimum equipment specifications list.

BATONS:

Members must complete an approved training course before using one of the listed authorized batons:

- Straight Wooden Baton – Made of commercially manufactured solid hard wood and is between 26” and 29” in length. The diameter is between 1 3/16” and 1 1/4”. The baton shall have a rubber grommet.
- Metal Side Handled Baton – Made of black anodized aluminum with a wooden or foam core; 24” in length with a diameter of 1 1/4” inches.
- Metal Expandable Baton – The Armament Systems and Procedures (ASP)
- Tactical Baton Model F26 and F31 are authorized examples of this type of baton. The finish is black anodized aluminum, black chrome, chrome or electroless nickel with an extended length of at least 26”. Any other model must meet or exceed it in all respects and must be approved by the Chief of Police.
- Rapid Deployment Team Baton – Similar to the straight wooden baton; approximately 42” long with a proportional diameter able to fit into a standard baton holder.
- Kendo Stick (Boken) – Slightly curved black wooden baton, approximately 40” in length with a blunt sword-shaped blade. (Mounted Unit only).

S 1125

MOTORCYCLE OFFICER – ADDITIONAL ITEMS:

Officers assigned to motorcycle duty will maintain and use the following uniform and equipment:

- Helmet
- Breech trousers (in place of normal trousers)
- Boots, calf length (in place of normal shoes)
- Gloves (both summer and winter)

- Eyeglasses one (1) night; one (1) day; both tempered safety glass
- Whistle chain
- Appropriate insignia (Traffic Officer wheel)

S 1126 OTHER REQUIRED EQUIPMENT

Revised 07-01-22

On-duty uniformed non-supervisory officers assigned to the Bureau of Field Operations will have available and use the following additional equipment:

- Miscellaneous report forms
- Fingerprint equipment
- Shotgun (patrol only)
- Citation book and electronic citation system
- Municipal Code booklet
- Vehicle Code book or Redi-Ref pamphlet
- Marking crayon
- Crime scene tape

In addition, the following optional uniform items may be worn when appropriate, subject to control by an officer's immediate command structure:

- Dress jacket
- Black dickey, turtleneck, or mock turtleneck
- Sweater
- Scarf
- Raincoat, rain pants/chaps, and rain hat cover

S 1127 SUPERVISORS:

In addition to the required uniform and equipment, all on-duty patrol supervisors will obtain and use the Department "Command Pack".

S 1128 MINIMUM ON-DUTY NON-UNIFORM EQUIPMENT AND ATTIRE:

Officers assigned to a non-uniformed function will maintain and utilize the following equipment and attire unless exempted by their immediate supervisor:

- Appropriate civilian attire
- Weapon (authorized)
- Holster (authorized)
- Badge and case
- Handcuffs (authorized type)
- Handcuff key
- Ammunition
- Department identification card
- Miranda Card (Department-issued)

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- Valid California driver's license

S 1129 OBTAINING SPECIFICATION FOR AUTHORIZED AND REQUIRED EQUIPMENT:
Specification for above items may be obtained by referring to the Department's "Uniform and Equipment Specifications Manual", which is maintained throughout the Department.

S 1130 WEAPONS AND RELATED PROCEDURES:
The following procedures will be adhered to by all officers required to possess weapons while performing their duties.

S 1131 FIREARMS:
Revised 06-05-24

Authorized firearms manufacturers, model number and caliber of the weapons are subject to the provisions of the Memorandum of Agreement between the City of San Jose and the San Jose Peace Officers' Association. Authorized colors and finishes for firearms carried by officers are described in the Uniform and Equipment Specifications Manual under the category, Handguns and Ammunition. The provisions detailed in these two documents regarding firearms shall apply to on-duty officers in uniform and in civilian clothes assignments as well as off-duty officers if the firearm is being carried in a law enforcement capacity.

In addition to and notwithstanding any specifications in the Memorandum of Agreement between the City of San Jose and the San Jose Peace Officers' Association and the Uniform and Equipment Specifications Manual, all handguns carried by officers on or off-duty shall have a trigger-pull weight of no less than 4 lbs. This standard applies to both Department-issued and personally-owned pistols.

Officers who intend to carry a firearm not issued by the Department must first determine whether such firearm is currently authorized prior to using it. Only authorized firearms, or firearms issued by the City, are carried or otherwise used by officers when involved in a situation requiring the use of police powers and authority.

EXCEPTION: When using or carrying a firearm for private purposes (hunting, private range practice, etc.), use in accordance with state and federal laws. An officer may carry other firearms when the nature of the Department assignment requires such use. However, approval to carry a normally unauthorized firearm must be obtained from the Office of the Chief of Police prior to implementing the use of such a weapon.

S 1131.5 AUTHORIZATION TO POSSESS DEPARTMENT-ISSUED FIREARMS FOR OFFICERS WHO DO NOT HAVE UNITED STATES CITIZENSHIP:
Added 08-09-24

Pursuant to Department policy and California law, both on-duty and off-duty peace officers have peace officer authority anywhere in the state of California to make an arrest obedient to a warrant or whenever any of the following circumstances occur:

- The officer has probable cause to believe that the person to be arrested has

committed a public offense in the officer's presence.

- The person has committed a felony, although not in the officer's presence.
- The officer has probable cause to believe the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

California law authorizes an active peace officer in California to carry a loaded firearm either concealed or not concealed. This authorization applies to peace officers both on-duty and off-duty.

The authority to arrest and the authorization to carry a firearm applies to every active sworn San Jose Police officer, including active sworn San Jose Police officers who have not obtained United States citizenship. Active sworn San Jose Police officers who are federally authorized to work but have not obtained United States citizenship are authorized to possess Department-issued firearms and ammunition for use in the performance of their official duties or law enforcement purpose with the following restrictions:

- The firearm and ammunition shall not be used for non-law enforcement related purposes.
- Possession of a firearm for personal use is not allowed.
- Conversion of a firearm for personal use is not allowed.
- If employment as an active sworn police officer is terminated with the Department, any Department-issued firearms and ammunition shall be returned to the Department prior to the resignation date.

Nothing in this policy authorizes officers to possess a Department-issued firearm if they have restrictions prohibiting possessing a firearm nor does it create an exception to any other Department policy concerning firearms. Officers should take into consideration DUTY MANUAL SECTIONS L 2204 - OFF-DUTY ENFORCEMENT and S 1119 - REQUIREMENTS WHEN OFF DUTY.

S 1132 SECONDARY WEAPONS:

An officer may carry a concealed secondary (back-up) weapon while on duty. The secondary weapon may be any of the approved weapons listed in the "Memorandum of Agreement" between the City of San Jose and the San Jose Peace Officers Association.

S 1133 MODIFICATION OF FIREARMS:

Revised 02-13-03

No city owned/issued weapon or privately owned weapon carried either on or off duty for the purposes of law enforcement will be modified, reconfigured permanently or temporarily to include laser or electronic sights, scopes and light attachments unless approved by the Chief of Police or designee. The Range Supervisor will maintain a current list of authorized weapon modifications and attachments.

Any weapon modification, reconfiguration or attachments made prior to this order must be inspected and approved by the range staff.

All weapons are carried in a holster that is specifically designed for that weapon.

Every officer attending the "Use of Force Training" will surrender their weapons for inspection. City owned weapons found to be defective are repaired and returned to the user. Private weapons are returned with a "Deficiency Notice," and a copy of the notice is sent to the appropriate Bureau Chief. The owner must have the weapon repaired before it may be carried. During the time a weapon is being repaired, an officer may draw a replacement from Central Supply.

After the weapon has been repaired, the owner will notify the Range and show evidence of the repair having been completed. This information is sent to the Bureau Chief by the Range.

S 1134 RECORDING SERIAL NUMBER OF WEAPON:

Officers will file with the Operations Support Services Division a record of the make, model, and serial number of all handguns acquired, held or disposed of as soon as reasonably practical.

S 1135 EXPOSING FIREARM WHEN IN CIVILIAN CLOTHES:

Officers authorized to carry a firearm when off duty or when on duty in civilian clothes, will not wear or carry the firearm in such a manner that it is conspicuously exposed to view.

S 1136 AUTHORIZED AMMUNITION:

Revised 07-25-05

The only ammunition authorized for officers to carry in an official capacity, whether on-duty or off-duty, is ammunition that has been issued by the San Jose Police Department's Range Staff. Range officers will only issue ammunition to officers for the weapons they are authorized and qualified to carry.

EXCEPTION: Other than handgun ammunition, officers currently assigned to M.E.R.G.E. may carry rifle and other specialized weapon ammunition other than that issued by the Range Staff, but only as specified by the M.E.R.G.E. Unit Commander and approved by the Chief of Police. All ammunition meeting this exception is listed with the Range Supervisor as authorized ammunition for specialized M.E.R.G.E. Officers.

S 1137 NON-EMERGENCY UNLOADING OR LOADING FIREARMS:

Revised 09-10-18

All officers will load or unload handguns only at authorized clearing boxes or at an approved range or training facility. All sworn personnel carrying a firearm during an on-duty assignment shall ensure the firearm is properly loaded with live Department approved ammunition prior to their shift or assignment; pistols shall have a live round in the chamber and a fully loaded magazine seated in the magazine well, and revolvers shall have all chambers of the cylinder loaded with live rounds. Shotguns and rifles will be loaded or unloaded in a safe place and manner subject to the prevailing conditions.

S 1138 HOLSTERING FIREARMS:

Handguns will be worn in holsters on or off duty, except when working plainclothes and when such an exception has been approved by the Chief of Police.

Cocked and holstered sidearms will have a safety strap between the hammer and firing pin with the safety engaged.

S 1139 UNHOLSTERED FIREARMS STORAGE:

Unholstered sidearms will be stored with the hammer un-cocked or unloaded. Hammers will be lowered only at authorized clearing boxes or at the range.

S 1140 DRY FIRING WEAPONS:

“Dry firing” is not permitted in any public facility such as City-owned buildings, the locker room, restrooms, the Police Administration Building, or other similar areas except where the facility is being used as an approved training area.

S 1141 DISASSEMBLING SHOTGUNS:

No officer will disassemble a shotgun for purpose of field-testing any of its components or perform any test that is potentially harmful to a City-issued weapon.

Officers who for any reason are dissatisfied with a City-issued weapon may return the weapon. At that time, the officer will complete a “Weapons Issuance Control/Weapons Inspection Sheet” (Form 200-31), which can be obtained from Central Supply. The officer must clearly describe the malfunction in order that the range master can determine, and if necessary, repair the problem.

S 1142 UNAUTHORIZED HANDLING OF WEAPONS:

Weapons will not be displayed, exhibited, handled, or placed in such a manner or position that would initiate valid criticism of the member or the Department, or violate public safety. In addition, weapons will not be placed and/or handled in a manner which endangers persons in the proximity. This includes placing weapons on benches, restroom commodes, restroom sinks, or similar items. Accidental discharges of firearms indicate carelessness in handling loaded weapons that could result in injury to the officer or other persons.

An officer’s failure to exercise necessary precautions while handling a firearm will result in disciplinary action against the officer.

S 1143 BATON AND OTHER RELATED EQUIPMENT:

Revised 06-26-03

All officers while in uniform and engaged in field policing activities are responsible for carrying a Department-approved baton at all times. Only the straight, side-handle or metal expandable batons as specified in the “Uniform and Equipment Specifications Manual” are allowed. Officers trained in using the Yawara Stick may carry it to supplement their regular baton. Non-uniformed officers are not required to carry a baton, but must have an approved straight, side-handle or metal expandable baton available for emergency use in the event they are required to put on their uniform. Officers of the MERGE Unit, Rapid Deployment Team and Horse Mounted Unit who have passed proficiency testing and training are authorized to carry

“Kendo” sticks or 42” batons. Officers in plainclothes assignments may carry the Yawara Stick after completing the required training.

Any unauthorized equipment such as knuckle sap gloves or leaded flashlights are not carried by any member of the Department at any time.

S 1144 CHEMICAL AGENTS:

Revised 10-30-20

All sworn Officers and Community Service Officers are authorized to use Department issued OC spray canisters containing up to 1.33% Capsaicinoid.

Officers assigned to or functioning in a uniformed capacity, either on-duty or off, may only carry chemical agent canisters issued by the Department.

Officers functioning in a plainclothes capacity, or members in an off-duty status, may carry either the Department-issued chemical agent canister or the smaller variety by the same manufacturer containing the same agent.

S 1145 SOFT BODY ARMOR:

Due to arbitration between the City of San Jose and the San Jose Peace Officers Association, any officer working in a uniformed assignment, hired on or after August 28, 1989, is required to wear Department-authorized soft body armor at all times while on duty. Officers hired before that date will have the option of when to wear the soft body armor.

S 1146 ANNUAL INSPECTIONS OF FIREARMS:

Revised 09-24-03

The inspection of firearms is essential to ensure proper mechanical operation. The Police Department Range has trained staff available to inspect all City and privately-owned firearms. City-owned/issued weapons or privately-owned weapons carried either on or off-duty for the purposes of law enforcement purposes will be submitted to the Range for annual inspection. The Range publishes an inspection schedule in the Department’s Insider newspaper and on the Range entrance door.

City-owned weapons found to be defective are repaired by Range staff and returned to the user. Privately owned weapons are returned with a Deficiency Notice, and a copy of the notice is sent to the appropriate Bureau Chief. The owner must have the weapon repaired before it may be carried. During the time a weapon is being repaired, an officer may obtain a replacement from Central Supply.

The owner of a defective weapon is responsible for ensuring a privately owned weapon is repaired, at their expense, by a qualified firearm armorer. However, if the Range Supervisor deems that the Range has sufficient time, resources and qualifications to do so, the Range will assist officers with maintenance, minor repairs and/or required modifications to their privately-owned weapons.

After the weapon has been repaired, the owner will notify Range members and provide evidence of the repair. The weapon will be re-inspected by the Range Staff for functioning and specifications. Range members will send this updated information to the Bureau Chief.

S 1147 ELECTRONIC CONTROL WEAPONS:

Revised 01-20-21

Authorized Electronic Control Weapons (e.g., Tasers) and holsters are listed in the Department's "Uniform and Equipment Specifications Manual." Only authorized Electronic Control Weapons shall be carried or otherwise used by officers when it is objectively reasonable to do so based on the totality of the circumstances.

Department members of the rank of lieutenant and below shall carry the authorized Electronic Control Weapon on their person at all times while in uniform. Department members shall carry the Electronic Control Weapon in an approved holster on the duty belt, on a load-bearing vest, or in a Department-approved thigh holster. The Electronic Control Weapon shall be carried on the side of the body opposite the handgun. Only Department members working in a plainclothes capacity are authorized to carry the Electronic Control Weapon on-duty in a shoulder holster. When carried in a shoulder holster, the Electronic Control Weapon must be worn beneath a jacket or raincoat.

Only officers who have completed approved training by the Department may purchase an Electronic Control Weapon. Officers will provide the serial numbers of member-purchased Electronic Control Weapons to the Training Unit prior to on-duty use. Air cartridges and replacement batteries are issued via the Training Unit. The cost of repair and/or replacement of the Electronic Control Weapon, when such personal property is damaged or destroyed in the performance of an officer's duties, is handled as detailed in the current Memorandum of Agreement.

S 1148 HOLSTERING TASERS:

Revised 01-20-21

Electronic Control Weapons will be worn in holsters on or off duty, except when working plainclothes and when the Chief of Police has approved such an exception.

S 1149 EXPOSING ELECTRONIC CONTROL WEAPONS WHEN IN CIVILIAN CLOTHES:

Revised 01-20-21

If authorized to carry an Electronic Control Weapon when off duty or when on duty in civilian clothes, officers will not wear or carry the Electronic Control Weapon in such a manner that it is conspicuously exposed to view.

In addition, the Uniform and Equipment Manual will be updated as follows:

Electronic Control Weapons

Authorized Electronic Control Weapons (e.g., Tasers) are issued by Central Supply, in coordination with the Training Unit. Members must complete an approved training course prior to receiving an Electronic Control Weapon.

Authorized holsters used for Electronic Control Weapons are issued by Central Supply. Additionally, other holsters may be used, but must meet or exceed the standards of the Department-issued holster. All Electronic Control Weapon holsters must be black in color.

Authorized cartridges for use in Electronic Control Weapons are issued by Central Supply, in coordination with the Training Unit. No other cartridges are authorized for use in Electronic Control Weapons.

S 1150 BICYCLE PATROL OFFICER SAFETY EQUIPMENT:

Added 10-13-09

Officers assigned to uniformed bicycle patrol, while working on duty or at a secondary employment assignment, will maintain and use the following uniform and equipment while performing a uniformed bicycle officer's function:

- Helmet: (ANSI approved) black with white "POLICE" lettering on each side
- Glasses: appropriate for day and night use
- Gloves: bicycle riding gloves, dark in color (the gloves should allow for the proper use of a firearm)

Additional uniform requirements are outlined in the San Jose Police Department Uniform and Equipment Manual.

S 1151 USE OF DEPARTMENT SYMBOLS:

Added 07-21-22

Department members are authorized to produce clothing, patches, items, or paraphernalia exhibiting authorized Department symbols. These may be worn or used throughout Police Department facilities and while off duty.

When working in a uniformed assignment in public (e.g., patrol and some special operations assignments), Department members may only wear, display, or otherwise present Department symbols that are authorized in the Uniform and Equipment Specifications Manual.

When working a non-uniformed assignment and performing any activity that would likely result in an enforcement action (e.g., surveillance leading to an enforcement stop, patrolling a neighborhood, or executing a search warrant), Department members may only wear, display, or otherwise present Department symbols that are authorized in the Uniform and Equipment Specifications Manual.

When working in public, in a non-uniformed assignment, and not performing duties likely to result in an enforcement action (e.g., canvassing a neighborhood during a follow-up

investigation or conducting a witness interview at a school), Department members may wear, display, or otherwise present any authorized Department symbols.



S 1200 – EQUIPMENT CONTROL AND MAINTENANCE

Department members will report all damage to City property and all damage resulting from the performance of assigned duties. In the event City property is found damaged, it is assumed that the last Department member using the property was responsible, unless such Department member submits evidence to the contrary. When any member leaves City employment, either voluntarily or involuntarily, such member is required to surrender all property in their possession that belongs to or has been issued by the City or Department.

PROCEDURE

S 1201 DAMAGE AND/OR RETURN OF PROPERTY – PERSONAL PROPERTY:

The City of San Jose's Administrative Manual provides that the City will repair or replace, on the basis of its depreciated value, any article of clothing or any piece of required equipment belonging to a full-time officer that is damaged or destroyed while in the performance of the officer's duties. Compensation is not given for articles damaged through an officer's negligence or that must be replaced because of normal wear. Consult the provisions of Section 11.02 of the City of San Jose Personnel Administrative Manual for details and proper procedure when requesting reimbursement for damaged personal property.

S 1202 REPORTING DAMAGE RESULTING FROM DUTIES:

If an officer damages City property or equipment in the performance of their duties, they are required to report this information in a General Offense Report (Form 200-2-AFR). This report will contain the justification for the damage and a complete description of the type and extent of the damage.

S 1203 DAMAGE TO CITY VEHICLE:

Department members will notify Garage Unit members when a City vehicle for which such member is responsible has been damaged or when incidents have occurred which could have caused hidden damage. Notification is to be made no later than the end of shift on the date the damage occurred.

S 1204 RETURN OF CITY PROPERTY:

Revised 07-28-22

A Department member is required to surrender Department-issued weapons, safety equipment, and other items whenever any resignation, separation, or dismissal occurs.

Occurrences under which the return of Department property is optional include, but are not limited to, the following circumstances:

- Suspensions
- Extended leaves of absence without pay
- At the discretion of the Chief of Police or their designee for the good of the Department, City, or community

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The Department-issued badge, nameplate, and identification card are addressed in Duty Manual section S 1204.1 RETENTION OF DEPARTMENT-ISSUED BADGE, NAMEPLATE, AND/OR IDENTIFICATION CARD.

S 1204.1 RETENTION OF DEPARTMENT-ISSUED BADGE, NAMEPLATE, AND/OR IDENTIFICATION CARD:

Added 07-28-22

Any Department member separating from City service in good standing may request to keep their Department-issued badge, nameplate, or identification card by submitting a "Request to Keep Department-issued Items" memorandum through their chain of command to the Chief of Police. When requesting to keep a Department-issued badge, nameplate, or identification card, the Department member will provide justification for the retention (e.g., for use in a shadow box, for use as a gift to a family member, etc.)

Department members who separate from City service under the following circumstances are ineligible to retain a Department-issued badge, nameplate, or identification card:

- Failure to complete probation.
- Termination.
- Resignation during probation.
- Resignation in lieu of discipline.
- Resignation by failure of the Department member to return to work on the first scheduled workday after a leave of absence, pursuant to the Memorandum of Agreement (MOA) between the City of San Jose and the San Jose Police Officers' Association (link), Article 26.

The Chief of Police or their designee may, at their discretion, deny the request to retain a Department-issued badge, nameplate, or identification card. When this occurs, the Chief of Police or their designee will document this denial and the reason for it on the "Request to Keep Department-issued Items" memorandum. The determination by the Chief of Police or their designee is final.

In the case of promotion, the badge, nameplate, and identification card for the rank or position being vacated may be kept by the Department member without having to submit a "Request to Keep Department-issued Items" memorandum. The memorandum is only required when separating from City service and only applies to the badge, nameplate, and identification card for the rank or position at the time of separation.

Absent submission and approval of the "Request to Keep Department-issued Items" memorandum, all Department personnel shall surrender their Department-issued badge, nameplate, and identification card to Police Personnel upon separation from City service.

This policy does not apply to badges or nameplates purchased through outside vendors. Those badges or nameplates remain the personal property of the purchaser or recipient.

The original copy of the "Request to Keep Department-issued Items" will be added to the Department member's personnel file. A copy will be provided to the Department member upon request.

S 1205 RESPONSIBILITY OF COMMANDING OFFICER:

Revised 07-28-22

It is the responsibility of the commanding officer to whom an individual is assigned to ensure that issued weapons, and any other property belonging to the Department are surrendered to Central Supply.

It is the responsibility of the commanding officer to whom an individual is assigned to ensure the "Request to Keep Department-issued Items" memorandum is approved pursuant to Duty Manual section S 1204.1 RETENTION OF DEPARTMENT-ISSUED BADGE, NAMEPLATE, AND/OR IDENTIFICATION CARD or the Department-issued badge, nameplate, and identification card are surrendered to Police Personnel.

S 1206 RESPONSIBILITY OF INDIVIDUAL OFFICERS:

Revised 07-28-22

Upon resignation, separation, or dismissal, or at the request of the Chief of Police, Department members will, prior to departure, surrender to the proper persons all property belonging to the Department. Upon suspension or leave of absence without pay, the member will, prior to departure, advise such member's commanding officer of the anticipated absence and the dates thereof and, upon request, surrender all property belonging to the Department in adherence to the following procedures:

- DEPARTMENT NOTIFICATION: File one of the two appropriate forms: "Request for Leave of Absence" (Form 100-21) or "Notice of Separation from City Service" (Form 100-4) with the Personnel Unit of the Bureau of Administration prior to the turn-in of equipment.
- OFFICERS: All officers in one of the above categories will then report to Central Supply and turn in all property as listed on the "San Jose Police Department Equipment Card."

Officers will turn in their building keys to the Personnel Unit, Bureau of Administration.

- BUREAU-ISSUED EQUIPMENT: Prior to appearing at the Personnel Unit for final processing, members will turn in all bureau-issued equipment. The Personnel Unit will ensure, via phone with the separating employee's assigned bureau, that all bureau-issued equipment has been collected (radios, cameras, fingerprint kits, etc.).

It is standard procedure for the Personnel Unit to place a hold on the separating employee's final paycheck until above procedures are completed.

S 1207 RECEIPT FOR RETURNED PROPERTY:

Members surrendering property are given a receipt by the Department representative receiving the returned items.

S 1208 LOST AND FOUND PROPERTY:

When locating lost or misplaced property which is either privately owned or has been issued by the City, adhere to one of the following appropriate procedures:

- PROPERTY BELONGING TO DEPARTMENT MEMBERS: Items believed to belong to Department members (i.e., identification cards, caps, jackets, etc.) are turned over to the Department's Lost and Found located at Central Supply. Members who have lost or misplaced equipment should check with Central Supply.
- OTHER PROPERTY: All other lost and found property is booked and deposited into the Police Property Room in a manner consistent with the proper handling of evidence.

S 1209 REPORTING LOST OR STOLEN CITY EQUIPMENT:

Refer to Duty Manual section R (Reporting Lost or Stolen Equipment).



S 1300 – MISCELLANEOUS PROCEDURES:

Department members will handle all Department or City-issued equipment in a manner which least exposes it to damage. In addition, members will adhere to established procedures pertaining to equipment and/or facilities when on or off duty.

PROCEDURE

S 1301 MISCELLANEOUS PROCEDURES – MODIFICATION OF FACILITIES:

When a Department member intends to procure the services of another agency, business, or City department in order to modify existing facilities, such member will adhere to the following procedures:

- REQUIRED DOCUMENTATION: The requesting member will complete the following documents:
 - A City memorandum detailing the request, detailing the modification to be made and why it is necessary.
 - A Department "Transmittal Form" (Form 216-1) will be completed and attached to the memorandum.
- SUBMISSION: The requesting member will then submit the required documentation through the chain of command to the member's Bureau Chief.

The member's Bureau Chief will then review the request and, if approved, forward the required documents to the Office of the Chief for final review and approval to proceed.

When approval to proceed is obtained, implementation may begin and will be coordinated through the Office of the Chief.

S 1302 ENTERING ARMS ROOM:

Members with the rank of police officer or below must receive permission from a sergeant or person of higher rank before entering the Arms Room. Since the Arms Room is alarmed, Communications must be notified immediately after the room is entered. The key for the Arms Room may be obtained from OSSD. It is the responsibility of the highest-ranking member entering the room at any given time to ensure that such notification is made and that the alarm is reset when such member leaves.

S 1303 USE OF DEPARTMENT LOCKER:

A Department member assigned a locker in any of the men's or women's locker facilities maintained by the Department will ensure that the exterior of the locker is kept free of all markings or attachments of any kind. The exterior appearance of the locker will not be altered from its original design in any way.

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S 1304**WORKOUT ROOM REGULATIONS:**

The City has responsibility for the exercise/weight room and all the equipment inside. A periodic maintenance schedule will be followed. If defective or faulty equipment is discovered, it should be brought to the attention of the Facilities Manager, Office of the Chief. Specific rules of conduct are provided and will pertain to any individual or group of individuals using the workout room.

- Without exception, use of the exercise/weight room is restricted to San Jose Police Department members only. Other City employees, members of other criminal justice agencies, as well as friends and family members of San Jose Police Department members are not authorized to use the facility. This is to include not having children, wives, husbands, boyfriends, girlfriends or family members present as spectators.
- Proper athletic attire will be used while working out:
 - Shirts will be worn at all times
 - Shoes will be worn at all times (thongs and sandals are not acceptable)
- All members will use cloth towels while utilizing the equipment and will wipe it down upon completion.
- No modification of equipment or usage not intended by the manufacturer (as outlined by the instructional charts attached to each machine).
- No unauthorized equipment will be allowed in the room without prior approval from the Facilities Manager (i.e., pieces of wood, additional handles and additional lengths of chain).
- Members will return all weights to the proper location immediately after utilizing that piece of equipment.
- Remove weight belts when using any piece of equipment where the belt buckle would potentially cause damage to the upholstery.
- No food or drinks allowed in the room, with the exception of plastic non-spillable containers.
- The posting of any literature or affixing of any item within the exercise/weight room without the permission of the facilities manager is strictly prohibited.
- The sound level on the radio and television will be kept at an acceptable level so as not to disrupt the work of the other Department members.
- In accordance with the Duty Manual, any personal property left in the room will be taken to the lost and found located at Central Supply.

Injuries resulting from the use of the workout room or any other physical activities during off-duty hours are not covered under the provisions of Workers' Compensation. For the purposes of this section, off-duty hours will include lunch hours and break times.

S 1305**REQUESTS FOR COPIES OF PHOTOGRAPHS:**

When outside requests are made for copies of photos, the requester will be referred to OSSD where a request will be prepared listing the services desired and an estimate of charges for those services.

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S 1306 USE OF PERSONAL CAMERAS:*Revised 03-08-04*

The use of personal cameras for Department business is generally discouraged except in cases of extreme necessity. When such use is dictated by circumstances, Department members will use only the following camera size and film:

- C-41 process film, such as Kodacolor II and Varicolor film in sizes 120, 126, 620, and 35mm.
- All black and white film in sizes 120, 126, 620, and 35mm. No other camera sizes and film are used or processed.
- Digital photographs may be taken which meet the specification in Duty Manual section L 4421 (Digital Evidence – Acceptable File Types) and the minimum resolution requirements listed in Duty Manual section L 4422 (Digital Evidence Capture).

S 1307 ENTERING GARAGE IN PRIVATE VEHICLE:

Department members will not enter the City garage in private vehicles to load or unload equipment or passengers or to park motorcycles or bicycles. Department members entering the garage area in civilian clothing are required to identify themselves if challenged by Department or Garage Unit members.

S 1308 PARKING IN THE AREA OF CENTRAL SUPPLY:*Revised 03-06-20*

- Department Members may park in the immediate vicinity of Central Supply for the brief period of time necessary to conduct business there.
- Department Members shall not leave vehicles parked and unattended in the area of Central Supply if not actually conducting business there. This restriction includes the red zone (which is posted “No Parking”) along the full length of the north side of PAB.

NOTE: This order in no way relieves Department Members of responsibility when they are determined to have caused a preventable collision in the above-mentioned areas.

S 1309 DISPLAY ON DEPARTMENT BULLETIN BOARDS*Added 10-15-22*

All notices, announcements, and information intended for display on any Department bulletin board shall obtain approval from the Office of the Chief of Police prior to display.

After approval, the requestor may display a maximum of one copy per bulletin board. Unless otherwise noted, approved displays may remain posted for up to 90 days. The requestor is responsible for removing their displays after (1) the posting has run its course, or (2) within 90 days; whichever is less.



S 1400 – RESEARCH AND DEVELOPMENT:

The Department's Research and Development Unit is responsible for providing guidelines and information for use by Department members. Though it is impossible to provide planning for every situation that arises, long and short range plans, selected contingency plans, crime statistics, policies and procedures, and other information are provided when possible.

PROCEDURE

S 1401 RESEARCH AND DEVELOPMENT – GENERAL PROVISIONS:

The Department's Research and Development Unit aids the management staff by organizing meetings, analyzing proposals, recommending specific courses of action and assisting in implementation of Department programs.

Any member may make a request through appropriate channels for the research or development of a project or problem affecting the Department. Submission of the request will be accomplished in accordance with the following procedure:

- Two copies of a written draft of the proposal will be prepared by the individual originating the request and one copy forwarded through the chain of command for comment and the other copy delivered to the Office of the Chief of Police, Research and Development.

Upon receipt of both copies, Research and Development will then coordinate the review and formulation process.

S 1402 FORM WHEN SUBMITTING PROJECTS:

When submitting research or development projects, adequate research to accurately define the problem, analysis of all reasonable solutions, a recommended course of action and supportive material will be included in the proposal document.

S 1403 USE OF TASK FORCE:

When a need develops for a major project in a limited time or for a single-use plan affecting more than one bureau, the assembling of a task force may be appropriate. Its staff will be provided, on loan, from various divisions or bureaus within the Department and may be supplemented by outside personnel. The task force is structured with clearly defined objectives, organization, responsibility and authority. It is placed under the control of an existing organizational unit, whose commanding officer will accept responsibility and accountability for its members. Approval to convene the task force is obtained from the Office of the Chief of Police prior to implementation.

S 1404 SINGLE-USE PLANS:

Single-use plans are devised to accommodate specific needs. They may involve a Department-wide response to a major, unusual occurrence or a tactical answer to an isolated incident. Once executed, the plans are evaluated for development into standing procedures or for future reference in similar situations.

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A copy of all single-use plans that involve circumstances that may reasonably be expected to reoccur is forwarded to the Office of the Chief of Police, Research and Development. The officer in command of the Research and Development Unit will ensure that such single-use plans are maintained in a secure location and will limit access of such plans to command officers.

S 1405

OFFICER'S RESPONSIBILITY DURING RESEARCH PROJECT:

The officer responsible for a Research and Development project will, prior to final submittal, notify the involved subdivision(s) of the findings or recommendations resulting from the research and analysis performed. In addition, the officer will ensure that proposals and projects are researched and analyzed so that final authority need only approve or disapprove the proposal or project submitted.



S 1500 – CRIME PREVENTION/COMMUNITY SERVICES:

Crime Prevention has proven to be an effective means of reducing crime. It has an added benefit of improving police/community relations. It is the desire of the Department that all members of the department, but particularly the patrol division, make crime prevention and community services an integral part of every officer's routine. In addition, Department members will strive to establish a climate in which an officer may perform assigned duties and tasks with the acceptance, understanding and approval of the community.

PROCEDURE

S 1501 CRIME PREVENTION/COMMUNITY SERVICES – GENERAL PROVISIONS:

Crime prevention and community services are based upon the principle that the police are an integral and indivisible element of the public they serve. Crime prevention is a responsibility of every Department member and is manifested by individual officer contact with the public and dissemination of crime prevention information. Community service is also the responsibility of every Department member and consists of the many daily encounters between such members and the public.

S 1502 REQUEST FOR PUBLIC APPEARANCE:

Revised 09-24-22

Department members shall notify and obtain approval from their chain of command prior to speaking or presenting at any public appearances, conventions, trainings, or law enforcement meetings when the member is acting as a representative of the Department or City.

If explanation for the appearance is requested by the Department member's chain of command, the purpose of the appearance, intended audience, date, time, and location will be documented on a Department memorandum and submitted through the chain of command.

Example1: An officer is asked to come to career day at their child's school. The officer shall notify and obtain approval from their supervisor.

Example 2: An officer is asked to present a class based on expertise at the Santa Clara County District Attorney's Office. The officer shall notify and obtain approval from their supervisor. The officer's chain of command may request a memorandum documenting the purpose of the appearance, intended audience, date, time, and location of the training.

S 1503 RESPONSIBILITY AND NATURE OF INVOLVEMENT:

If assigned to a patrol and/or investigative function, will perform crime prevention and community services programs which include, but are not limited to, the following tasks.

S 1504 IDENTIFY UNSAFE CONDITIONS:

When on patrol, officers will be alert for open doors, windows, or garages, notes on doors, dwellings that appear to be unlive d in, and any other unusual or unsafe condition which could

invite a criminal act. When such conditions are observed, officers will contact the home or business owner or person in charge and advise such person of the hazard(s).

S 1505 HOME AND BUSINESS SECURITY SURVEYS:

When assigned to conduct either a preliminary or follow-up investigation, or when on duty and time permits, members will contact both residential and business persons and advise such citizens of the following:

- Weaknesses in locks, doors, windows, lighting and access conditions.
- Visibility problems from a beat patrol perspective.
- Landscaping
- Lighting
- Visibility to interior of business
- Location of cash registers and/or safes
- Deficiency in marking valuable items and/or recording of serial numbers. Members will show an interest in assisting the home or business resident/owner in determining what steps are necessary to rectify the deficiency but will avoid recommending a specific product.

S 1506 APARTMENT COMPLEX SURVEYS:

When assigned to a patrol function and time permits, or when assigned to respond to an apartment complex, members will perform the following tasks as time permits:

- Learn the name and apartment number of the manager or other person in charge of the property.
- When applicable, learn who the security officers are and their patrol routine.
- Identify problems in lighting, locks, fencing or other access deficiencies and suggest appropriate remedies.
- Drive through complexes.

When driving through complexes, officers will talk with residents and inquire as to problems in the area and take appropriate preventive/investigative steps to resolve the problem.

S 1507 GENERAL CITIZEN CONTACTS:

When on duty, contact community members as often as time, circumstance and assignment permits and perform the following tasks:

- Talk with residents in the area and inquire as to the problems.
- Make an effort to solve problems that are commensurate with their responsibilities.
- Consistent with the time available, contact community center Department members or other community leaders or homeowner organization managers as often as possible and inquire as to crime in the area or other problems related to the Department's mission.

- Advise citizens in the area about crime prevention techniques such as locks, fencing, lighting, vacation security, and availability of Crime Prevention Unit members for presentations and other programs.

S 1508 RECOMMENDING METHODS OF PROTECTION:

When representing themselves as members of the Department, either on or off duty, Department members will not encourage, suggest or recommend that citizens purchase or secure firearms for the purpose of self-protection. Department members will encourage citizens to utilize the more traditional methods of crime prevention, including the use of non-lethal self-protection techniques.

S 1509 COOPERATION WITH SCHOOL AUTHORITIES:

Revised 01-08-18

School administrators are a valuable source of information, and time should be allocated to meet and discuss mutual problems. The beat officer should be informed of present and pending problems on and around the school campus.

Officers will become aware of the administrator's position on asking for police assistance and if such administrator expects a high or low profile by the police. Oftentimes school administrators are not informed or are misinformed regarding the Juvenile Justice System. Administrators should be informed of the Juvenile Justice System and how departmental policy relates to it, i.e., citations issued in lieu of bookings into Juvenile Hall.

Emphasis should be placed on a cooperative effort between school personnel and the police in an effort to identify and solve mutual problems. The truant problem, historically, has been neglected by many schools or dealt with by suspension. The truant many times then becomes a law violator because the basic problem (failure to attend school) was ignored. The beat officer should make every effort to identify the truant student and encourage the school to deal with the individual in a positive manner. In addition, patrol officers will perform the following tasks as time and need dictates:

- Frequent contacts with school personnel should be performed in order to learn of present or potential problems.
- Remain highly visible in the school area during times that students arrive or leave the school grounds.
- Locate and return truant students to the appropriate T.A.B.S. (Truancy Abatement Burglary Suppression) Office.
- Establish rapport with students.

The School Liaison Unit within the Support Services Division provides direct access of police services to school and school districts. Programs are designed to increase school safety. They include presentations to school staff regarding legal updates, mandatory reporting laws, gang prevention and sexual harassment.

School liaison officers provide information to, and participate on, school safety teams, healthy start programs, truancy programs, crisis response to schools, site safety surveys and school partnership meetings.

School pay job officer training, T.A.B.S. and the safe schools campus initiative are also school liaison programs.

Department members shall adhere to the Campus Police Officer Training Manual and current school district Memorandum of Understanding (MOU).



S 1600 – RIDE-ALONG PROGRAMS:

Many people rarely have occasion to enter a police station or to witness activities that support line operations. To acquaint the public with law enforcement tasks, the Department, upon request, will conduct tours of police facilities and conduct Ride-Along Programs. The scope of such tours is dependent upon security requirements and available Department members.

PROCEDURE

S 1601 RIDE-ALONG PROGRAM:

The Ride-Along Program of the San Jose Police Department was established to provide citizens with an opportunity to observe police field operations. The program allows a person to ride with a beat patrol officer on duty to observe situations and departmental operations. The following procedures will be adhered to when conducting the Ride-Along Program and on other occasions when persons ride with on-duty patrol officers.

S 1602 ASSIGNMENT AND TIME ELEMENT:

The Bureau of Field Operations will provide a total of nine patrol cars for the Ride-Along program: three (3) for the First Watch, three (3) for the Second Watch, and three (3) for the Third Watch. Cars are provided daily on First Watch and Sunday through Thursday on other watches. Ride-Along tours will normally last a minimum of four hours.

S 1603 HONORING REQUESTS:

Requests to ride-along in a certain district of the City will not normally be honored. However, when the circumstances of the request pertain to a specific problem area, the watch commander may honor such a request.

S 1604 OBTAINING APPROVAL:

Revised 11-22-21

Officers will not pick up a person to ride along unless they have written approval from the watch commander or their representative. Officer-initiated ride-alongs will normally be limited to six ride-alongs per shift and, whenever possible, the requests should be coordinated through the Crime Prevention Unit or BFO Administrative Unit.

S 1605 CRIME PREVENTION UNIT COORDINATION OF ELIGIBLE PERSONS:

Revised 11-22-21

The following persons may be allowed to ride along with beat patrol officers, provided they have been processed and scheduled by the Crime Prevention Unit.

- Any person of the age of 18 or older.

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- High school students between the ages of 14 and 18, in coordination with the Crime Prevention Unit and their school. Students may ride in groups of three with a reserve officer on Friday and Saturday evenings only.
- College student in coordination with the Crime Prevention Unit.

S 1606

P.A.L. CADETS:

Members of the P.A.L. Law Enforcement Unit participate in the Ride-Along Program on a regular basis. They may ride with an officer, provided they have been authorized by the P.A.L. office in coordination with the Crime Prevention Unit. The following procedures must be adhered to:

- P.A.L. cadets under 18 years of age may ride daily on the First Watch only. No more than one cadet in this age group may ride per day.
- P.A.L. cadets over 18 years of age may ride on any Watch, excluding Friday and Saturday nights (2nd and 3rd Watch). One cadet in this age group may ride per shift.
- Cadets must have the signed copy of their Ride-Along request in their possession when they arrive. They are not allowed to ride without it.
- The BFO Command Staff will choose the officers with whom cadets will ride. Cadets will not ride with the same officer more than once.

S 1607

PATROL COMMANDER COORDINATION OF ELIGIBLE PERSONS:

The following persons may be considered for the Ride-Along Program but do not need to formally apply. They may ride with an officer, provided they have been authorized or assigned by the watch commander and proper paperwork has been completed. The on-duty watch commander will critically review officer-initiated requests to ensure that the original intent of the program is not compromised.

- A SJPD reserve officer in uniform
- A full-time peace officer
- A close friend or relative of the officer with whom they will ride.
- Persons applying for the position of San Jose Police Officer who, per the Personnel Unit, are established on the hiring list.
- Other eligible persons: A person who is not a peace officer, but who warrants specific exemption by the watch commander, i.e., a judge, legislator, etc., may be allowed to ride with an on-duty patrol officer. The watch commander must approve the request prior to beginning the ride-along.

S 1608

SUPERVISION OF RIDE-ALONG PARTICIPANTS:

Revised 04-07-16

All persons riding with an officer will be under the supervision of the officer. Ride-along participants will not become involved in any investigation or enforcement action, including any search or seizure of a person's real or personal property, and will follow the orders and directions given by the officer. Cameras and tape recorders will not be allowed.

The participant will not enter a person's real or personal property, including a person's residence or vehicle, unless the officer has informed the owner or person in lawful charge of the property about the participant and received their consent, allowing the participant to be present. The consent shall be documented on any investigative report appropriate to the type of case being investigated. In the absence of an investigative report, the officer will document the consent in the Event Comments section when they clear the event.

Before seeking the owner's consent, the officer is responsible for determining that the participant, by their presence, demeanor, or conduct, will not interfere with the performance of the officer's official duties and that the factual circumstances at the property are otherwise appropriate for the presence of a Ride-along participant. The officer should first consider the following factors:

5. Demeanor and conduct of the participant.
6. Potential risk to the personal safety of the participant.
7. Potential for compromise of an investigation if the presence of the participant will make it more difficult for the officer to obtain complete and candid statements from complainants and witnesses, or would adversely affect the preservation and collection of physical evidence.
8. Reasonable expectations of privacy on the part of crime victims, complainants, and other witnesses present on the property.
9. Nature of the call or crime such as sex crimes, crimes involving child abuse/neglect, or domestic violence.
10. Possibility of distraction to the officer caused by the presence of the participant or the perceived need to protect the participant's safety.
11. Potential psychological hardship to the participant if the private property is the scene of a disturbing or gruesome crime.

Ride-along participants will not be allowed to enter a person's real or personal property, including a person's residence or vehicle, under the following circumstances:

- When entry is made pursuant to exigent circumstances.
- When entry is made pursuant to a search warrant or an arrest warrant.
- When there is no person available who can legally give consent.

S 1609

RESTRICTIONS:

Due to the possibility of serious injury or accidental death to both husband and wife, spouses of patrol officers are assigned to ride with an officer other than their spouse.

S 1610

HELICOPTER RIDE-ALONG PROGRAM:

- SWORN OFFICERS/PROFESSIONAL STAFF: Sworn officers, specifically those assigned to BFO, are encouraged to ride with the helicopter crew on any flight where space and weight limitations permit. City employees may also ride in the Department's helicopter while performing an official City function related to their official duties.
- PRIVATE CITIZENS: Private citizens are not normally allowed to ride in the Department's helicopter. However, exceptions to the policy may be made on an individual basis based on the person making the request and reason for the request. Private citizens allowed to ride in the Department's helicopter may be government

representatives, community leaders, members of the news media or any other person where approval has been granted by the Air Support Unit supervisor or higher authority.

S 1611 TRANSPORTATION BY DEPARTMENT HELICOPTER FOR REASONS OTHER THAN LAW ENFORCEMENT PURPOSE:

Any person desiring transportation in the Department's helicopter for any purpose other than a law enforcement or fire support operation will make the request to the Office of the Chief of Police via Chain of Command. It is the intent of the Department to have the helicopter available for law enforcement/fire use as much as possible. Assigning the helicopter for other duties would not be beneficial to the Department or citizens.

Once a transportation request has been received at the Office of the Chief of Police, the request is reviewed and approved or denied as appropriate.

S 1612 RECORDS CHECKS

Added 11-22-21

A preliminary records check shall be conducted on any civilian participating in the Ride-Along Program. This records check shall include inquiry for any outstanding warrants, probation status, parole status, and criminal history. Any person with an outstanding warrant, on active probation, or on active parole shall not be permitted to participate in the Ride-Along Program. The on-duty watch commander will review the criminal history of any person requesting to participate in the Ride-Along Program and shall determine if the criminal history should preclude that individual from participation. In making this determination, the on-duty watch commander should consider the severity of the offense(s) and the time elapsed since the offense(s).

It is the responsibility of the officer to which the ride-along is assigned to conduct the preliminary records check. The records check shall only be completed after the civilian has signed the Ride-Along Program Agreement and Release of Liability form (201-13).



S 1700 – TRAINING PROCEDURES:

The Department has an obligation to provide a professional standard of law enforcement service to the community. To fulfill this obligation, proper training is essential. The Department provides training to employees throughout their careers to further the goals of the Department and to contribute to their personal and professional development.

PROCEDURE

S 1701 TRAINING PROCEDURES – GENERAL PROVISIONS:

Administration of the Department's Training Program is the responsibility of the commanding officer of the Training Division. Assigned responsibilities of the Training Division include, but are not limited to, the following functions:

- **REQUIRED TRAINING:** All legislatively mandated training is coordinated by the Training Division. This includes the basic academy, supervisor and management training, and other related short courses. When such training is offered on a regional basis, the Training Division is the liaison between regional training agencies and the Department.
- **IN-HOUSE TRAINING:** The development and presentation of all in-house training is coordinated by the Training Division. These include both long and short range programs such as firearms training, advanced officer training, roll call training, and other programs both on and off site.
- **PROGRAM DEVELOPMENT:** The Training Division is responsible for the development and production of training videos. Anyone wishing to utilize the services of the video production unit must do so through the commanding officer of the Training Division.

S 1702 NATURE OF TRAINING:

The following types and methods of training are presently provided by the Department:

S 1703 RECRUIT TRAINING:

The training provided recruit officers at the academy is a continuation of the selection process whereby efforts are made to screen out those who are lacking in police aptitude. In all recruit training, emphasis is placed on developing the reasoning ability and judgment of each officer.

S 1704 FIELD TRAINING PROGRAM:

Revised 08-21-20

Newly hired police officers, whether academy graduates or lateral hires, will receive their on-the-job training from the Field Training Program. Additionally, the Field Training Program, while not responsible for delivering these courses, will be responsible for ensuring that newly hired officers attend the following additional training within the first year of employment as an officer:

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- **POLICING IN THE CURRENT POLITICAL & SOCIAL CLIMATE:**
An examination of contemporary issues connected to critical narratives of public safety approaches. Students will explore disproportionate expectations of justice through the examination of high-profile historical events, which affect perceptions of law enforcement among diverse community members. Coursework should include an examination of relevant theory, statute, case law, and essential sources of constitutional authority.
- **CRISIS INTERVENTION TRAINING:**
A body of instruction designed to improve the student's ability to identify signs and symptoms of mental illness and various developmental disabilities. The course will increase awareness and knowledge of community services available. The intended outcome of this training course is to improve crisis intervention skills.
- **PROCEDURAL JUSTICE & IMPLICIT BIAS:**
This class is taught to academy recruits by the Policy Academy (BOA). However, when an officer is hired or rehired and has not already attended a POST approved course on these topics, that officer will attend a course equivalent to the Procedural Justice & Implicit Bias course that is taught in the San Jose Police Academy.

Although entry level on-the-job training rests primarily with the Field Training Program, it is the responsibility of all officers to teach those with whom they work the skills and knowledge necessary to perform the job at hand. Supervisory and commanding officers of all ranks have the responsibility to train subordinates to perform assigned tasks and to familiarize them with their supervisor's job so that employees are prepared to assume additional responsibilities.

S 1705 IN-SERVICE TRAINING:

Refresher training is periodically provided to experienced officers.

S 1706 PROMOTIONAL TRAINING:

The Department provides training to prepare newly appointed supervisors and commanding officers for their added responsibilities.

S 1707 COMMUNITY RELATIONS TRAINING:

The selection process for police officers is designed to choose the most qualified and eliminate the physically, emotionally, mentally or socially unfit. Those selected are representative of the community at large and are subject to having the same prejudices and biases found in society. Exposure to crime and its aftermath can tend to harden and desensitize an officer whose sympathetic understanding is needed to properly perform assigned duties. Thus, the Department will provide training in human and community relations to help avoid this hardening of attitude and to instill an understanding in each officer of their total role in the community.

S 1708 COMMAND OFFICER'S INVOLVEMENT:

Command officers are encouraged to participate in the training process so that others may benefit from their knowledge, experience and insight.

S 1709 COORDINATION OF TRAINING:

All Department members will adhere to the following procedures when formulating, conducting, or providing training.

S 1710 SUBMISSION OF LESSON PLANS:

Prior to the actual training, all Department members teaching in-service training are required to submit a lesson plan and/or related training aids to the Training Division.

S 1711 RECORDING DATES/RECIPIENTS:

Prior to the actual training, all Department members teaching in-service training will submit to the Training Division the dates, times, locations and Department members to receive the training and a complete roster of those attending.

S 1712 REPORTING OFF-SITE TRAINING:

Bureaus will notify the Training Division of those persons attending off-site schools.

S 1713 REPORTING REQUEST AFFECTING THE BUDGET:

All training requests which affect the Training Division budget will require the approval of the commanding officer of the Bureau of Administration before funds for such training is released.

S 1714 MAINTENANCE OF TRAINING MATERIALS:

A copy of all training materials compiled at City expense will be forwarded to the Training Division at the Training Manager's request where they will be made available to others.

S 1715 TRAINING FACILITIES OR CONFERENCE ROOM RESERVATIONS:

Revised 03-03-17

Any Department member desiring to use any of the below listed conference rooms for training or meetings will first make a reservation through the indicated office.

- (PAB) CONFERENCE ROOM 307: Seating capacity approximately 5 – 10 people. Requesting members will arrange to use this room by contacting the Office of the Deputy Chief, Bureau of Investigations.
- (PAB) RESEARCH AND DEVELOPMENT CONFERENCE ROOM: Seating capacity approximately 10 people. Arrange to use this room by contacting Research and Development.
- (PAB) TRAINING CLASSROOM – ROOM 314: Seating capacity approximately 35 people. Arrange to use this room by contacting the Office of the Deputy Chief, Bureau of Investigations.
- (PAC) COMMUNICATIONS CONFERENCE ROOMS: A variety of sizes and capacities are available in the area of Communications. Contact the Office of the Deputy Chief, Bureau of Technical Services.
- SUBSTATION TRAINING CLASSROOMS: A variety of sizes and capacities are available at the Department's Substation (6087 Great Oaks Parkway). Contact the Bureau of Administration, Training Unit.

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S 1800 – SPECIFIC PROGRAMS:

The Department provides training to develop and maintain specific skills members need to perform their duties.

PROCEDURE

S 1801 FIRST AID AND C.P.R. CERTIFICATION:

Revised 03-04-09

Pursuant to Health and Safety Code Section 1797.183, all officers, except those whose duties are primarily clerical or administrative, shall be trained to administer first aid and cardiopulmonary resuscitation (CPR). The training shall meet standards prescribed by the California Emergency Medical Services Authority, in consultation with the Commission on Peace Officers Standards and Training, and shall be satisfactorily completed by those officers as soon as practical, but in no event more than one year after the date of employment. Satisfactory completion of either refresher training or appropriate testing, which meets the standards of the California Emergency Medical Services Authority in CPR and other first aid, shall be required at periodic intervals as determined by the Authority.

S 1802 FIREARMS TRAINING:

The Department Training Division will provide firearms training in accordance with the following procedures.

S 1803 RANGE SCHEDULE:

The Range is to be used as a regular part of training. Practice shooting, both individually and in groups, is scheduled at the direction of the Range Master.

Shooting is prohibited at the Range facilities in the absence of the Range staff. Overtime is not authorized for routine Range attendance without the approval of the appropriate Bureau commander.

Special Unit training, pistol/shotgun training, carbine training and tactical training is the responsibility of Range members.

S 1804 QUALIFICATION PROGRAM:

Sworn members are required to qualify with their firearms biannually. Biannual qualifications are conducted during March/April and September/October. Officers who are assigned carbine rifles or slug shotguns must qualify with them biannually during May and November. The Training Division will provide to the Bureau Chiefs a list of dates and times for qualification.

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It is the responsibility of each bureau to assign officers to a specific date and time. The qualification will occur during regular working hours. Qualification is with the member's primary duty weapon, City-issued 12 gauge shotgun or approved 12 gauge shotgun. Officers who are assigned carbine rifles or slug shotguns must qualify with their assigned firearm.

Shotgun qualification is optional for Lieutenants and above unless their assignment may require the possible use of the shotgun.

All members must additionally qualify with their off-duty and back-up weapons. This is accomplished during any designated "open shooting" period scheduled by Range staff.

No officer is allowed to carry a weapon for law enforcement purposes either on or off duty with which they have not qualified. The qualification program will consist of the following:

- Orientation
- Combat shooting techniques
- Qualification
- Individual instruction for members who fail to qualify

S 1805 SCORING SYSTEM:

Scoring is determined by the Range Master based on the type of weapon and its use as a primary or backup weapon.

S 1806 FAILURE TO QUALIFY:

The Training Division will immediately notify the Bureau Chief and chain of command of officers who fail to qualify with their primary duty weapon. During the next two weeks, the officer is scheduled for remedial training and/or qualification by their supervisor.

- As soon as the primary duty weapon qualification requirement is met, the Training Division will notify the officer's Bureau Chief.
- If the officer fails to qualify during the two-week intensified training, the Training Division will notify the officer's Bureau Chief and the Chief of Police.
- The officer is placed on administrative assignment pending a review by the Chief of Police of the officer's ability to perform the duties of a police officer.

S 1807 QUALIFICATION SCHEDULE:

All sworn officers must complete the qualification program twice a year during the scheduled biannual qualification.

S 1808 NOTIFICATION:

Unit Commanders are responsible for scheduling their subordinates to the biannual qualification cycle.

S 1809 MANAGEMENT SYSTEM AND RESPONSIBILITIES:

Each supervisor is responsible for ensuring the attendance of subordinates. At the end of the qualification period, all bureaus will receive from the Training Division a list identifying officers

who failed to qualify. Supervisors may also verify what weapon the officer is qualified with by contacting the Range.

S 1810 SAFETY PROCEDURES:

For purposes of safety, the Range Master will have functional authority over all Department members attending the Range, regardless of rank. All Department members using the Range will, at all times, strictly adhere to all prescribed safety procedures and use prescribed safety equipment. Violations of safety procedures or failure to use safety equipment may, at the discretion of the Range Master, result in dismissal from the Range.

Off-site training facilities will include a lesson plan, general and specific safety plan, emergency supplies and phone communications.

S 1811 REPORTING VIOLATIONS:

All violations of prescribed safety procedures or failures to use prescribed safety equipment are reported to the Training Division Commander by the Range Master. The Training Division Commander will then report such violations to the commanding officer of the appropriate bureau.

S 1812 RESPONSIBILITIES OF RANGE MASTER:

The Range Master is charged with the responsibility for administration and coordination of Department firearms training and qualification. Included within the scope of those responsibilities are:

- Coordination of all firearms training
- Research of training needs and current trends
- Development of appropriate training programs
- Qualification of all officers
- Maintenance of Range records
- Maintenance of Range inventory
- Liaison with other subdivisions of the Department

All Department firearm purchases are delivered to the Range for inspection and re-issue.

S 1812.1 FIREARMS INVENTORY:

Added 03-07-16

The San Jose Police Department's Range Master is responsible for maintaining an accurate inventory of all firearms registered to the Department. The record of the inventory is updated by the Range Unit staff any time the Department purchases new firearms or removes firearms from inventory.

Any unit outside of the Range Unit that needs to purchase a firearm must notify the Range Master to ensure the firearm is included in the Department inventory. All firearms purchases must be delivered directly to the Range Unit. No firearm shall be issued to any officer or used

in the field until it has been entered into the Range Unit firearms inventory and been inspected by a certified Range Unit Armorer.

S 1813 OPERATION OF RANGE EQUIPMENT:

The Range Master is solely responsible for the operation of the Range facility; therefore, no equipment will be manipulated except under the direction of the on-duty Range Master. All non-authorized Department members will refrain from operating or attempting to operate console equipment within the control room.

S 1814 WEARING PROTECTIVE DEVICES:

All Department members using the Police Department Range will wear approved eye and ear protective devices. An adequate number of protective devices are supplied by the Range staff.

S 1815 DEFENSIVE TACTICS TRAINING:

The Department Training Division will maintain an ongoing defensive tactics training program.

S 1816 ATTENDANCE:

All officers below the rank of Captain are required to attend defensive tactics training on a continuing basis.

S 1817 AUTHORIZED DEFENSIVE TACTICS:

Revised 06-16-04

Only those methods, curricula, lesson plans, techniques and equipment approved by the Chief of Police or designated representative shall be taught.

All uses of force shall comply with the Department's Use of Force Policy, Sections L 2600 et al.

S 1818 ATTENDANCE OF MANDATORY TRAINING

Added 08-05-11

All Department members will successfully complete required training deemed as "mandatory" in Department announcements. Successful completion will occur within the allotted time frame unless a time extension is granted by a command officer in the member's direct chain of command. Examples of such training include, but are not limited to, Continuous Professional Training (including all course components), Range Qualification/Training, Pursuit Updates, Incident Command System Training, Sexual Harassment Training, BFO Recurrent Training, etc.

In addition to recurrent training, Department members may be directed by a supervisor or command officer to attend additional training in various areas when it is determined that such training is necessary to promote key competencies, remediate unsatisfactory performance, or is favorable to the member's professional development. Department members will successfully complete all training they are directed to attend within the time frame prescribed by the directing authority.

S 1819 FAILURE TO ATTEND MANDATORY TRAINING*Added 08-05-11*

The Training Unit will immediately notify the Bureau Chief and chain of command of officers who fail to complete Mandatory and/or scheduled training. Department members retain the responsibility to schedule and successfully complete any available make-up sessions. Failure to complete mandatory training may result in formal discipline and may affect the following:

- POST incentive pay (Basic, Intermediate and Advanced)
- Outside work permits
- Selection to Specialized Units
- Transfers
- Promotions
- Approval of and release time for outside training
- Re-assignment pending resolution of deficient training requirements

S 1820 MANDATORY TRAINING ATTENDANCE-SUPERVISORY AND COMMAND RESPONSIBILITY*Added 08-05-11*

All department-wide mandatory training is approved and instituted by the Training Unit. The BFO Administrative Unit is responsible for scheduling mandatory training for all officers assigned to the Bureau of Field Operations. Unit commanders in all other bureaus are responsible for scheduling their subordinates to attend mandatory training. Each supervisor is responsible for ensuring the successful and timely completion of all mandatory training by their subordinates. The Training Division will provide all bureaus with a list of those members failing to successfully complete the required training within the prescribed time frame.

S 1821 CAMPUS POLICING TRAINING*Added 08-15-11*

All members working assignments at school sites in any capacity, subject to authorization by the Secondary Employment Unit, will have attended mandatory Campus Policing Training. Completion of this training is required in order to receive or renew an Outside Work Permit authorizing any type of non-instructional work at school campuses. The requirement to attend this training extends to members working in a fill-in capacity or during after-hours activities.



S 1900 – ADVANCED EDUCATION AND/OR TRAINING:

The Department participates in programs which allow members to attend education and training courses offered by outside agencies. The selection process for such courses is designed to choose the most qualified, while at the same time assuring the Department benefits by selecting from among those members whose careers have sufficient time remaining to warrant further advanced training and education. The Department also recognizes the City policy that travel for training should be limited to one member, where practical, who is responsible for returning to the Department and disseminating the information acquired to other Department members.

PROCEDURE

S 1901 TRAINING PROCEDURES – ADVANCED EDUCATION AND/OR TRAINING:

The Department's Training Division maintains current listings of the various seminars, conferences and schools available. When a Department member determines that specific outside training is necessary and would benefit the Department, such member will adhere to the following procedures:

S 1902 APPLICATION FOR OUTSIDE TRAINING:

Revised 03-30-22

All members requesting to attend an education or training course offered by an outside agency will adhere to the following procedure:

- **OBTAIN COURSE DATE:** Obtain a copy of the course or seminar announcement. (A current list of available schools is maintained in the Training Division).
- **COMPLETE APPROPRIATE FORMS:** Complete an "SJPD Training Request Transmittal". If requesting advance funds or the training requires travel out of the county, complete a "Travel Request" (Form 100-8).
- **OBTAIN INITIAL APPROVAL TO ATTEND:** Submit the "SJPD Training_Request Transmittal", through the chain of command, to the program manager responsible for the requesting member. When approved or disapproved, the " SJPD Training Request Transmittal" will be routed to the submitting member.
- **OBTAIN APPROVAL OF TRAVEL REQUEST:** When advance funds are necessary or the training involves travel out of the county, complete a "Travel Request." When the request involves no cost to the Department other than the employee's salary and benefits, indicate on the Travel Request, "Request for Authorization Only." Approval will be obtained with one of the following appropriate procedures:
 - In-County: Whether or not there is a cost associated with the training, approval will be obtained from the requestor's program manager.

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- Out-of-County: Whether or not there is a cost associated with the training, approval will be obtained from the commanding officer of the requesting member's bureau.
- Out-of-State (No Costs): When the training involves out-of-state travel, with no cost to the Department other than the normal employee salary and benefits, approval will be obtained from the Chief of Police.
- **ROUTING OF TRAVEL REQUEST FORM:** After approval is obtained, deliver, or route the necessary forms and course announcement to the Department Fiscal Unit. Inform Fiscal Unit members of the need for advance funds or other requirements which require special processing. The member will also route a copy of the "SJPD Training Request Transmittal" to the Training Division. If the requesting member fails to attend the class, the Training Division shall be notified.

In order to acquire the necessary financial approval and allocation of required funds, the requesting member will submit all necessary forms, announcements, and other required data to the Fiscal Unit no less than 60 days prior to the start of an out-of-state school or seminar and no less than 30 days prior to the start of any school held within California.

S 1903

TRANSPORTATION FOR OUTSIDE TRAVEL/TRAINING:

The member requesting outside travel and/or training is responsible for arranging transportation in accordance with the following procedures:

- **DETERMINATION OF TRANSPORTATION MODE:** Determine and use the mode of transportation which represents the least cost to the City and is consistent with the employee's travel needs. Costs include travel time and salary costs. The mode of transportation is approved by the Department member's program manager.
- **GROUP TRANSPORTATION:** Where several employees are authorized to travel for the same purpose to the same location and general transportation is to be used, the employees and approving authority shall coordinate travel arrangements in order to minimize the expense to the City.
- **USE OF CITY VEHICLES:** An employee desiring to use a City vehicle for travel/training will do so in accordance with the following:
 - > Unless marked police vehicle equipment is needed, use only unmarked vehicles for travel/training outside the City of San Jose.
 - > Authorization to use a City vehicle for travel/training is obtained as follows:
 - **In-County.** Authorization will be obtained from the requesting member's program manager.
 - **Out-of-County.** Authorization will be obtained from the commanding officer of the requesting member's bureau.
 - **Out-of-State.** Authorization will be obtained from the Chief of Police.

S 1904 ACCOMMODATIONS FOR OUTSIDE TRAVEL/TRAINING:

The member requesting outside travel and/or training is responsible for arranging their own housing and eating accommodations, consistent with the current City per diem schedule.

S 1905 MEMBER'S RESPONSIBILITY DURING ATTENDANCE:

When attending any Department sponsored, coordinated or approved training course, members shall adhere to the provisions of the Duty Manual. In addition, members are required to perform the following tasks:

- OBTAIN COURSE CONTROL NUMBER: When a training course is POST reimbursable, obtain a "POST Control Number" from the instructor or course administrator prior to completion of the training period. Record this number on required forms upon completion of the training.
- RECORD AND DOCUMENT EXPENSES: Maintain a record of lodging, transportation, supplies and other expenses. These expenses, other than meals, are supported by appropriate receipts. Use the "Statement of Travel Expenses" form (Form 100-5) for recording expenses (this form is issued to the member prior to departure to the training site).
- OBTAIN COURSE MATERIALS: Obtain and maintain all course material and/or handouts supplied during the training.

S 1906 MEMBER'S RESPONSIBILITY AFTER TRAINING:

Revised 03-30-22

The member attending any outside school, seminar, or training conference will perform the following tasks once the training course is completed:

- **SUBMIT "REIMBURSEMENT OF TRAVEL"**: Complete a "Statement of Travel Expenses" form and file it with the Department's Fiscal Officer within one week (7 calendar days) of return from the training site. When applicable, include the "POST Control Number" on this form. In addition, attach all receipts for expenses, other than meals, to the form at time of submittal to the Fiscal Officer.
- **SUBMIT COURSE CRITIQUE AND CERTIFICATION/PROOF OF ATTENDANCE**: Within 10 days of returning from any school or seminar, submit course critique forms to the Training Division. Also, submit a copy of the Certificate of Course Completion or Proof of Attendance to the Training Division.

S 1907 USE OF RELEASE TIME:*Added 08-13-03*

Release time is defined as authorized leave granted to a Department member regardless of Bureau, Division or Unit, excusing them from their regularly assigned duties to attend other police-related activity. Release time is only authorized for the immediate duration of the event for which time is granted. The Department member does not use benefited time, (e.g., compensatory time, vacation time, sick leave, leave without pay, military leave, etc.) when scheduled on authorized release time.

- Authorizing Positions: it is the responsibility of the Deputy Chief, or designee, of the requesting member's Bureau to authorize "release time".
- Authorized Activities: When approved, release time is granted for a Department member to participate in police-related business or activities. Release time from regularly assigned duties is commonly granted for court appearances or training. Release time is also authorized for bargaining unit representatives pursuant to the agreement between the City and the applicable bargaining unit.
- Authorized Duration: if the duration of the event is less than the members' full work shift and, considering travel time, the member can reasonably return to work prior to the end of their shift, they will return to their regular work assignment. This issue should be determined prior to granting the "release time".



S 2000 – RECORDS AND COURSE MATERIALS:

A record of each Department member's training and education is maintained by the Training Division. In addition, an outside school resource center is established and contains copies of all handouts and other course materials received from outside training presenters. This resource center is made available to all Department members.

PROCEDURE

S 2001 TRAINING PROCEDURES – RECORDS RETENTION:

The Department Training Division is responsible for maintaining accurate individual training records on all Department members.

S 2002 INDIVIDUAL RESPONSIBILITY:

Department members will personally review their own training folder annually. Review will occur within ten days of such member's birthday, and inaccuracies or omissions are brought to the attention of the Training Division.

S 2003 MAINTAINING COURSE MATERIALS AND CRITIQUES:

The Department Training Division maintains a central file that incorporates critiques and evaluations made by Department members who attend outside schools/seminars. This file is available to any Department member to assist in selecting an acceptable quality school or to obtain information from the course announcement.



S 2100 – PROVIDING TRAINING TO OTHER JURISDICTIONS:

The San Jose Police Department is professionally obligated to contribute and share knowledge, skills, and techniques with other police agencies and members of the criminal justice system. It is the intent of the Department to fulfill this obligation within the spirit of professional cooperation and yet remain within the realm of existing resource practicality and realistic fiscal limitations.

PROCEDURE

S 2101 TRAINING PROCEDURES – PROVIDING TRAINING TO OTHER JURISDICTIONS:

The following procedures are adhered to when San Jose Police Department members provide training to other jurisdictions.

S 2102 APPROVAL REQUIRED FOR PROVIDING TRAINING TO OTHER JURISDICTIONS:

When other jurisdictions request the commitment of San Jose Police Department resources to provide training, such a commitment will require the approval of the commanding officer of the bureau controlling the requested resources. In examining these requests, the bureau commander will consider:

- The requesting agency's agreement to reimburse all costs as determined by the San Jose Police Department
- The advantages to this Department of providing such training
- The number of persons required to conduct such training
- The length of time required to conduct such training
- The travel distance required to conduct such training.

S 2103 TRAINING FOR PARK RANGERS:

By agreement with the Parks Department, the San Jose Police Department will provide training to park rangers in arrest techniques and baton but not in firearms use.



S 2200 – PERSONNEL PROCEDURES:

In order to manage the Department's human resources, specific procedures are maintained which pertain to the recruitment, selection, assignment and separation of Department members. Records are maintained on all such departmental personnel transactions.

PROCEDURE

S 2201 PERSONNEL PROCEDURES – GENERAL PROVISIONS:

All personnel transactions affecting Department members are initiated and/or processed in accordance with the following procedures:

S 2202 MAINTENANCE OF RECORDS:

The member in command of the Department's Personnel Unit is responsible for maintenance of all official personnel records, except investigative reports involving disciplinary actions. These records include, but are not limited to, the following:

- Requests for leave of absence
- Separation from City service
- Assignment of badge numbers
- Service awards
- Personnel Roster and Change of Name and Address forms
- Requisitions and certifications to fill Department vacancies
- Departmental transfer orders

S 2203 RECRUITMENT:

Revised 09-16-20

To obtain the highest caliber candidates possible, the Department will maintain an emphasis on hiring well-rounded, experienced candidates that range in age, have high educational attainment, and come from diverse backgrounds and demographics.

To achieve these objectives, it is essential that the Department maintain an active recruitment program. The Department's recruitment effort consists of both a formal and informal processes.

- **INFORMAL:** Department members, in their daily contact with the public, have the opportunity to attract the type of individual the police service needs. Each Department member should counsel persons who show an interest in a law enforcement career and encourage qualified persons to submit an application.

- FORMAL: The Recruiting Unit is primarily responsible for recruiting qualified candidates. Department members assigned to the Department's recruitment function will maintain continual contact with community groups and will coordinate tutorial programs to assist candidates in becoming acquainted with the civil service examination process. Job classifications for which Recruiting Unit members most actively recruit include the following:
 - Police Officer
 - School Crossing Guard
 - Police Data Specialist
 - Public Safety Dispatcher

S 2204 BACKGROUND INVESTIGATIONS:

The purpose of the background investigation is to attempt to determine if behavior patterns exist that would preclude an applicant from successfully performing the duties assigned to the position, or if the applicant is legally able to handle a weapon and/or confidential material.

The background investigation includes, but is not limited to, the following:

- Employment history
- Driving history including all accidents
- Criminal history check
- Military history
- Personal references
- Use of drugs/narcotics
- Use of alcoholic beverages
- Credit check
- Residence check
- Rental history
- Neighborhood checks
- Check of present or former spouses, fiancées, roommates, etc.

The background process should be viewed as an inclusive rather than an exclusive mechanism. Its purpose is to bring into the Department those persons who seem to be most qualified to be police officers or civilian employees qualified to handle sensitive information. These investigations are conducted and/or coordinated through the Department's Personnel Unit and then only when approved by the Department's Personnel Commander. A record of all investigations conducted is maintained by the member in command of the Personnel Unit and will include the reason for the investigation, a summary of tasks performed and the result.

S 2205 EXAMINATIONS:

The Personnel Unit is responsible for assisting Human Resources in preparing and conducting Civil Service examinations for all the job classifications unique to the Police Department. This responsibility includes:

- Conducting job analyses
- Preparing examination announcements
- Screening applications
- Reviewing and/or preparing test materials
- Preparing oral interview rating sheets and questionnaires
- Ascertaining the validity and reliability of tests utilized
- Administering written, oral and practical examinations

The member in command of the Personnel Division has the responsibility to ensure that all records and results of the personnel selection processes are maintained in a secure and confidential condition until such time as they are officially made public.

S 2206

PERSONNEL FOLDERS:

The Department Personnel Unit will maintain a "Personnel Folder" on each Department member. Any member intending to place any document, letter or other correspondence in another member's "Personnel Folder" will route the document through the Department members Commander. When a document pertaining to a written reprimand, demotion or other disciplinary matter is to be placed in a member's "Personnel Folder", such member is notified. Notification is accomplished by routing a copy of the document to the involved member and then recording the date, time and person making the notification on the document to be filed. Contents of a "Personnel Folder" include, but are not limited to, the following items:

- Access sign-in sheet
- Annual performance appraisals
- Appointment, transfer and assignment papers
- Personnel history sheet (name, age, address, etc.)
- Outside Work Permits
- Reports of on-duty accidents or injuries
- Supervisor's report of on-duty injuries
- Return to Work Forms for disability and modified duty
- Disciplinary actions
- Letters of commendation

S 2207

ACCESS TO PERSONNEL FOLDERS:

Only those Department members authorized by the Chief of Police are allowed access to a member's "Personnel Folder." The following members are authorized access to an individual's personnel folder within the indicated limitations:

- THE MEMBER: Members may review their own "Personnel Folder" during the following working hours of the Personnel Unit: 0800 to 1600 hours, weekdays, excluding holidays.

- THE MEMBER'S SUPERVISOR(S): Any supervisor in the involved member's direct chain of command may review a subordinate's "Personnel Folder" when such review pertains to a Department function, goal, assignment or responsibility.
- THE MEMBER'S POTENTIAL SUPERVISOR: Any supervisor attempting to fill a vacancy in such supervisor's command may review the "Personnel Folder" of any member making a request for assignment to such vacancy.
- INTERNAL AFFAIRS UNIT: Any member assigned to the Department's Internal Affairs Unit may review another member's "Personnel Folder" for purposes of effectively completing an internal investigation.
- RECRUITING AND BACKGROUND INVESTIGATION SECTION SERGEANT: The member in command of the Recruiting and Background Investigation Section is authorized access to all personnel and background folders for the purpose of performing assigned responsibilities.
- COMMANDING OFFICER OF PERSONNEL UNIT: The commanding officer of the Department's Personnel Unit is authorized access to all "Personnel Folders" for purposes of performing assigned responsibilities.
- PERSONNEL UNIT MEMBERS: Personnel clerks and other Personnel Unit members are authorized limited access, as necessary, to update or purge records.
- DISTRICT ATTORNEY INVESTIGATORS: Per Section 832.7 of the Penal Code, if approved by the Chief's Office.
- GRAND JURY: Per Section 832.7 of the Penal Code, if approved by the Chief's Office.



S 2300 – EMPLOYEE APPRAISALS:

Properly performed employee appraisals provide a means of formally documenting each Department member's performance. The intent of such appraisals is to acknowledge accomplishments and/or to identify those areas of performance which are deficient. To ensure that such appraisals are systematic, consistent and meaningful, the Department and City Administration maintain procedures for conducting employee appraisals as the need and circumstances require.

PROCEDURE

S 2301 EMPLOYEE APPRAISAL – GENERAL PROVISIONS:

An employee appraisal alone is not sufficient basis for all personnel transactions, but in conjunction with other records, it provides the basis for sound decisions, especially in areas of training, counseling, request for assignment and achievement of goals and objectives. Employee appraisals also aid in the promotional process, assist management in evaluating the quality of supervision within the Department, and contribute to the documentation of conduct which warrants disciplinary action, employee retention or granting of a salary increase. However, to be effective, employee appraisals must be conducted in a consistent and appropriate manner. Therefore, all supervisors responsible for conducting employee appraisals will adhere to the following procedures.

S 2302 RATING SCHEDULE:

The City Administration requires that supervisors rate subordinates in accordance with employee appraisal guidelines. The "City of San Jose Performance Appraisal Form" (Form 190-31) is used as follows:

- **PROBATIONARY EMPLOYEES:** A civilian employee on probation is given three appraisals during the probationary period. The first two appraisals are given without a formal notification from the Police Personnel Unit. Only the third appraisal is forwarded through the chain and sent to the Police Personnel to process and forward for the individual's personnel file. The probationary period shall be regarded as a part of the testing process (Sec.3.04.1000 SJMC), and the employee may be rejected at any time by the Appointing Authority without the right of appeal to the Civil Service Commission. The "Performance Appraisal Form" is used as follows:

First Appraisal. The first appraisal should be completed within the first month of the probationary period. It should include only the key elements of the position and the performance targets for the next probation review. The key elements are set by the supervisor and communicated to the employee.

Second Appraisal. The second appraisal should include an evaluation of performance and an analysis of how well the employee accomplished the performance targets.

NOTE: For an employee on six-month probation, the form should be completed for the second appraisal before the end of four months in the classification.

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For an employee on twelve-month probation, the form should be completed for the second appraisal at the end of the eighth month.

Third Appraisal. The third appraisal should include an evaluation of performance and an analysis of how well the employee accomplished the performance targets. The third appraisal must be completed and returned to the Personnel Department by the Department head at least 15 calendar days prior to the date probation ends. According to current Civil Service Rules, a probationary employee is considered terminated if the performance appraisal is not submitted by the date the probationary period ends.

A permanent appointment should be given only to an employee who has unquestionably demonstrated an ability to effectively perform the duties and responsibilities of the assigned position. No one should be recommended for retention on permanent status whose overall performance falls at or below the "Improvement Needed" or "Unsatisfactory" categories in one-half or more of the performance factors rated.

NOTE: For a part-time employee, 1040 hours is equivalent to six months of service and 2080 hours is equivalent to twelve months of service.

Officers are exempt from the first two probationary appraisals. They are rated daily in the Field Training Program. A final probationary appraisal is required to formally end the year's probationary period and is in the standard format and submitted through the chain of command to the Personnel Unit who will forward to Human Resources for the individual's personnel file.

- PERMANENT EMPLOYEES: All employees are rated on an annual basis. Such appraisals will occur on or within thirty (30) days of the anniversary date of the employee being rated. Appraisal dates are affected and adjusted accordingly with promotions, merit increases or leaves of absences.
- CHANGE OF SUPERVISOR: Any supervisor assigned to a bureau other than BFO who is transferred to another assignment will complete a "Performance Appraisal Form" for all subordinates who have not been rated within nine months. The evaluations are completed at least seven (7) days before the transfer.
- SALARY INCREASE: An employee who is due for a salary step increase automatically receives that increase unless a recommendation against that increase is submitted in accordance with Section 3.3.3 of the City Policy Manual.
- MERIT INCREASES: An employee may be advanced to a higher salary step more rapidly than is scheduled if the employee has clearly displayed outstanding performance. Such a merit increase is processed in accordance with Section 3.3.3 of the City Policy Manual.

Supervisors are not restricted to rating employees at only the required times but may also submit special ratings as circumstances warrant. The "Performance Appraisal Form" may be used to officially recognize the commendable performance of an employee, to draw attention to a work problem, to identify short term performance targets or for other purposes of a similar nature.

S 2303**STANDARDIZATION OF APPRAISALS:***Revised 10-02-01*

Supervisors have a responsibility to ensure that employees who perform the same type of work are rated on the same performance elements regardless of job classification. Authorized performance elements are as follows:

- **ELEMENT NUMBER ONE (1.) – COMMUNICATIONS:** Comprehension and analysis of oral and written questions, instructions and information are rapid, thorough and accurate. Response to oral and written questions, instructions and information is timely and appropriate. Vocabulary is suited to audience. Information presented is accurate, complete, and current. Written reports and correspondence are well-organized, legible, concise, neat and in proper grammatical form. Speech and verbal instructions are clear, concise and understandable.
- **ELEMENT NUMBER TWO (2) – RELATIONSHIPS WITH OTHERS:** Dealings with subordinates, fellow employees, supervisors, citizens, personnel from other departments and agencies are characterized by fairness, courtesy, diplomacy, honesty, firmness, empathy and confidence. The actions and reactions of others are interpreted accurately and empathetically. The employee is effective in motivating others, in obtaining information from others and in supplying information to others. Confidences are treated with tact, diplomacy and integrity. The employee is approachable and open to suggestions.
- **ELEMENT NUMBER THREE (3) – JOB EXPERTISE:** Familiarization with assignment is thorough and complete. Knowledge and use of commonly encountered laws, statutes, codes, procedures/policies and methods are complete and current. Knowledge and use of infrequently encountered laws, statutes, codes, procedures policies and methods are adequate for assignment. Tactics, techniques and equipment are used proficiently, appropriately, safely and effectively. Behaviors, interviews, interrogations and physical evidence are observed, conducted, collected, preserved and/or reported effectively, appropriately and thoroughly.
- **ELEMENT NUMBER FOUR (4) – JUDGMENT:** Problems are identified rapidly, accurately, and appropriately under both emergency and non-emergency conditions. Decisions and resolutions are logical, rapid, appropriate, reliable and effective when made under routine and non-routine conditions. Relevant and irrelevant details, factual and false information are sorted effectively. Discretion is used to establish priorities in handling confidential matter and in following the chain of command.
- **ELEMENT NUMBER FIVE (5) – INITIATIVE AND RELIABILITY:** Making suggestions, answering questions, solving problems and planning activities are done with interest, flexibility, creativity, perseverance and constructiveness. Performs in new situations or under pressure with minimal instruction, is adaptable, stable and effective. Job skills and abilities are refined with industry and enthusiasm. Employee is punctual and consistent in reporting to work and meeting deadlines. Employee is productive and attentive to job.
- **ELEMENT NUMBER SIX (6) – JOB RELATED PERSONAL HABITS:** Appearance and clothing are well-groomed and appropriate for assignment. Equipment worn on the person is well-maintained. Stamina, endurance, strength, agility and physical coordination are appropriate for job assignment.

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- ELEMENT NUMBER SEVEN (7) – PLANNING AND ORGANIZING: Assessment of programs is effective and constant. Specific tasks are consistent with Department goals. Priorities are established accurately, appropriately and constructively. Work is distributed appropriately and equitably. Utilization, control and evaluation of Department members, equipment and budget in completing processes and tasks are accomplished effectively and consistently.
- ELEMENT NUMBER EIGHT (8) – SUPERVISION: Inspection and evaluation of subordinates' performance are done thoroughly, continually, equitably and accurately. Subordinates are effective, productive, well-trained and have high morale. Subordinates are provided direction, counsel and guidance which are helpful, constructive and effective. Delegation of authority and responsibility is adequate and appropriate.
- ELEMENT NUMBER NINE (9) – EQUALITY ASSURANCE: Complaints of discrimination are immediately and impartially analyzed and effective corrective action is taken. The City's and Department's Equality Assurance plans are understood and appropriate action is taken to implement those plans. Job related needs of employees are identified and appropriate action is taken for meeting those needs.
- Unsatisfactory Performance – Does not understand the City and Department's commitment to Equal Employment Opportunity. Fails to take action on complaints of discrimination and/or harassment. Job related needs of the employee are not identified. Fails to take appropriate or corrective action where needed.
- Meets Standard – Knowledge of the City & Department's commitment to equal employment and nondiscrimination; complaints of discrimination and/or harassment are immediately and impartially analyzed and effective action is taken. Job-related needs of employees are identified and appropriate action is taken for meeting those needs.
- Exceptional – Through leadership and demonstrated behavior, promoted fair and equal treatment of others. Has a complete understanding of the City and Department's commitment to equal opportunity. Consistently coached, monitored and identified potential problems and took preemptive corrective action where needed.

The performance elements to be used are determined by adhering to the following guidelines:

<u>NATURE OF JOB</u>	<u>PERFORMANCE ELEMENTS TO BE USED</u>
Work involves no administrative duties and no supervision.	1, 2, 3, 4, 5, 6
Work involves administrative duties but no supervision.	1, 2, 3, 4, 5, 6, 7
Work involves both administrative duties and supervision.	1, 2, 3, 4, 5, 6, 7, 8 & 9

“Administrative duties” is used here to include all work involving the planning, organizing or control of resources beyond those allocated to the individual.

S 2304**COMPLETION OF SPECIFIC SECTIONS:**

Supervisors will complete the following “Performance Appraisal Form” sections as indicated.

- **“PERFORMANCE TARGETS FOR THIS PERIOD” SECTION:** This section is to be filled in when performance targets were set on a previous rating with the targets to be accomplished during the period in which the employee is now being evaluated. This section will list the targets set on the previous rating sheet.
- **“COMMENTS ON KEY ELEMENTS AND PERFORMANCE TARGETS” SECTION:** The first entry in this section will list the bureau and unit/detail/section to which the employee is currently assigned together with the total number of months the employee has been in that assignment.

Example: BFO, MERGE, 6 months in assignment.

This section will provide the rater’s narrative description and evaluation of the achievement of performance targets set by the employee during the rating period. Regardless of how the employee is rated overall or on any performance in this section, the rater will describe both the most satisfactory performance for the period and the least satisfactory performance for the period.

- **“FUTURE PERFORMANCE TARGETS” SECTION:** In this section the rater will list those reasonable performance targets that the rater and the employee have mutually agreed upon. Examples of possible performance targets are:
 - Develop informants in stolen property activity
 - Increase moving violation citations by 10%
 - Improve FI card utilization
 - Reschedule hours of investigators for better vehicle utilization
 - Decrease residential burglaries in district
 - Decrease individual weight from 230 lbs. To 195 lbs.
 - Be on time for briefing each day

Future performance targets may well, though not necessarily, be related to the least satisfactory performance for the rated period.

S 2305**RATING PERFORMANCE:**

For each Performance Element, one of the following evaluations must be marked: Exceptional, Above Standard, Meets Standard; Improvement Needed or Unsatisfactory. The meaning of each of these evaluations is as follows:

- **EXCEPTIONAL** – Work performance is clearly superior or outstanding compared to the performance requirements for the position. This rating must be explained in the “comments” section.

- ABOVE STANDARD – Work performance is definitely well above the standards of performance required for the position. An explanation of this rating must appear in the “comments” section.
- MEETS STANDARD – Work performance is consistently up to or somewhat above the requirements of the position. This is the performance that is expected of the trained and qualified employee. Comments are recommended.
- IMPROVEMENT NEEDED – This rating indicates that (1) a significant part of the work performance is below the standards of performance required for the position and (2) it is reasonable to expect that the employee will bring performance up to acceptable standards. An explanation must be presented in the “comments” section to support this rating.
- UNSATISFACTORY – A substantial part of the work performance is inadequate and definitely inferior to the standard of performance required for the position. Factual evidence must be presented in the “comments” section to substantiate this rating. When the overall evaluation is marked “unsatisfactory,” it should be accompanied by a recommendation for a demotion or discharge in those cases in which the employee is still in service.

When an employee’s rating on a Performance Element reflects “Exceptional,” “Above Standard,” “Improvement Needed” or “Unsatisfactory,” an explanation of the rating on that Performance Element must be included in the “Comments on Key Elements” section.

S 2306

PERFORMANCE APPRAISAL APPEALS:

All Performance Appraisal appeals are accomplished through the Chief of Police. Any non-probationary employee who wishes to appeal their Performance Appraisal will, as a first step, schedule an appointment with the Chief of Police.



S 2400 – POSITION CONTROL AND TRANSFERS:

The number and allocation of all positions within the Department and the assignment or reassignment of Department members are documented and maintained in current status.

PROCEDURE

S 2401 POSITION CONTROL:

The Department's position control system is regulated by the Civil Service Rules and City Policy Manual.

S 2402 TRANSFER PROCEDURES:

Personnel and position transfers between teams, units, divisions, bureaus, transfers out of the Department, TDY assignments, or any combination thereof, are reported to the Personnel Unit in conformance with the following procedures:

- RESPONSIBILITY OF GAINING PROGRAM MANAGER: The Program Manager of the unit, division or bureau gaining an employee will initiate and complete a "Request for Transfer" (Form 201-23C). The Program Manager of the gaining unit, division or bureau will immediately forward a copy of the "Request for Transfer" to the Fiscal Unit – Position Management and Personnel Unit. The original will then be submitted through the chain of command.

Completed forms are due in the Personnel Unit prior to the effective date of the transfer or TDY assignment.

If there is no vacancy in the gaining unit or the transfer is temporary, the transfer is a TDY assignment. TDY assignments are for a maximum of six months (renewable upon review) or to the end of the fiscal year if less than six months remain.

- RESPONSIBILITY OF POLICE DEPARTMENT PROGRAM MANAGER WHEN PERSONNEL TRANSFER TO ANOTHER CITY DEPARTMENT: The Program Manager of a unit, division or bureau that is losing an employee to another City department will initiate and complete a "Request for Transfer" (Form 201-23C).

The Program Manager of the unit, division or bureau that is losing an employee will immediately forward a copy of the "Request for Transfer" to the Personnel Unit. The original will then be submitted through the chain of command.

Completed forms are due in the Personnel Unit prior to the effective date of the transfer.



S 2500 – EMERGENCY INFORMATION AND NOTIFICATION PROCEDURES:

In the event an employee is injured or becomes ill on duty, the Department has the responsibility to notify and supply certain information to various individuals and/or agencies. To accomplish this responsibility, the Department maintains procedures pertaining to the dissemination of such information.

PROCEDURE

S 2501 EMPLOYEE INFORMATION AND NOTIFICATION PROCEDURES:

All Department members, including Crossing Guards and part-time employees, will complete and maintain current emergency contact information. Forms (“Sworn/Professional Staff Annual Update and Verification”) are available at the Personnel Unit. Completed forms are to be submitted to the Personnel Unit.

S 2502 RESPONSIBILITY OF PERSONNEL UNIT COMMANDER:

The Personnel Unit commander will ensure that the “Sworn/ Professional Staff Annual Update and Verification” form is distributed to each employee of the Department. Completed and signed forms are reviewed and information updated in the Police Personnel Resource Information System (PPRIS). The Personnel Unit will publish monthly the “Emergency Contact Report” (Form PNR001). The “Emergency Contact Report” is retained in the Records Section, Operations Support Services Division; Administrative Office, Bureau of Field Operations and the Personnel Unit. The “Emergency Contact Report” is located in an area not accessible to the public or unauthorized individuals.

The Personnel Unit commander is responsible for ensuring that employees recently appointed to a position with the Department are supplied with, and complete, a “Sworn/ Professional Staff Update and Verification” form.

S 2503 RESPONSIBILITY FOR REPORTING INFORMATION AND CHANGES:

Each individual Department member is responsible for supplying the required information and reporting changes to existing information. Members will supply information whenever one of the following circumstances occurs:

- When initially employed by the Department
- When personal, medical or notification information changes
- When notified to resubmit current information

S 2504 PROCEDURE FOR USE:

All Department members will adhere to the following procedures and rules when utilizing the information contained on the Department’s “Emergency Contact Report.”

S 2505 ACCESS TO INFORMATION:

In order to ensure the security of the personal and emergency information supplied by Department members, access to such information is authorized as follows:

- OPERATIONS SUPPORT SERVICES DIVISION MEMBERS: Department members assigned to the Operations Support Services Division, Records Unit, are authorized direct access for purposes of releasing employee information to authorized receivers.
- ADMINISTRATIVE SERVICES MEMBERS, BUREAU OF FIELD OPERATIONS: Department members assigned to the Administrative Services Section, Bureau of Field Operations, are authorized direct access for purposes of releasing employee information to authorized receivers.
- PERSONNEL UNIT MEMBERS: Department members assigned to the Personnel Unit, are authorized direct access for purposes of releasing employee information to authorized receivers.
- COMMAND OFFICERS: Any officer holding the rank of Lieutenant or higher, or a civilian commanding a sub-unit reporting to a Captain or Deputy Chief, is authorized direct access for purposes of accomplishing the goals and objectives of such command.
- OTHER DEPARTMENT MEMBERS: Department members, other than the above, will obtain information from the "Emergency Contact Report" by requesting the information from Operations Support Services Division members or a command officer. Members seeking information will supply required identification at the time the request for information is made.

S 2506 AUTHORIZED RECEIVERS:

Department members will release personal, medical or notification information only to other Department members or in compliance with the "Special Instructions" supplied, and then only after receiving proper identification which absolutely determines the requester's status as a Department member.

EXCEPTION: The name and badge number of a Department member may be released to the news media by a command officer or by the Department's Press Relations Officer at the direction of the Office of the Chief of Police.

S 2507 RELEASE OF INFORMATION PROCEDURE:

When releasing information contained in the "Emergency Contact Report," the employee authorized to release such information will ensure that, prior to release, the identity and status as a Department member is obtained and verified in accordance with the following procedures:

- RELEASE VIA TELEPHONE: In all cases, regardless of recognition, the member releasing the information will first obtain the name, badge number, social security number and mother's maiden name from the person requesting the information. The member authorized to release the information will then compare the given identifiers against the data contained in the "Emergency Contact Report." If the information is the same, the information requested may be supplied. If the information does not match, or there is no listing for the requester, then no information will be supplied via telephone.

- RELEASE IN PERSON: When a member requests information in person and presents a Department Identification Card or is recognized as a Department member, the requested information may be released.
- RELEASE IN ACCORDANCE WITH "SPECIAL INSTRUCTIONS": Information will, when possible, be released in adherence to the "Special Instructions" given by the employee completing the form.

When requests for information are denied and the person seeking the information requests or demands to talk with a superior, the member denying the request will refer such person to the unit commander or such commander's designee. When the requester is still denied the information but continues to demand access, such requester will be referred to the Office of the Chief of Police.

S 2508

SPECIAL INSTRUCTIONS:

When completing the "Annual Update and Verification" form, members will be particular about including any special instructions for release of the information supplied. Special instructions may include: the conditions under which release of telephone numbers is authorized (such as contacting an employee at home prior to release); a second person to be notified; a statement as to the health of the person to be notified; should contact be made in person or by phone; or any other relevant instructions.



S 2600 – DISABILITY AND LIMITED DUTY ASSIGNMENTS:

Department management is responsible for maintaining a formalized system of tracking Department members who are on extended disability leave, sick leave or on a limited duty status. The objective of this policy is to accomplish Department priorities by utilizing the skills and abilities of existing employees who are unable to continue to perform the full range of duties within their classification. Department members affected by this policy shall be provided with a means of obtaining information regarding their status and related benefits.

PROCEDURE

S 2601 DISABILITY – GENERAL PROVISIONS:

These procedures apply to Department members who are disabled due to either service connected or non-service connected disabilities. All Department members will adhere to these procedures as indicated.

S 2602 DISABILITY LEAVE – DEFINITION:

This type of leave is used for occupational injuries and/or illnesses. Only the City of San Jose Employee Services Department, Workers’ Compensation Office, can grant disability leave.

A member must use sick leave until they have received authorization from Workers’ Compensation to use disability. This authorization must be obtained for each period of disability.

S 2603 SICK LEAVE – GENERAL PROVISIONS:

Procedures provided and described in this policy for sick leave are restrictive to use/application in the Police Department only. For City policy/procedure on “Sick Leave” and “Use of Sick Leave,” refer to the City Policy Manual Section 4.2.6.

S 2604 LIMITED DUTY ASSIGNMENTS – GENERAL PROVISIONS:

These procedures apply to officers who are on limited duty status recovering from either an occupational (job related) or a non-occupational (not job related) injury/illness and who are unable to perform the full range of duties within their classification. The terms “limited duty” and “modified duty” are synonymous.

S 2605 TRANSFER TO LIMITED DUTY ASSIGNMENTS:

The basic responsibility for carrying out this policy will rest with the Department Head (or assigned representative). In each instance where the Department Head has evidence that an employee has suffered a disabling injury or illness, the policy and related procedures for making a limited duty assignment are put into effect.

S 2606 TYPES OF LIMITED DUTY ASSIGNMENTS:

There are two types of limited duty assignments:

- Temporary limited duty assignments relate to those assignments made when an employee has incurred certain medical restrictions which prevent the employee from

performing for a specific period of time the full enforcement duties and responsibilities of their classification.

The purpose of a temporary limited duty assignment is to allow the employee the opportunity to regain the normal ability needed to perform all the functions of a sworn member's position.

- Long-term limited duty assignments relate to assignments made when the available medical evidence indicates the individual requires a more extended recovery period or may not be able to return to full duty within the foreseeable future.

The purpose of a long-term, limited duty assignment is to provide the Department with a method of utilizing the skills and abilities of existing employees who have incurred certain disabilities of an uncertain or extended duration, resulting in their inability to continue to perform the full range of duties required of the member.

S 2607 LIMITED DUTY ASSIGNMENTS – PROMOTIONS AND TRANSFERS:

Administratively, assignment of Department members to limited duty assignments is not to be interpreted to mean that limited duty status is a bar to competing for promotion or transfer. It is the intent of this policy to provide an officer who is on limited duty with the opportunity for both vertical and horizontal career mobility within the limits of their medical restrictions.

S 2608 RESTRICTIONS ON NATURE OF LIMITED DUTY ASSIGNMENTS:

Revised 06-01-20

Sergeants & Police Officers - The bureau of original assignment with the assistance of the Personnel Unit shall evaluate the officer's work restrictions to determine whether the officer can be reasonably accommodated. Reasonable accommodation shall be given to the officer's current shift and days off for the first thirty (30) days.

The Administrative Unit of each bureau shall notify the Personnel Unit of any officer who is anticipated to require modified duty longer than one hundred twenty (120) days. The Personnel Unit shall ensure that the provisions of the Exempt Officers' and Sergeants' Modified Duty Program (as described in DM S 2609) are followed.

All Other Department Members - The unit commander and the Personnel Unit shall evaluate the employee's work restrictions to determine whether they can be reasonably accommodated in the member's current assignment.

Basically, limited-duty assignments shall, to the best extent possible, be consistent with the following:

- The type of medical restrictions (includes psychological restriction) the employee has incurred;
- The availability of work duties appropriate to the employee's rank and classification;
- Department priorities; and
- The employee's skills.

Department management will seek to:

- Assign limited-duty employees to regularly budgeted positions in the bureau of their current assignment when work is available which matches their medical restrictions.
- Provide the employee with departmental counseling and assistance in cases requiring a major adjustment in career orientation.

Furthermore, the qualifications of all the employees, their work history within the Department, as well as the impact any medical restrictions may have on their ability to perform the duties of the desired position are considered and evaluated. They are permitted to compete with other members of that classification for positions which are within their capabilities.

In addition, no individual is required to perform duties from which they have been restricted from performing by Workers' Compensation or Employee Health Services.

S 2609

EXEMPT OFFICERS' AND SERGEANTS' MODIFIED DUTY PROGRAM:

Added 06-01-20

BACKGROUND

1. The City and San Jose Police Officers' Association (SJPOA) recognize that, despite best efforts to promote safety, police officers and sergeants are injured in the line of duty. Such injuries are unfortunate but can be a consequence of police work. The Exempt Officers' and Sergeants' Modified Duty Program ("Program") is available to any police officer or sergeant that has work-related or non-work related injuries or illnesses which preclude them from performing the full scope of their duties without accommodation.
2. The City and SJPOA recognize that police officers and sergeants exist to enforce the law and protect public safety. Some essential job duties of a police officer and sergeant include, but are not limited to, engaging in physically strenuous tasks, such as making forcible arrests, pursuing fleeing suspects, responding to mass celebrations and demonstrations, and responding to emergency situations.
3. The City and SJPOA recognize that officers and sergeants with physical restrictions can represent a valuable resource to the Police Department. Given the training and experience obtained by and invested in police officers and sergeants, the Police Department can benefit from the knowledge and experience of officers and sergeants with physical restrictions.
4. The Program is intended to provide temporary modified duty assignments for officers or sergeants with temporary work restrictions until the officer or sergeant is returned to full-duty status or meets the maximum duration of participation in the Program as outlined below.
5. The City and SJPOA recognize the legitimate interest of the San Jose Police Department in maximizing the number of officers and sergeants available for Patrol duties, and other physically strenuous activities. The responsibilities of the Police

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Department are largely physical, involving suppression of criminal activity and exhibiting levels of force necessary to control dangerous and unruly situations. Emergency situations also may require the Department to provide a large uniformed presence. Additionally, at any particular time, because of short-term disabilities, sick leave, military leave, training missions, family leave, and the like, in addition to those in the Program, officers and sergeants are unavailable for Patrol activities, reducing the actual level of officers and sergeants who may participate in Patrol assignments on a day-to-day basis. While the Department recognizes that non-physical assignments represent necessary and valuable aspects of police work, the philosophy of the Department is clearly Patrol-oriented. The first and main duty of the Department is the visible protection of the public. Because of these principles, the parties recognize that the Department has a legitimate interest in limiting the number of officers and sergeants on the force who are physically unable to perform the strenuous physical activities necessary in a Patrol assignment. A goal of the Program is to strike a balance between the business needs of the Department and the interests of injured officers and sergeants in meaningful employment in a temporary modified duty assignment. Additionally, nothing in the Program requires the City of San Jose to change its policies and procedures regarding the recruiting and hiring of police officers to entry-level employment.

6. The City and SJPOA recognize that the administration of the Police Department continues to change over time, based on budget, staffing, criminal justice priorities, negotiated terms and conditions of employment, and numerous other factors. In view of the fluid nature of the organization, the parties intend to provide for flexibility in administering this Program, and recognize that changes in circumstances may require changes in the Program beyond the provisions contemplated herein. The Police Department is committed to periodic review of positions within the Department, with a view toward inclusion of positions in the Program. A goal of the Program is to provide for flexibility in administering the Program to facilitate changed circumstances and maximum inclusion of positions, given the interests of the Department and its officers and sergeants.
7. The City and SJPOA recognize an employer's and its employees' obligations under the Americans with Disabilities Act and the Fair Employment and Housing Act.
8. The purpose of the Program is to provide a temporary modified duty Program for officers and sergeants with temporary work restrictions.

Since this Program is to provide temporary modified duty, officers and sergeants with permanent work restrictions are not eligible for the Program except as otherwise provided herein. The City will engage in the interactive process with officers and sergeants with permanent work restrictions.

PROCEDURES

1. Claims regarding the interpretation and application of the specific terms of this Program shall be grievable under the Memorandum of Agreement between the City and the San Jose Police Officers' Association, with the exception of any claim that the provisions of the Program violate state or federal law.

2. Nothing in the Program affects the provisions as negotiated in the Officers' Transfer Policy or the Sergeants' Transfer Policy with respect to officers and sergeants not covered by this Program. The transfer policies, as they pertain to the movement of officers and sergeants into and from specialized positions, shall apply to all officers and sergeants other than those exempted therefrom under the Program.
3. Under the Program, a maximum number of officers and sergeants who, because of injury, are temporarily restricted by a physician from performing Patrol functions, shall be exempted from the requirement in the Officer and Sergeants' Transfer Policies of rotating into a Patrol assignment before and after holding a specialized assignment. For purposes of the Program, such officers and sergeants shall be referred to as "exempt officers or sergeants," or "officers or sergeants subject to the Program."
4. When an officer or sergeant is first injured and temporarily restricted from performing the essential job duties of their position, including but not limited to the functions of an arrest, but is otherwise released to return to work, the Department shall attempt to accommodate that officer or sergeant within the officer's or sergeant's bureau of origin for up to 120 calendar days. Should an officer's or sergeant's restriction from performing the essential job duties of their position, including but not limited to the functions of an arrest, or otherwise participating in Patrol activities continue in excess of 120 calendar days, that officer or sergeant shall then be assigned to one of the available vacant positions in the Program.
5. The number of exempt officers and sergeants shall be determined by an analysis of the Department's ability to function effectively considering the inability of such officers and sergeants to be assigned to a Patrol position. However, the maximum number of exempt positions in the Program shall be twenty (20) positions. Of these twenty (20) positions up to five (5) positions shall be designated for sergeants who participate in the Program. Such factors as total number of officers and sergeants, budgetary considerations, law enforcement priorities, past experience, and other relevant criteria, shall be considered. Should the Chief of Police determine that the maximum number of exempt officers or sergeants should be changed, the requirements of City Charter Section 1111 (meet and confer with interest arbitration, if necessary) shall apply. Nothing in the Program prevents an interim determination, should drastic changes in staffing resulting from budgetary cuts, or other economic situations, occur.
6. The Department shall maintain a list of designated positions as determined by the Chief of Police within the Department up to the maximum number of exempt positions within the Program. The list of designated exempt positions shall be organized based on the operational need of the Department, as designated by the Chief of Police. All such positions shall be administrative in nature and characterized by the fact that they do not require an officer or sergeant to be able to perform the essential job duties of their position, including but not limited to the functions of an arrest.
7. Exempt positions shall be filled in order of priority, based on the operational needs of the Department, as designated by the Chief of Police. Once in the Program, Exempt Officers and Sergeants shall be assigned based on this priority designation. Once assigned to a position, the Exempt Officer or Sergeant shall remain in that assignment until such time as:

- a) They are released to full duty;
 - b) Their work restrictions change such that they can perform the essential functions of a patrol assignment;
 - c) Their work restrictions change such that the Department can no longer accommodate them;
 - d) The Department's operational needs change; or
 - e) The officer or sergeant exceeds the maximum duration in the Program as outlined in Section 12 below.
8. The Program is intended to apply only to officers and sergeants who are temporarily restricted from performing the essential job duties of their position by a physician, including the forcible arrest function. An officer or sergeant subject to the Program who recovers to the extent that they are no longer medically restricted from performing the essential job duties of their position, including the arrest function, and is cleared for full-duty Patrol activities, shall be reassigned to a Patrol or other full-duty position.
9. The number of positions subject to the Exempt Officers' and Sergeant's Modified Duty Program shall not exceed the maximum number described in paragraph 5 above. Should the number of exempt officers or sergeants equal that maximum number and should an additional officer or sergeant sustain injuries that would otherwise qualify for inclusion in the Program, the following procedure shall apply: When it appears likely that an officer or sergeant will qualify for the Program, the Department shall evaluate all the officers or sergeants subject to the Program to determine if there is a likelihood that, through retirement or recovery, a vacancy within the Program will exist. If there is no likelihood of a vacancy, the Department shall make an announcement requesting a volunteer to vacate their position within the Program. In case of multiple volunteers, the officer or sergeant with the highest City seniority, i.e., highest amount of total time accrued in all classes in the Classified Service, prevails. Should an officer or sergeant volunteer to vacate their position within the Program, that officer or sergeant may exhaust their remaining accumulated sick time, vacation time, or compensatory time (integration time) pending an application for retirement. Should that volunteer officer or sergeant exhaust all integration time and not retire or separate from City service, the Department shall notify said officer or sergeant to either return to full-duty status or be separated from City service. Should the volunteer apply for a disability retirement, the Department shall advise the Retirement Board that the Department does not have a position available for this volunteer because of the volunteer's physical restrictions and lack of available Program positions. The Department shall assign the officer or sergeant becoming subject to the Program to one of the vacant positions. Should no officers or sergeants volunteer to vacate their position, the injured officer or sergeant shall be required to use any available leaves, including accumulated sick, vacation, or compensatory time (integration time). Once that officer or sergeant's available integration time has been used, and if no positions within the Program are then available, the officer or sergeant may exhaust any other leave entitlements. Once all paid leave entitlements have been exhausted, the officer or sergeant may be granted an unpaid leave of absence as a form of reasonable accommodation, pursuant to the Memorandum of Agreement between the City and the San Jose Police Officers' Association, while waiting for assignment to a vacant position in the Program. If after

exhaustion of all paid and unpaid leave there is no vacant position in the Program the officer or sergeant shall be notified by the Department to immediately return to full-duty or may be separated from City service. Should the officer or sergeant apply for disability retirement, the Department shall advise the Retirement Board that the Department does not have a position available for this officer or sergeant because of the officer's or sergeant's physical restrictions and lack of available Program positions.

10. Should there be multiple officers or sergeants injured and a vacancy becomes available in the Program, officers or sergeants shall be accepted into the Program in order of date of eligibility for entry into the Program, with the earliest date of entry into the Program being assigned first. If the entry dates are the same, then City seniority will determine which officer or sergeant will enter the Program first.
11. If after assignment to a position in the Program, an officer or sergeant has a need for any type of a leave of absence greater than six (6) weeks, the officer or sergeant will be considered to have voluntarily vacated the position in the Program. If the officer or sergeant is able to return to work in a temporary modified duty capacity after the leave of absence, the officer or sergeant will be placed in a position for the remaining duration available for their injury, as outlined in paragraph 12 below, provided there is a vacant position in the Program available at that time.
12. Duration of Program for Exempt Officer or Sergeant. Officers or sergeants subject to the Exempt Officers' and Sergeants' Modified Duty Program shall be limited to participation in a Program position for a maximum of two (2) calendar years, or earlier if the employee's work restrictions have been deemed permanent and stationary. Approximately ninety (90) days prior to the expiration of the two-year calendar term in the Program, the Department will notify the officer of the upcoming expiration and will discuss options as set forth in paragraph 13 below.
13. Program. Once an officer or sergeant has participated in the Exempt Officers' and Sergeants' Modified Duty Program position for two (2) calendar years, or earlier if the employee's work restrictions have been deemed permanent and stationary, the Department will consider and discuss with the exempt officer or sergeant the following options:
 - a) returning the member to full-duty with or without reasonable accommodation;
 - b) engaging the member in the interactive process;
 - c) using available paid leave, FMLA/CFRA leave, or absence through the workers' compensation system, if applicable;
 - d) recommending disability retirement;
 - e) providing an unpaid leave of absence under the City's Memorandum of Agreement with the SJPOA;
 - f) employees with permanent and stationary restrictions who cannot be provided a reasonable accommodation are required to submit for a disability retirement within 30 days of the conclusion of the interactive process;
 - g) initiating voluntary separation if none of the foregoing options are appropriate.

If an employee in the program has applied for a disability retirement within 30 days from the effective date of the implementation of this Program and the disability

retirement is pending determination by the Police and Fire Retirement Board, the maximum time in the program, under section 12, above, shall be extended until the Police and Fire Retirement Board makes a determination of the employee's disability retirement application. This extension shall not apply to any appeals of the Police and Fire Retirement Board's determination.

14. Promotion. The Department promotes officers to the rank of sergeant and sergeants to the rank of lieutenant, in compliance with civil service rules, from an eligibility list created through a competitive examination. Officers and sergeants subject to the Exempt Officers' and Sergeants' Modified Duty Program shall not be prohibited from competing for spots on the eligibility list for sergeant or lieutenant. Should an officer or sergeant subject to the Program be selected to promote to sergeant or lieutenant, the Department shall give consideration to assignments outside of the Patrol Division, notwithstanding the provision in the Sergeants' Transfer Policy requiring incoming sergeants to be assigned to a Field position.
15. Uniforms. Because the public regards an officer in uniform as being able to perform the essential job duties of their positions, including but not limited to the forcible arrest function and/or physical intervention function, Exempt Officers and Sergeants shall not wear the police uniform while on duty. The Chief of Police may create exceptions under appropriate circumstances.
16. Overtime. Each Unit has its own overtime policies. Approval or denial of overtime shall be determined based on the Department's needs and consistent with the exempt officer's or sergeant's work restrictions.
17. Outside work permits. Exempt officers and sergeants shall be allowed to obtain outside work permits consistent with the nature and restrictions of their injuries. Applications for work permits for exempt officers and sergeants shall be determined based on an officer's or sergeant's ability to physically perform the outside work, not on injured status alone.
18. Distribution of Policy. The City of San Jose must affirmatively offer copies of the Exempt Officers' and Sergeants' Modified Duty Program, as described above, to all police officers and sergeants.
19. Training. The City of San Jose must include training about this Program in its continuing professional training.
20. CPT. Participation in the Exempt Officers' and Sergeants' Modified Duty Program shall not preclude officers and sergeants from meeting their 24 hours of POST training requirements.

S 2610

INJURY REPORTING REQUIREMENTS:

The employee must notify their supervisor (or the next level in the chain of command if the supervisor is not available) immediately in the event of an occupational injury or illness and whether it will result in time off work as determined by a competent medical authority. The employee will assist the supervisor in completing the injury report forms (5020 and DWC

Form 1). Injury report forms must be completed within 24 hours of the injury and submitted to the bureau's administrative unit, Workers' Compensation and the Police Personnel Unit. The injury report form will contain the member's badge number, home address and home phone, and a case number (if appropriate). The SJPD Employee Incident Report (SAFE002) and Accident/Incident Investigation Form (SAFE003) must be completed and turned into the Department Safety Officer within 48 hours of the day of the injury.

The member will seek medical attention within 24 hours if the injury or illness is going to cause the employee to lose time from work.

S 2611

EMPLOYEE'S RESPONSIBILITY:

Off-Duty – The completion of the "Non-Industrial Return-To-Work Status" form is required to describe the medical status of a disabled employee from an Off-Duty (non-industrial) injury/illness who has been off work for a month or more or is returning with work restrictions. The employee shall be responsible for securing from their treating physician written verification to show:

- Disabled employee's current medical condition, including limitations and/or medical restrictions.
- Any change in disabled employee's medical condition which sets forth or requires a change in type of medical restrictions incurred by a disabled employee.

On-Duty – (Industrial) injury/illness is handled by the Police Personnel Unit in coordination with the City Employee Services Department, Workers' Compensation Office. Employees disabled through a work-related injury/illness shall report to the Police Personnel Unit. Therefore, any time an injury results in the member being placed on either Disability or Modified Duty (including flare-ups of previous injuries), the disabled employee shall be responsible for securing from their treating physician written verification to show:

- Disabled employee's current medical condition, including limitations and/or medical restrictions.
- Any change in disabled employee's medical condition which sets forth or requires a change in type of medical restrictions incurred by a disabled employee.

All information described above shall be taken without delay by the employee to the Police Personnel Unit. A copy of the information will also be furnished to the member's supervisor and the administrative unit of assigned bureau. The Police Personnel Unit will provide the Workers' Compensation Office with a copy of this information. If the Police Personnel Unit is closed, employees who have received clearance for full or modified duty from their treating physician may report to work upon presenting a copy of the physician's verification to their assigned bureau. Written verification from the Police Personnel Unit must then be obtained at the earliest possible date.

In addition, the employee is required to attend all scheduled meetings or medical appointments pertaining to their medical condition and to report any change of treating physician to Workers' Compensation and the Police Personnel Unit.

For occupational injuries, the employee is required to cooperate with Police Personnel and/or Workers' Compensation in completing any and all State mandated forms and report any change of treating physician to the Workers' Compensation Office.

NOTE: For occupational injuries or illnesses, any requests for change of the treating physician shall be cleared through Workers' Compensation, City of San Jose, Employee Services Department.

When a disabled employee is unable to report for duty due to an injury or illness, they are required to report by phone or in person, to their supervisor, the Bureau Administrative Unit, and the Disability Recording line at 277-8777.

The reporting will occur on the first day of disability and each Monday (or the first business day after a holiday) the employee remains unable to work, and when there is a change in disability/modified duty status. Additionally, the disabled, off-duty employee will keep the bureau of original assignment advised of where they can be contacted.

Nothing in this policy implies a release from required police-related duties (court, etc.) based solely on disability status.

S 2612 WORKERS' COMPENSATION RESPONSIBILITY :

City policy requires that before a disabled employee can be reassigned to duty, a medical report confirming the employee's medical restriction(s) must be forwarded to Workers' Compensation for on-duty injury/illness or the Police Personnel Unit for off-duty injury/illness. According to City policy, the Workers' Compensation Office is responsible for (1) receiving, reviewing and evaluating written medical records obtained from the disabled employee's treating physician, and (2) ensuring the "Return to Work" form from the Police Personnel Unit is completed and processed for the Department in accordance with policy guidelines set forth in these provisions.

S 2613 DEPARTMENT COMPLIANCE WITH WORK STATUS RESTRICTIONS:

The information on the "Return to Work" form is reviewed and used by the Department Head as a basis for the assignment of disabled employees to modified duty assignments. The form should contain adequate provisions for (1) recommending "modified duty" status and (2) describing the type of work restrictions required.

If any questions arise regarding the employees work restrictions, the Police Personnel Unit should be contacted to clarify work restrictions through Workers' Compensation (on-duty injuries) or Employee Health Services (off-duty injuries).

Until such time as any questions or confusion are resolved by the City Medical Director, all assignment decisions are made consistent with the conditions stated by the employee.

- **RECORD MAINTENANCE OF LIMITED DUTY ASSIGNMENTS:** The Police Personnel Unit will ensure that accurate and up-to-date records of disabled employees on limited duty are maintained and that such information is coordinated with Police Department subdivisions, Workers' Compensation or Employee Health Services as appropriate.

- **TRACKING OF EMPLOYEES ON DISABILITY LEAVE OR LIMITED DUTY STATUS:** The Personnel Unit is responsible for tracking of all members who are on disability or modified duty or on medical leave of absence.
- **SUPPLYING OF INFORMATION TO DISABLED EMPLOYEES:** The Police Personnel Unit has a responsibility to ensure that information received which pertains to an employee's disability status is forwarded to the affected employee and bureau representative.

If the information received indicates that the employee would suffer a loss of benefits, the employee is notified and is provided with information as to whom to contact to mitigate the loss of benefits.

In addition, disabled employees are provided with information pertaining to the Disability Tracking System, Workers' Compensation benefits, salary continuation benefits, the Police and Fire Retirement System and other information they may require.

S 2614

GENERAL RESPONSIBILITIES OF THE BUREAUS:

Revised 08-30-06

Each bureau is responsible for assigning limited-duty Department members to duties consistent with the provisions of the policy. Each bureau will keep the Police Personnel Unit informed of any instances of an employee being off on disability for one day or longer, of any employee being placed on limited duty, and when an employee has been released to full duty. The bureau will also ensure that the Police Personnel Unit is notified of any police officer on modified duty where the anticipated return to full duty is expected to extend beyond 120 days. The Police Personnel Unit will then be responsible for complying with the Exempt Officers Equality Program provisions.

Each bureau is charged with the costs associated with the salary and benefits paid to disabled members of that bureau while they are on off-duty status. Charges associated with limited duty Department members will accrue within the program and cost center to which they are assigned.

A limited-duty officer may be selected to handle assignments on an over-strength basis, provided that, in the best judgment of the affected Program Manager, there are adequate funds in the program budget to handle the over-strength. At such time as the limited duty assignment causes a Department members services over-expenditure, the limited-duty employee must be returned to the bureau of original assignment. Exceptions to this policy must be approved by the Chief of Police on a case-by-case basis.

Each bureau must notify the Police Personnel Unit of any absence of one day or longer on disability or absence on sick leave which is likely to extend, or has extended, beyond two pay periods.

Each bureau must notify the Police Personnel Unit of changes in status of the disabled or limited-duty Department members under their command.

Each bureau must guarantee the timely submission of documents, such as the "Supervisor's Report of Occupational Injury or Illness," which affect the benefit eligibility of employees.

Each bureau is responsible for assuring that limited duty assignments which are created conform reasonably to the classification of the persons so utilized. Further, the bureaus are responsible for assuring that individuals are placed in assignments which match their medical restrictions.

S 2615 REPORTING SECONDARY EMPLOYMENT:

Department employees engaged in secondary employment who are placed on disability leave or modified duty will inform their commanding officer of their "Outside Work Permit".

S 2616 SECONDARY EMPLOYMENT WHILE ON DISABILITY OR MODIFIED DUTY LEAVE:

All authorizations for secondary employment to a Department member are immediately suspended upon the member being placed on disability leave or modified duty. The member may appeal the suspension to their commanding officer. The member's commanding officer will then review the duties of the secondary employment and recommend to the Chief of Police whether such secondary employment should be continued. When the Chief of Police, or designee, determines that the member's secondary employment may be continued, a notice of exception is forwarded to the involved member and a copy attached to the original request for authorization filed with SEU.

Criteria for denial of the request for exception include, but are not limited to, the following elements:

- The employee is on total disability and unable to perform modified duty for the Department.
- Workers' Compensation (on-duty injuries) or Employee Health Services (off-duty injuries) determines that the outside work is medically detrimental to the total recovery of the disabled member.
- The outside work performed requires the same physical ability as would be required of a full duty member.
- When the Department member who was placed on disability leave or modified duty returns to full duty, all secondary employment authorizations are automatically reinstated.

S 2617 RETURN TO DUTY

WORK RELATED INJURIES: When an employee is recovered and ready to return to work after being off on disability, such employee will report to the Police Personnel Unit and obtain a "Return to Work" form returning the employee to full or limited work. A copy of the "Return to Work" form is to be given to the administrative unit of the bureau of current assignment and Workers' Compensation.

OFF-DUTY INJURIES: When an employee is recovered and ready to return to work after being off, the employee will report to the Police Personnel Unit to obtain a "Return to Work" form. The employee must provide written verification from their treating physician that they are being released to full or modified duty and any applicable work restrictions. A copy of the

“Return to Work” form is provided to the employee to bring to their administrative unit of the bureau of current assignment. The Police Personnel Unit will also provide Workers’ Compensation with a copy of the “Return to Work” form.

When an employee is released to return to full duty, the employee will notify the Police Personnel Unit and report to the Administrative Unit of the bureau of original assignment. Every effort is made to return the person to their own previous duties, e.g., team assignment, etc.

No employee is returned to duty without a confirming medical report from the Police Personnel Unit or Workers’ Compensation, except as indicated in Duty Manual section S 2611 (Employee’s Responsibility).



S 2700 – SEPARATION FROM DUTY:

In order to manage the Department's human resources, specific procedures are maintained which pertain to the recruitment, selection, assignment and separation of Department members. Records will be maintained on all such personnel transactions.

PROCEDURE

S 2701 SEPARATION FROM DUTY – GENERAL PROVISIONS:

A Department member may be separated from duty through resignation, leave of absence, termination, suspension, administrative leave, relief from duty, lay off, military leave or retirement. When separating from duty, the involved member will adhere to one of the following appropriate procedures.

S 2702 RESIGNATION, TERMINATION OR LAY-OFF:

The involved member will complete a "Notice of Separation from City Service" (Form 100-4) and file the form with the Personnel Unit. In addition, the involved employee, or such employee's supervisor, is required to submit a memorandum detailing why City service is being terminated. The separating member will then adhere to further instructions as supplied by the Personnel Unit.

S 2703 LEAVES OF ABSENCE

Any unpaid absence from work that extends beyond one pay period must be requested on a Request for Leave of Absence form (Form 100-21). Every leave request must have the commencement date and termination date clearly stated.

Leaves of absence have a significant impact on the operation of the Department, causing realignment or movement of other Department members, assignments and duties. Leaves of absence without pay may be granted by the appointed authority for good and sufficient reasons.

Requests for leaves of absence are evaluated for approval or denial by the Chief of Police, based on the benefits to the Department or to the individual without detriment to the Department and consistent with Civil Service Rules.

The member requesting the leave will complete a "Request for Leave of Absence" (Form 100-21) no later than sixty (60) calendar days prior to the beginning date of the leave and submit the request to an immediate supervisor. The request will then be routed to the Chief of Police via the requesting member's chain of command.

Each supervisor is expected to recommend either approval or disapproval and submit reasons for the recommendation, taking into consideration the member's work record, departmental needs and the reason for which the leave is being sought.

Primary consideration is given to job-related or law enforcement oriented improvements to the member requesting the leave of absence.

S 2704 LEAVES OF ABSENCE FOR MEDICAL OR FAMILY REASONS:

When an employee has exhausted other types of time off (sick leave, vacation, compensatory time), and it is anticipated that recovery from an illness will be extended, such employee may request a "Medical Leave of Absence." The involved employee will initiate the request by completing a "Request for Leave of Absence" (Form 100-21) and submitting it to their supervisor.

Under the Federal Family and Medical Leave Program an employee may qualify for up to 12 weeks of Family Leave including 12 weeks of paid medical insurance premiums. The employee must have more than 12 months of service with the City and have worked at least 1250 hours in the prior 12-month period. Family Leave may be used for the birth, adoption or foster care placement of a child; or for their own serious health condition or that of a child, parent or spouse. Paid leave, if used for a family or personal illness, is subtracted from the 12 weeks of leave required by the Family and Medical Leave Act and the 12 weeks of paid medical insurance contributions required by the Federal Law.

The initiating employee will complete a Request for Leave of Absence Form and attach a Family and Medical Leave Application., including Medical Verification. The Family and Medical Leave Application must be submitted to the Department Timekeeper for completion of the section documenting hours available and the hours used over the previous 12 months. The forms should then be submitted to the employee's supervisor and routed to the Chief of Police for approval via the chain of command, after which it is routed to the Police Personnel Unit for processing.

S 2705 MILITARY LEAVES:

Revised 03-23-07

Department members who are members of a reserve component of the armed forces or National Guard are entitled to a temporary military leave of absence in accordance with the California Military and Veteran's Code (Sections 395 – 395.05) and Chapter 43 of Part III, Title 38, United States Code. There are two categories of military leave for training. The Department is required to release the member in both cases.

- Inactive Duty for Training: This is commonly referred to as a "weekend drill." Department members may not claim paid military leave for inactive duty. A "Flex Shift" schedule (see S 2705.5, Flex Shifts for Military Leave), compensatory time off, accrued vacation or leave without pay must be utilized. The absence code "ML" (military leave) is not entered on the time sheet. Military orders are not issued for inactive duty for training.
- Active Duty for Training: Active duty for training differs from inactive duty in that military orders are issued by competent authority. The orders must state the period of time that the reservist will be on active duty. While on active duty for training, the reservist will have all of the obligations, rights and benefits of a full-time serviceman.

Orders are usually written, but may be verbal or in memorandum form in an emergency. Verbal or memorandum orders are always followed by written orders.

Reservists may request to be ordered to active duty for training or they may be ordered to active duty for training involuntarily. In either case, the Department's procedure is the same.

Military leave with pay is authorized for active duty for training up to a maximum of 30 days each fiscal year. Any amount in excess of 30 days per fiscal year must be accounted for through the use of compensatory time, accrued vacation or leave without pay. The absence code "ML" is used on the time sheet for up to 30 days per fiscal year to identify absences for active duty for training.

NOTE: If the employee uses more than 30 days of paid leave per year for active duty, the "Request for Leave of Absence" must be completed as follows: Leave without pay should be indicated. In addition, the wording "DO NOT CODE AS LEAVE WITHOUT PAY. EMPLOYEE IS ON MILITARY LEAVE BUT HAS EXCEEDED THEIR 30 DAYS PAID MILITARY LEAVE. EMPLOYEE WISHES TO USE VACATION OR COMPENSATORY TIME DURING THEIR ABSENCE."

Military reservists who are on probation with the City are not entitled to 30 days paid leave per fiscal year. Compensatory time, accrued vacation or leave without pay must be utilized. In this instance, the absence code "ML" is not used on the time sheet.

- Employee Responsibility: A Department member who receives written orders for active duty for training will complete a "Request for Leave of Absence" and attach a copy of the orders. Both are forwarded through the chain of command. In addition, the Department member will provide a contact name and phone number with the orders for confirmation of the authenticity and dates of active duty by the Personnel Unit. In addition, the Department member will indicate if travel time is necessary for active duty assignments.

If the military orders are verbal, the Department member will explain that in the comments section of the "Request for Leave of Absence." When written orders are received, they are routed to the Police Personnel Unit.

If no such orders are forthcoming when the reservist returns, a memorandum is forwarded through the chain of command notifying the timekeeper to change all "ML" hours to vacation or compensatory time and explaining the reason that no written orders were received.

The Department member will complete and sign sufficient blank time sheets in advance if they will be absent more than one pay period on military leave.

Department members will not log any inactive duty for training as "ML" on the time sheet.

It is the responsibility of the employee to accurately record their active or inactive military service on the time sheet.

Travel time (one shift or one day) is granted if necessary for the Department member to arrive at an active duty assignment on time. Travel time is logged on the time sheet as "ML."

- Supervisor Responsibility: The direct supervisor will review the "Request for Leave of Absence" and the attached orders. Military orders must be on official letterhead, include dates of service, and be signed by competent authority. The direct supervisor will forward the request to the administrative lieutenant on their watch if the reservist is assigned to patrol. In other assignments, the request is forwarded to the unit commander.
- Administrative Lieutenant/Unit Commander's Responsibility: The administrative lieutenant or unit commander will schedule the Department member for leave. For active duty assignments, adequate travel time to arrive at the active duty destination is scheduled (one shift or one day, whichever is necessary).

A copy of the "Request for Leave of Absence" and the military orders are routed to the Police Personnel Unit. The original form and orders are routed through the chain of command.

- Police Personnel Unit Responsibility: The Personnel Unit will log the military leave and confirm the authenticity of the orders and dates of active duty for training with the contact person provided by the employee.

Specific questions regarding military leave are referred to the Police Personnel Unit.

S 2705.5 FLEX SHIFTS FOR MILITARY LEAVE

Added 03-23-07

When a Department member's military (inactive) duty and their scheduled police shift(s) conflict, the use of Flex Shifts are allowed under the following protocol.

The reservist shall continue to provide timely and advanced notice of scheduled inactive duty, whenever possible, to their respective chain of command to allow for proper staffing levels. An exception to this advanced notice requirement would be a last-minute change to the reservist's inactive duty work days or hours, relayed to the reservist by competent military authority.

Once a conflict is found, the Department member shall contact their supervisor and the Administrative Sergeant responsible for approval of time off.

The employee may then arrange for an equal amount of missed time or days to be made up under the following conditions:

- Any make-up time shall be performed within the same pay period as the time missed by the employee, on the employee's regularly scheduled days off, either before or after the military drill/inactive duty periods.
- A ten-hour (10) period of work shall be compensated at straight time; any time worked after a normal shift shall be compensated pursuant to the current Memorandum Of Agreement and Police Department policy.

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- Members working in a patrol capacity shall be in a relief status for the make-up periods, in order to allow supervisors flexibility for staffing and assignment purposes. Members working outside the Bureau of Field Operations shall confer with their supervisors to determine their duties while utilizing the Flex Shift option.

The actual scheduling of make-up periods should be mutually agreed upon by the Department member and the supervisor and/or Administrative Sergeant, whenever feasible. The needs of the Department and the employee's preferences should be balanced, with the needs of police staffing taking precedence. Flex Shifts are an option for the employee and not mandatory.

S 2706 ADMINISTRATIVE LEAVE:

Revised 06-10-22

An employee of the Department may be removed from duty and placed on Administrative Leave in conformance with Section 4.2.3 of the City Policy Manual.

Note that in the event that a criminal allegation is made against any Department member, of any rank, that is credible and has the potential to impact the safety or financial health of the community and/or other City employees (examples include, but are not limited to, alleged sexual misconduct, assault or battery, and theft or bribery), the accused Department member will be immediately placed on administrative leave until such time that the Police Department is able to complete a preliminary review of the matter and all evidence or other information available to date, unless placing the Department member on administrative leave could compromise an ongoing criminal investigation of which the Department member is not yet aware.

Subsequent to the preliminary review of the allegation, a determination will be made by the Chief of Police to keep the Department member on administrative leave or to reassign them to other non-public facing duties, if applicable, until the criminal and/or administrative investigation is completed. The determination will be reviewed and given final approval by the City Manager. Nothing in this section precludes the City from reevaluating a Department member's leave status or assignment at any time during the investigation as new information becomes available or as other circumstances change.

When a Department employee is placed on Administrative Leave, they will inform the Office of the Chief of Police as to the address and telephone number of the residence at which such employee can be contacted during the period of the leave. When the Chief of Police or a designee considers the location to be unreasonably distant from the City or to otherwise interfere with an investigation, the employee must remain at a location determined to be reasonable by the Chief of Police.

While on Administrative Leave, the employee will not act as a police officer in any capacity, including court appearances, off-duty employment or public appearances without first obtaining specific authorization from the Office of the Chief, Internal Affairs Unit.

S 2707 NON-DISCIPLINARY EMERGENCY RELIEF FROM DUTIES:

The following Department members have the authority to impose emergency relief from duty on an employee until the next business day when it appears that such action is in the best interests of the Department:

- Any command officer
- Any police sergeant

When a Department employee is relieved from duty pursuant to this procedure, the command officer or sergeant instituting the action will direct the employee to report to such employee's Bureau Chief on the next business day at 0900 unless otherwise directed by competent authority.

The command officer or sergeant imposing or recommending the action will also report to the employee's Bureau Chief at the same time and have prepared a written report of the details of the incident prompting the relief from duty. The report will include:

- The name, rank, serial number and present assignment of the person relieved from duty
- The date(s), time(s) and location(s) of the incident
- The section number(s) of this manual violated or common name of the violation
- A complete statement of the facts of the incident
- The written signature, serial number and rank of the preparing officer and his position in relation to the member or employee involved

The relieved employee's Bureau Chief, or a designee, will evaluate the incident and determine what action is appropriate. If possible disciplinary action is indicated, the incident is investigated in accordance with Duty Manual section C 1400 (Standards of Conduct).

S 2708 RETIREMENT:

Applications for retirement are processed by the Department of Retirement Services. To process a request for retirement as efficiently as possible, the Department employee making the request will initiate the request by contacting the Department of Retirement Services at least 120 calendar days prior to the desired retirement date.

S 2709 RECOVERY OF CITY PROPERTY UPON SEPARATION:

To ensure that Department and City property is recovered when an employee separates from City service, the procedures outlined in the Duty Manual section S 1200, (Equipment Control and Maintenance – Damage and/or Return of Property) are adhered to as indicated.



S 2800 – DEATH OF CURRENT AND RETIRED MEMBER OR ANY CALIFORNIA PEACE OFFICER:

Revised 02-20-01

When a current and retired Department member dies, the Department response for the funeral service will follow established departmental guidelines. The Department has also established the level of response to funerals for any California peace officer killed in the line of duty. Therefore, in order to determine the level of funeral response, the following funeral guidelines have been established.

PROCEDURE

S 2801 FUNERAL GUIDELINES:

The following guidelines are designed to assist in the planning of funeral arrangements for any California peace officer killed in the line of duty and the deaths of all active and retired Department members. The Chief's Office will determine the appropriate level of the services, in conformance with these guidelines, or may elect not to provide services, depending on the nature of the Department member's death.

Upon notice of the death, the Chief's Office shall advise the Commander of the Department's Ceremonial Detail of the level of services required. In accordance with the provisions that follow. In those cases where ceremonial services are authorized, the ceremonial detail commander or their designee will join the Department's official representative (assigned per Duty Manual section S 2901, Department Representative for Survivor(s) of a Deceased) in meeting with the surviving family member(s) to coordinate all aspects of the services to be rendered.

S 2802 LEVEL I FUNERAL DEPARTMENT FUNERAL PROVISION:

A Level I funeral is conducted for any Department member who dies in the line of duty, either at the hands of another or through accidental means. A Level I funeral response will also apply to any other full-time California peace officer who dies in the line of duty. In the event of a line-of-duty death of a Department member, and with concurrence from the surviving family members, the Department will provide:

- Full police and military honors, including the Department's Honor Guard in full ceremonial uniform
- Six to eight pallbearers from the Department's Ceremonial Detail
- A 21-gun salute carried out by the Ceremonial Detail's Gunnery Team
- The playing of "Taps" by the Ceremonial Detail Musician at the funeral or memorial site
- Funeral procession by Department members' Patrol Operations and Traffic Enforcement Unit
- Presence at the funeral or memorial site by uniformed members of the Horse Mounted Unit

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- Class “A” uniforms for officers attending in uniform
- Class “A” uniforms for Communications and OSSD employees attending in uniform
- Presentation of the American flag to the Department member’s family by the Chief of Police, his representative and/or a State representative
- Presentation of a Department flag to the Department member’s family by the Chief of Police, ceremonial Detail Commander or another designee of the Chief
- Teletype information containing the officer’s name, a brief synopsis of the incident and the date, time, location and directions to the funeral site are sent to all California law enforcement agencies

S 2803

LEVEL II DEPARTMENT FUNERAL PROVISION:

A Level II funeral is conducted for any active or retired Department member who suffers a non-line-of-duty death and whose surviving family member(s) convene services in the San Francisco Bay Area. In the event of a non-line-of-duty death of an active Department member, and with concurrence from the surviving family members, the Department will provide:

- A command officer representative
- An honor guard comprised of officers from the Department’s Ceremonial Detail
- Six pallbearers from either the department’s ceremonial Detail or other Department members selected by the surviving family member(s)
- Presentation of an American flag to the Department member’s family by the Chief of Police, Commander of the Ceremonial Detail or other designee of the Chief of Police

S 2804

LEVEL III DEPARTMENT FUNERAL PROVISION:

Added 02-20-01

When authorized by the Chief of Police, Level III funeral provisions are afforded for a full-service or disability retired Department member who suffers death and whose surviving family member(s) convene services in the San Francisco Bay Area and request Department participation. If requested by the surviving family member(s), the Department will provide any combination of the following elements to the services rendered:

- An honor guard comprised of officers from the Department’s Ceremonial Detail
- Six pallbearers from either the department’s ceremonial Detail or other Department members selected by the surviving family member(s)
- Presentation of an American flag to the Department member’s family by the Chief of Police, Commander of the Ceremonial Detail or other designee of the Chief of Police

S 2805

LEVEL I OUTSIDE AGENCY FUNERAL

Added 02-20-01

Upon receipt of official notification and invitation, the Chief of Police may authorize the following representation of this Department at services conducted for sworn peace officers from any of the nine San Francisco Bay Area Counties who are killed in the line-of-duty:

- A command officer representative
- An honor contingent comprised of four to eight Department members' Ceremonial Detail, including at least one sergeant, attired in the Department's ceremonial uniform
- Off-duty officers voluntarily participating or officers "Released-from-Duty" attired in class "A" uniform with tie and hat
- Solo motor units from the Traffic Enforcement Unit, when a motorcade is included in the services, or when asked for assistance with traffic control associated with the services or funeral route

S 2806 LEVEL II OUTSIDE AGENCY FUNERAL

Added 02-20-01

Upon receipt of official notification and invitation, the Chief of Police may authorize the following representation of this Department at services conducted for sworn peace officers from law enforcement agencies in this state outside of the nine San Francisco Bay Area Counties who are killed in the line-of-duty:

- A command officer representative
- An honor contingent comprised of four to eight Department members' Ceremonial Detail, including at least one sergeant, attired in the Department's ceremonial uniform
- Solo motor units from the Traffic Enforcement Unit, when a motorcade is included in the services, AND solo motor units are specifically requested for that motorcade or for assistance with traffic control matters



S 2900 – DEPARTMENT REPRESENTATIVE UPON DEATH OF MEMBER:

Revised 02-20-01

When a Department member dies, there are many problems that require immediate attention which are difficult to accomplish in time of grief. Therefore, in order to assist a deceased member's family, a Department member is selected to serve as a Department Representative. The person selected may assist in the many necessary arrangements.

PROCEDURE

S 2901 DEPARTMENT REPRESENTATIVE FOR SURVIVOR(S) OF A DECEASED MEMBER:

Revised 02-20-01

When the death of a Department member occurs, the officer in command of the Bureau of Administration will select a Department Representative to assist the deceased member's family. The desires of the deceased member's family are taken into consideration in the selection process. Once a Department Representative is selected, that person will immediately be assigned to the day shift of their assigned bureau. A memorandum is formulated and distributed to all Department members pertaining to the coordination of all efforts through the selected Department Representative.

Once selected and reassigned, the Department Representative is responsible for assisting the family with tasks and functions as specified in the "Protocol for Death of a Department member", which is available in the Bureau of Field Operations, Administrative Unit.

S 2902 FUNERAL ARRANGEMENTS:

Assistance to the family is the primary concern of the Department Representative and may include assistance with family decisions for any of the following tasks:

- Department members identified/assigned to assist the Department Representative
- Selection of mortuary and cemetery via deceased member's family
- Date and time of funeral or other functions
- Type of funeral (police, military, civilian)
- Choice to use the Department's Color Guard and/or Honor Guard
- Choice to use the Department's pallbearer detail of the Honor Guard
- Establishment of pre-funeral gathering point for police Department members (most logical location – P.A.B. parking lot) and determination of procession/route of travel for those attending the funeral services
- Delegation of police traffic escorts and necessary control points to the TEU Commander

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- Establishment of seating arrangements at funeral site for family, police and civilian Department members
- Establishment and maintenance of sign-in log for those in attendance at funeral
- Establishment of post-funeral gathering point, if any (i.e., luncheon, wake, etc.)
- Any other task deemed appropriate

S 2903

MISCELLANEOUS TASKS:

The Department Representative will encourage the deceased member's family to seek appropriate legal assistance in the settlement of the estate. Additionally, the Department representative shall attempt to provide the deceased member's family with assistance with any other problems that may arise. Most potential problems have been anticipated in the "Protocol for Death of a Department member".



S 3000 – PROCEDURES PERTAINING TO RECORDS:

The Department has a responsibility to ensure that the confidentiality of departmental records is maintained. To achieve this responsibility, procedures are maintained that limit access to records, controls additions or deletions of data, ensures authorized distribution, and provides for the screening and training of Department members directly involved in the records system. These procedures protect the public, the City and the Department from unauthorized use of departmental records.

PROCEDURE

S 3001 PROCEDURES PERTAINING TO RECORDS – GENERAL PROVISIONS:

Department records are confidential and are released only to qualified Department members on a need-to-know basis, consistent with the Duty Manual section C 1900, (Supplying Information). In addition, the Department maintains records in order to comply with statutes and provides public service as well as investigative and administrative tools. The Operations Support Services Division also provides the means of gathering statistical data necessary in planning and organizing departmental objectives. To ensure that such records are gathered and maintained in a lawful manner, all Department members will adhere to the following procedures:

S 3002 DATA SECURITY

All Department members will take positive steps to ensure the security and confidentiality of departmental records.

S 3003 RECEIVER’S RESPONSIBILITY:

Department members receiving criminal history information, case reports, or any other departmental records will safeguard such information so that further dissemination is limited to those authorized to receive the information.

S 3004 RECORDS SECURITY OFFICER:

The manager of the Operations Support Services Division is designated as the Records Security Officer.

S 3005 ACCESS TO RECORDS AREA:

Entrances to the Operations Support Services Division (OSSD) area are kept locked at all times. Access to the OSSD area is limited exclusively to Department members assigned to OSSD, to command officers, to the operations commander or acting operations commanders, and to persons specifically authorized access by the Chief of Police, Bureau of Technical Services Deputy Chief, Bureau of Technical Services Acting Deputy Chief or by the Manager or Acting Manager of OSSD. No other person will enter the OSSD section. All persons entering the OSSD section will wear, in a conspicuous place on their clothing, identification approved by the Chief of Police, Bureau of Technical Services Deputy Chief, Bureau of Technical Services Acting Deputy Chief or the Manager or Acting Manager of OSSD.

S 3006 SECURITY CLEARANCES:

Existing law and regulations require that Department members who will handle departmental records and/or have access to automated criminal history record terminals are record checked prior to employment. The record check will consist of fingerprint clearances through the California Department of Justice and the Federal Bureau of Investigation; local criminal history check through CJIC/2; local, state and federal warrant checks; California Department of Motor Vehicles driving record check; and an extensive background check. These procedures are necessary to ensure that persons are not hired who may pose a threat to the security and confidentiality of departmental and automated records systems.

S 3007 TRAINING:

Departmental members responsible for adding, correcting, deleting or disseminating departmental or automated systems records will attend training sessions in the proper use and control of such records. The Manager of the Operations Support Services Division is responsible for ensuring that such training occurs.

S 3008 MODIFICATION OF RECORDS:

All additions, changes or deletions to departmental records or automated records systems are the responsibility of Operations Support Services Division members. Other Department members will not add, change or delete information unless authorized by the Chief of Police or a designee.

Whenever automated systems information, case reports or any other documents which are a part of the centralized files of the Department are in need of modification, Operations Support Services Division members will then make the appropriate corrections, unless otherwise authorized by the Chief of Police.

S 3009 RECORDS RETENTION AND DISPOSAL PROCEDURES:

Each Subdivision identified in City Administrative Manual Sections 177 and 178 and the City's Special Manual, "Procedure for Transfer of Records," will establish the following procedures for records retention and disposal:

- Periodic review and identification of inactive records that should be sent to the Records Center (Warehouse)
- Placement of records to be retained in approved storage transfer cartons according to the Department filing system.
- Preparation of "Record Transmittal and Receipt" form and arrangement with the Records Center for the transfer of the records.
- Maintenance of a current copy of the Administrative Manual section relative to records retention and the City's Special Manual, "Procedure for Transfer of Records," in conjunction with a file for "Record Transmittal and Receipt" form and "Affidavit of Destruction" form that are received pursuant to any transaction.
- Retention of all records, both those kept at the Department and the City's Records Center (warehouse) in accordance with the policies found in the City Administrative Manual and the City's Special Manual, "Procedures for Transfer of Records."



S 3100 – REVIEW OF RECORDS:

The Department maintains procedures for the review of records by specific members of the community. In addition, the Department will allow a modification of a record as long as the modification is accomplished in a manner which ensures that the confidentiality and validity of the record is not endangered.

PROCEDURE

S 3101 PROCEDURES PERTAINING TO RECORDS – REVIEW OF RECORDS:

Department members receiving requests from citizens to review their own criminal history records will adhere to the following procedures:

- **STATE CRIMINAL HISTORY RECORDS:** Citizens or their agents making requests to view their own criminal history records will be advised to make application to the California Department of Justice for an appointment to review the document. Applications may be obtained at the Sheriff's Department or at the Operations Support Services Division, Report Counter. In any event, no member of this Department will release criminal history information to a citizen or citizen's agent.
- **CJIC/2 CRIMINAL HISTORY INFORMATION:** A citizen or a citizen's agent may review authorized records at the Department's Records Division where CJIC/2 reviews are conducted.
- **OTHER INFORMATION OR DOCUMENTS:** A citizen or a citizen's agent requesting an inspection of other Department records pertaining to such citizen, other than as specified in Duty Manual section C 1715 (Conduct Complaint – Investigations Procedure), may do so by making application with the Manager of the Operations Support Services Division at least two (2) weeks prior to the date the inspection is to take place. When making application, the citizen must show proof of identity. A citizen's representative must present proof of the client's identity and proof of representation. Once identity and/or representation is established, the following procedure will be adhered to:
 - The citizen or the citizen's agent is allowed thirty (30) minutes to inspect the records.
 - The inspection is conducted in the Department's Operations Support Services Division under the immediate supervision of the Division Manager or designee.
 - The record is not removed from the Operations Support Services Division.
 - No copying of the record will ordinarily be allowed except with the specific approval of the Operations Support Services Manager.
 - A written summary of handwritten notes made by the person inspecting the record is allowed.

S 3102**ALLEGED INACCURACY OR INCOMPLETENESS:**

If a citizen or a citizen's agent questions the accuracy or completeness of any information contained in departmental records pertaining to the citizen whose record is being inspected, adhere to the following procedures:

- The person alleging the inaccuracy may submit a written statement detailing the inaccuracy, specifying any proof or corroboration available, and requesting a hearing on the matter. The request will be submitted to the Office of the Chief of Police.
- Upon receipt of the request, the Chief of Police, or a designee, will appoint an officer of the rank of Captain or above to conduct an investigation. The officer appointed will have had no direct involvement in the creation or maintenance of such record. The Chief of Police may choose to retain the investigation within the Office of the Chief of Police, in which case the Chief will personally oversee the investigation.
- The investigation is conducted within thirty (30) days of receipt of the alleged inaccuracy. At the end of this thirty (30) day period, a hearing is held to determine if an inaccuracy or incompleteness exists. Members present at this hearing may include, but are not limited to, the Manager of the Operations Support Services Division, the Department member initiating the information contained in the record and the member entering the information into the record file.
- Within thirty (30) days following completion of the hearing, the Department member conducting the investigation will furnish a written report of findings and recommendations to the Chief of Police.
- The Chief of Police may then approve, disapprove or modify the recommendations, or may call for an additional hearing to be held in the Office of the Chief of Police.
- Within thirty (30) days of disposition of the investigation, the Chief of Police, or a designee, will notify the person alleging the inaccuracy of the outcome of the investigation.



S 3200 – AUTOMATED SYSTEMS SECURITY:

The Department has a responsibility to ensure that the confidentiality of departmental records is maintained. To achieve this responsibility, procedures are maintained that limit access to automated records, controls additions or deletions of data, and ensures authorized distribution of the data contained in such automated systems. These procedures protect the public, the City and the Department from unauthorized use of departmental and state records.

PROCEDURE

S 3201 AUTOMATED SYSTEMS SECURITY:

Revised 03-08-23

All automated systems terminals are located in areas which are secure and accessible only to Department members authorized to operate them. Information obtained from local, state, or federal automated systems is not released to anyone except Department members or those authorized by the Chief of Police or those authorized by law. Such information includes Department of Motor Vehicles registration records, driver's license information, stolen property information, or any information contained in a local, state, or federal automated system.

Department members shall not create, remove, destroy, or modify any automated Department systems, including but not limited to hardware, software, terminals, networks, printers, routers, and internet services, without the approval of the Systems Development Division.

Department members shall not plug any unauthorized devices into the Department's AIS network. Unauthorized devices include, but are not limited to hubs, routers, switches, wi-fi modems, streaming devices, personal computers, televisions, and smartphones.

S 3202 RECORD INFORMATION VIA CLETS:

Criminal history information obtained from the California Law Enforcement Telecommunications Systems (CLETS), or any such information obtained via an automated system which connects with the CLETS system, is released only to criminal justice agencies and criminal justice personnel and then only by authorized Operations Support Services Division members.

Automated Criminal History information (CLETS, SLETS, NCIC) obtained from Department terminals is not used for employment, licensing or certification purposes. Non-criminal record checks require the submission of fingerprint cards through established California Department of Justice procedures. Department of Motor Vehicles information received via CLETS may be obtained by any Department member or other person who needs the information in the course of their law enforcement duties or to fulfill an official governmental function.

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S 3300 – CASE NUMBERS:

Case numbers are an essential element in maintaining the integrity of Department records. Case numbers are used to distinguish different events or activities, and are issued in a manner which ensures that only one case number is assigned to any given event requiring a police report.

PROCEDURE

S 3301 CASE NUMBERS – COMPOSITION:

The case numbers for the Police Department are a nine digit numeric number incorporating the year, Julian date within the year and sequential number for the event for the day of issuance. When written, the components are separated by dashes.

EXAMPLE: 00 - 183 - 0403
 Year Julian Unique numbers assigned by
 Date automated dispatch system

This numeric design of case numbering allows Department members at a glance to identify the year, the day of year and the order of the event within the day that the incident became known to the Department. The year designator changes every year at 0001 hours on January 1, the Julian date indicator at 0001 hours every day and the unique number identifier changes upon issuance of a new number. Dashes between the numbers are written as shown.

S 3302 JULIAN DATE CALENDAR:

To facilitate the use of the Julian date identifier, calendars with dates identified by the Julian date are posted at convenient locations throughout the Police Department.

Julian date calendars have been produced and are posted in the Report Writing and Briefing Room.

S 3303 ISSUANCE OF CASE NUMBERS:

To ensure that case numbers are issued in a manner that maintains the integrity of police reports, all members of the Department will adhere to the following procedures as indicated.

S 3304 GENERAL RESPONSIBILITY:

Department members will use only those case numbers obtained through the Telephone Report Automation Center (TRAC) or the PAB Lobby. Department members requesting and/or assigned a case number are responsible for use of the number only on those reports generated by the specific incident prompting the issuance of the number.

S 3305**ARREST INVOLVING SELF-INITIATED ACTIVITY:**

Department members requesting a case number for an in-progress, self-initiated or off-duty activity which occurs outside the normal radio dispatch situation (off-duty, security work, etc.) will adhere to the following procedure:

- **CONTACT COMMUNICATIONS:** Requesting members will contact the Communications Complaint Desk and identify themselves by name and identification number and then indicate that a case number is being requested.
- **DISCLOSE NATURE OF REQUEST:** The requesting member will then provide the Complaint Desk Operator with the time, location and type of incident involved, and the name and identification number of the member who will be using the number.
- **INDICATE NEED FOR FIELD SUPPORT:** The member requesting the number will indicate whether there is a need, or not, to dispatch a field unit to the scene.

When requesting field support (transportation, etc.), inform the Complaint Desk Operator that the unit is to be dispatched under the same case number.

NOTE: When a field unit is requested, the assigned beat officer will be responsible for providing the disposition upon return to service. When only a case number is needed and no field support is required, the requesting member will provide the Complaint Desk Operator with the appropriate radio disposition code.

NOTE: This will complete and close the case within the CAD system. In addition, it necessitates that the disposition be known at the time the case number is requested.

S 3306**REQUESTS BY INVESTIGATIVE UNITS:**

Personnel requesting a case number for all report/cases generated within an investigative unit will adhere to the following procedure:

- **CONTACT PAB LOBBY:** The member needing the case number will contact the PAB Lobby either by telephone or in person and indicate a case number is required.
- **DISCLOSE NATURE OF REQUEST:** The requesting member will then supply the name and identification number of the person who will be using the number and will provide Information Center personnel with sufficient information to open an event.

The requesting member will also provide the appropriate radio disposition code so that the event can be closed.

NOTE: Requires that requesting Department members know the appropriate disposition at time of request.



S 3400 – RECORDING ARREST DISPOSITIONS:

The Police Department is required by the California Penal Code to report an arrested person's transfer, release or disposition of his case, within thirty (30) days to the Department of Justice. The Operations Support Services Division is responsible for updating the information in CJIC/2 and forwarding it to the Department of Justice as well as the Federal Bureau of Investigations. It is the Bureau of Investigations' and the Bureau of Field Operations' responsibility to furnish the Operations Support Services Division with the updated case report (3C) so the Operations Support Services Division is able to meet the State mandated requirement.

PROCEDURE

S 3401 RESPONSIBILITIES OF DISPOSITION DESK:

The Operations Support Services Division Fingerprints Unit members are responsible for entering the updated information from the case update report (Form 3C) into CJIC/2 within the required time frame to update charges.



S 3500 – MISCELLANEOUS PROCEDURES:

The Department has a responsibility to ensure that access to records and the dissemination of forms and other information is limited to Department members authorized to receive such items. To accomplish this responsibility, miscellaneous procedures are maintained limiting access to such records and forms.

PROCEDURE

S 3501 MISCELLANEOUS PROCEDURES:

All Department members will adhere to the following miscellaneous procedures as indicated:

S 3502 SECURITY OF JUVENILE RECORDS:

Security measures employed for other departmental records are applicable to juvenile records. In addition, the following procedure are adhered to:

- It is the responsibility of each member of this Department who receives juvenile record information to exercise all due care and caution in safeguarding such information so that it does not fall into unauthorized hands and to assure that any authorized information released is in the interest of justice and the juvenile who is the subject of the record.
- Juvenile records maintained by the Juvenile Unit are stored in a secure area and access limited to Department members who have a “need to know” related to their law enforcement duties.
- All Department members are reminded that information relative to juveniles is highly confidential in nature and subject to the dissemination restrictions appearing in Duty Manual section C 2100 (Juvenile Records and Child Abuse and Neglect Reporting).

S 3503 OBTAINING AND RETURNING PAPER CITATION BOOKS:

Revised 07-01-22

- Receive Notice to Appear (Form 200-15-1) and City of San Jose Parking Citation (Form 200-15) books at Central Supply
- Return partially used paper citation books to Central Supply no later than six months from the date of issue, if no longer needed. Department members who are transferred or promoted from the Bureau of Field Operations will turn in their paper citation books for reissue.
- In the event a paper citation book is lost, stolen, or otherwise not available for return to Central Supply, report the loss in accordance with Duty Manual section 1908 - REPORTING LOST OR STOLEN CITY EQUIPMENT.

Public Version

Security Procedures Redacted Pursuant to California Government Code 7923.600

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S 3503.1 OBTAINING AND RETURNING ELECTRONIC CITATION SYSTEMS (E-CITE):

Added 07-01-22

- Ensure the most recent version of the Department's e-cite software is downloaded to the Department member's assigned Department issued cellular device.
- Unless an e-cite printer is permanently assigned to a Department member, an e-cite printer shall be checked out from Central Supply at the start of their shift and returned to Central Supply at the end of their shift.



S 3600 – COMMUNICATIONS:

Proper use of Communications equipment is the responsibility of all Department members and is performed in a manner which is efficient, effective, and lawful.

PROCEDURE

S 3601 COMMUNICATIONS – GENERAL PROVISIONS:

The Bureau of Technical Services provides communication services for the Department. Department members will adhere to the policies and procedures as contained in the Duty Manual and other procedures periodically established by the Office of the Chief of Police.

S 3602 COMPLAINTS PERTAINING TO COMMUNICATIONS:

Complaints pertaining to communications, procedures or Department members will be immediately directed to the on-duty Communications watch commander who will then handle the complaint in accordance with Duty Manual section C 1706 (Non-Misconduct Defined).

S 3603 USE AND CARE OF COMMUNICATION EQUIPMENT:

All Department members will adhere to the following procedures pertaining to the use and care of communication equipment.

S 3604 USE OF RADIO EQUIPMENT:

Department members will use only radio equipment provided by the City or the Department. In addition, Department members will not operate such equipment unless authorized to do so by competent authority.

S 3605 REPAIR OF RADIO EQUIPMENT:

Department members will not repair or adjust any radio equipment in use by the Department. Repairs and adjustments will only be made by GSA Communications radio technicians.

When repairs or adjustments are required, the member assigned or using the equipment will complete a "Trouble Report" and then adhere to the following appropriate procedure:

- **VEHICLE RADIO EQUIPMENT:** The member assigned the vehicle will indicate the vehicle number and a synopsis of the malfunction in the log book maintained by City Garage personnel. The completed "Trouble Report" will then be submitted to the on-duty garage supervisor.
- **PORTABLE RADIO EQUIPMENT:** The member in possession of a defective portable radio (handpack, etc.) will verbally notify on-duty personnel at Central Supply that the radio is malfunctioning and will submit the completed "Equipment Repair Request Report" with the radio at that time.

Garage and Central Supply members will then ensure that defective radios and associated reports are delivered to the GSA radio repair facility by the next working day.

S 3606 USE OF TELEPHONE EQUIPMENT:

Department members will obtain a supervisor's approval prior to making work-related long distance telephone calls unless the loss of time incurred would substantially hamper such member's performance of duties. When making a work-related long distance call, the procedure outlined in the City of San Jose Directory will be followed. Long distance charging of non-work related telephone calls to a City telephone number is prohibited.

A long distance call is any call that is itemized on the Department's monthly telephone bill. (City-owned facsimile transmissions are also included in this policy.)

S 3607 USE OF TELETYPE EQUIPMENT:

Department members will obtain approval from an immediate supervisor prior to using, or causing the use of, any teletype equipment for transmission of an official message. Once approval is obtained, the member intending to transmit the official message will complete a "Teletype Request Form" and submit it to the Operations Support Services Division.

Use of teletype equipment for non-work related purposes is prohibited.

S 3608 USE OF COMPUTER TERMINALS:

Only those members authorized by the Chief of Police will operate any computer terminal in use by the Department. Members will not use, or cause to be used, any computer terminal for a non-work related purpose.

S 3609 CALL FOR SERVICE PRIORITY CODE DEFINITIONS:

Revised 04-16-18

The following priority code definitions and examples are used in managing calls for service and providing the appropriate response:

PRIORITY 1

- There is a present or imminent danger to life, or
- There is major damage to / loss of property, i.e., large-scale incident or cases where there is an in-progress or just occurred major felony.
- District, channel and/or City-wide response. A notification of all channels is automatic. May include the need for notification of all radio channels and/or adjacent agencies.
- District-wide response is the use of only those units within the district of the call for service.
- Channel-wide response is the use of units from the two districts normally sharing a radio channel. During simulcast periods, "channel-wide" refers only to the two districts sharing the radio channel during non-simulcast hours.
- City-wide response is the response of the closest available unit within the City.
- The incident may have an immediate impact on and need for City-wide police resources.

Examples: Code 3 FILL, Code 20, Code 30, Code 1000 or similar multiple casualty incidents, 211A occurred within ten minutes, a 10-33 silent-hold-up alarm, a 459 in progress, and a 415W (weapon seen).

PRIORITY 2

- District-wide and/or channel-wide response when a crime is in progress or has just occurred, and
- There are injuries or there is the potential for injury, or
- The suspect is still present or in the area.
- All missing person reports where the children are under the age of 12 or at risk missing persons, to include mentally handicapped or disoriented adults.
- Situations where the suspect is in custody for any violent crime, or for a non-violent crime and is uncooperative.

Examples: 415A, 1033S alarm, 1053, 1179, and Outside Agency Aid Calls.

PRIORITY 3

- District-wide response when a crime has just occurred, and
- There is property damage or the potential for it to occur, or
- The suspect has most likely left the area.
- Situations where the suspect is in custody for a non-violent crime and is
- cooperative
- Situations when a prior crime against the person occurred, and
- There are no injuries to the victim necessitating immediate medical care, and
- The suspect is not present

Examples: 1033A, 1125, 1182 when 1125, Civil Standby, 459R, 20002

PRIORITY 4

- A District-wide response to a non-violent crime when there is no present or potential danger to life/property and one or more of the below:
 - A. The suspect is no longer in the area
 - B. Beat or district information
 - C. Details in the event are for broadcast purposes only
 - D. The response may be handled sometime during the shift
 - E. The nature of the call does not require Police response

Examples: 415M, PATCK, INFO, 1021, CODE5, 484BOL, FNDPRP, 1182 without 1125

PRIORITY 5

- All "on-view" events

Examples: Flag downs, CPF, CPM, etc.

PRIORITY 6

- All car and person stops

It is important when a call for service is closed that it has the correct priority code. The priority codes assist Department members in understanding the number and severity of calls for service in each beat of the City. This provides information to help determine Department member's needs and allocation. There are instances where a low priority call may be changed to a higher priority due to new information regarding greater danger or severity of the call. Conversely, a call may be designated with a high priority that a field supervisor or Communications supervisor wishes to change.

When a field supervisor determines a call's priority code needs to be changed, they should contact the channel dispatcher on which the call is listed and direct the change be made. If a dispatcher has a call that the dispatcher believes should have its priority designation changed, they will obtain approval for the change from either a Communications supervisor or a Police field supervisor.

Field supervisors will continue to have authority to direct resources where they will be best utilized.



S 3700 – RESTRICTED RADIO TRANSMISSIONS:

Whenever circumstances threaten the safety or effectiveness of field units, radio transmissions are restricted. The degree of restriction is determined by the nature of the incident or circumstance. When such restrictions are imposed, Department members will transmit only that information necessary to ensure either an effective response to the incident and/or safety of themselves or others.

PROCEDURE

S 3701 AUTHORIZED CODES AND DEFINITIONS:

The following codes are intended to limit radio transmissions as indicated:

- **RESTRICTED TRAFFIC:** Means that all units will reduce their radio transmissions to essential broadcasts. Transmissions which are considered “essential broadcasts”, and therefore allowed during a period of “Restricted Traffic,” are as follows:
 - A. Transmissions which are necessary to ensure the safety of the officer or others.
 - B. Transmission pertaining to status changes (such as 10-95, 11-95, etc.).
 - C. Transmission requesting assistance (such as “fills” on car stops or other incidents).

Communications members will continue to dispatch assignments; however, other radio transmissions such as routine warrant and want checks are not permitted unless the circumstances at the time justify use of the radio.

- **CODE 33:** Means that all radio transmissions on the restricted channel are limited to broadcasts pertaining to the incident prompting the use of “Code 33.” All other transmissions are prohibited. Radio traffic not pertaining to the incident is diverted to another channel.

S 3702 AUTHORITY TO INITIATE:

A broadcast of “Restricted Traffic” or “Code 33” may be initiated by either Police or Communications members. However, Communications members will not initiate radio use restrictions on behalf of a field unit unless it is believed the field unit is incapable of requesting the restriction.

S 3703 JUSTIFICATION:

The organizational unit initiating a radio broadcast of “Restricted Traffic” or “Code 33” is responsible for justifying the use of either radio code. Justification will be consistent with the following criteria:

- **RESTRICTED TRAFFIC:** Circumstances which justify a broadcast of “Restricted Traffic” include the following:

- D. Unconfirmed reports of crimes in progress.
- E. Complex, confused situations requiring on-scene control and direction.
- F. Field incidents where rapid but clear radio communications are necessary to ensure the safety of officers or others.
- G. Interference by heavy radio traffic or other technical reasons, such as backlog of assignments and equipment malfunctions.

Department members will strive to limit the use of “Restricted Traffic” to the above circumstances.

- CODE 33: Circumstances which justify a broadcast of “Code 33” are usually known only to Department members at the scene; these include, but are not limited to, the following circumstances:
 - H. Major crimes in progress which have been confirmed.
 - I. Vehicle or foot pursuit situations.
 - J. Any emergency where there is imminent peril to officers or others.

Department members will strive to limit the use of “Code 33” to the above circumstances. Communications will ensure that the district supervisor or Lieutenant assigned to the affected area is notified that a “Code 33” situation exists.

S 3704 METHOD OF INITIATING AND INITIAL RESPONSIBILITIES:

The organizational unit initiating the restriction will broadcast either the term “Restricted Traffic” or “Code 33” followed by a brief explanation of the reason. EXAMPLE: “San Jose One, 51W1, Restricted Traffic – Possible theft in progress.” Once a restriction has been originated, all units will discontinue radio transmissions until the originating unit has been acknowledged by Communications. Other units may then transmit in accordance with Duty Manual section S 3701 (Authorized Codes and Definitions).

S 3705 ADDITIONAL RESPONSIBILITIES:

The following procedures will be adhered to during a period of either “Restricted Traffic” or “Code 33.”

- UNINVOLVED FIELD UNITS: Maintain the restriction on radio transmissions until notified that the restriction has been cancelled.
- ORIGINATING FIELD UNIT: When possible, advise Communications of the status of the situation and/or the need to continue the restriction.
- SUPERVISING UNIT: Continue to monitor the circumstance and/or situation and evaluate the necessity for continuing the restriction.
- COMMUNICATIONS UNIT: Notify and update all channels and necessary units regarding the nature and status of the restriction. Ensure that restrictions on radio transmissions are maintained in accordance with Duty Manual section S 3701 (Authorized Codes and Definitions). Notify the involved District or Area Supervisors of all “Code 33” situations.

S 3706**CANCELLATION:**

The initiating unit has an obligation and responsibility to cancel the “Restricted Traffic” or “Code 33” as soon as practical.

S 3707**INITIATING RESTRICTED TRAFFIC ON SJ07 (CLEMARS 5):**

Restricted traffic on SJ07 and SJ08 is handled differently than the other frequencies because it is a state-owned CLEMARS (California Law Enforcement Mutual Aid Radio System) channel. The organizational unit initiating the restriction, if not coordinating with another agency, will make every attempt to use either SJ09 or SJ11 first, in that order, before attempting to use SJ07. When initiating a restriction on SJ07, the following rules will be used. These rules do not apply to our other channels.

- Units must identify themselves with their full unit identifiers (i.e., “51K1,” not just “K1”).
- When communicating with another agency’s units, use your City name plus your call sign (i.e., “San Jose 51K1”).
- When utilizing SJ07 with airborne operations, officers in the aircraft/helicopter should be aware that they are transmitting over a great distance and should monitor the frequency with the P/L (tone-coded squelch) disabled before transmitting to ensure they are not covering other agencies.
- The State has set the following priorities for use on our CLEMARS channel (SJ07):
 - Priority 1 – Disaster and extreme emergency operations for mutual aid and interagency communications. This would include natural disasters, plane crashes, riots, etc.
 - Priority 2 – Emergency or urgent operations involving imminent danger to the safety of life or property. This would include hostage/barricade situations, task force operations involving other agencies, CODE 20 or 30’s, etc.
 - Priority 3 – Special event control activities generally of a preplanned nature and generally involving joint participation of two or more agencies. This would include activities such as the County Fair, Cinco de Mayo, the Olympics, etc.
 - Priority 3A – Drills, tests and exercises. This would include the airport disaster drill, MERGE exercises involving other agencies, etc.
 - Priority 4 – Single agency secondary communications. This would include most of the day-to-day operations we conduct on the frequency. This also would include special operations by BOI, BFO, BTS and BOA units such as covert operations by NCI, parking sweeps by parking control, etc., because they do not have other agencies assisting them.

When a Priority 1, 2, 3, or 3A restriction is requested, Communications will ensure that all agencies in the area that are affected are notified by telephone and/or CLETS teletype. In addition, they will ensure that OES is sent an information copy. The rules state that traffic of a higher priority level must be given use of the channel, with agencies using it for lower priority traffic yielding the frequency immediately.

Use of speech scrambling, digital voice privacy (DVP) or other forms of scrambling is not permitted at any time.



S 3800 – POLICE-INITIATED RADIO BROADCASTS:

The use of police-initiated radio broadcasts is a valuable process in promoting increased efficiency of field units. Officers alerted by a timely broadcast have often located wanted persons, developed useful information, helped someone in distress or avoided a hazard. To ensure that such broadcasts are accomplished in an efficient and effective manner, the Department will maintain procedures for initiating specific types of broadcasts.

PROCEDURE

S 3801 AUTHORITY TO ORIGINATE:

Any officer may originate a radio broadcast as long as the broadcast is related to the member's assigned duties and serves a law enforcement purpose. However, the originating officer will, when appropriate, discuss the need for a broadcast with their immediate supervisor and obtain approval when the broadcast relates to a juvenile or requests the arrest of an individual.

S 3802 CATEGORIES:

The following categories of police radio broadcasts are established:

S 3803 APB WANT BROADCAST:

This category of broadcast consists of the name and/or description of the following persons:

- Persons wanted in connection with a felony crime.
- Persons named on warrants of arrest.

"APB Want" broadcasts are distinguished from other types of broadcast by virtue of the fact that they request the arrest of an individual believed associated with a felony or the arrest of an individual named in an arrest warrant.

S 3804 CRIME BROADCAST:

This category of broadcast seeks to alert police Department members to the fact that one or more of the following incidents has occurred:

- FELONY CASES: When suspect(s) not known or insufficient descriptive data exists to allow for a reasonable expectation of arrest.
- MISDEMEANOR CASES: When sufficient identity or descriptive data exists to allow for a reasonable expectation that a police field stop is probable, or during situations when knowledge of the event by other police officers would increase their safety or effectiveness.
- STOLEN PROPERTY DESCRIPTIONS: Describe stolen property which would be identifiable upon inspection by police during a field stop.

S 3805 PUBLIC SAFETY BROADCAST:

This category of broadcast seeks to alert Department members to some threat, either to an individual or public safety and includes, but is not limited to, the following incidents:

- DISTRESSED PERSONS: Used whenever a person is in distress by virtue of some mental or physical malady.
- NATURAL DISASTERS OR ACCIDENTS: Used to alert or coordinate police Department members whenever the public safety of the community is threatened by a natural or accidental disaster.
- LOST CHILDREN: Used to alert police Department members to the circumstances surrounding a lost child incident.

S 3806 ADMINISTRATIVE BROADCAST:

This category of broadcast seeks to alert Department members to an operational requirement, a special event affecting police operations, or some condition affecting the safe operation of equipment. Examples include, but are not limited to, the following circumstances:

- SOLO MOTORCYCLE HAZARDS: Used to alert motorcycle units of oil spills, iced roadways or other hazardous road conditions.
- OPERATIONAL REQUIREMENTS: Used to supply field units with information pertaining to some operational requirements, such as non-use of sirens in a certain area.
- ADMINISTRATIVE INFORMATION: Used to advise police Department members of some administrative change, such as modification of radio channels in use.

S 3807 LONGEVITY OF POLICE-INITIATED BROADCASTS:

The length of time a specific police-initiated broadcast remains in effect is determined by the nature of such a broadcast. Unless modified by a supervisor, command officer, or the re-filing of a request (verbal or written) for continuance of the broadcast, police-initiated broadcasts will remain in effect as follows:

- APB WANT BROADCAST: This type of broadcast is maintained for 72 hours when supported by an affidavit, arrest warrant, or other supporting documents which establish probable cause for an arrest. When supporting documentation is not filed, the broadcast is cancelled at the end of the shift during which it was requested.
- CRIME BROADCAST: This type of broadcast will normally be maintained during the shift of occurrence or as requested by a supervisor or command officer, but in no event longer than 24 hours.
- PUBLIC SAFETY BROADCAST: Radio broadcasts which pertain to the public safety will remain in effect for that period of time during which the event or hazard continues to be a threat or concern. Such broadcasts are repeated as often as necessary, as determined by Communications members, field units or supervisory Department members.



S 3900 – APB WANT BROADCASTS:

The use of “APB Want Broadcasts” is a valuable process in promoting the apprehension of individuals who commit criminal acts. Officers alerted by a timely broadcast have often located such wanted persons and thereby maintained the public’s safety and well-being. To ensure that “APB Want Broadcasts” are accomplished in an effective manner, the Department will maintain procedures for efficiently initiating broadcasts.

PROCEDURE

S 3901 APB WANT BROADCASTS – RESPONSIBILITIES:

The following procedures will be adhered to by the Department member indicated.

S 3902 RESPONSIBILITY OF ORIGINATING OFFICER:

The originating officer will obtain approval of a supervisor either before or immediately following the request for Communications to broadcast as “APB Want.”

In addition, the originating member will perform the following tasks:

- **SUBMIT SUPPORTING DOCUMENTS:** Prepare one (1) copy of an “Affidavit Re: Probable Cause and Bail Setting” (County Form 438) or a “Juvenile Contact Report” (JCR – County Form 2259), and deliver that copy to the Department’s Warrant Unit. Affidavits and JCR’s must contain sufficient information to justify a valid probable cause felony arrest.

The affidavit must also include the printed name of the supervisor authorizing the broadcast, such supervisor’s telephone number and the organizational unit to which the supervisor is assigned.

NOTE: Place information in upper right hand corner of form.

When the broadcast is based upon a warrant, deliver the original arrest warrant to the Department Warrants Unit.

- **SUPPLY INFORMATION TO COMMUNICATIONS:** Give Communications the case number and a brief statement establishing grounds for a probable cause arrest (circumstances establishing elements of the crime). Advise the Communications supervisor that an affidavit, JCR or an arrest warrant is on file to support the “APB Want Broadcast.”
- **INCLUDE CASE NUMBER:** Include the case number on all documents pertaining to the broadcast.

The originating officer will then complete a “Crime Report” (or “Supplementary Crime Report” if “Crime Report” is already filed) and indicate the fact that an affidavit, JCR or warrant is on file and other appropriate facts.

S 3903**RESPONSIBILITY OF WARRANTS UNIT COMMANDING OFFICER:**

The commanding officer of the Department's Warrants Unit is responsible for ensuring that affidavits, JCR's and arrest warrants are submitted and processed in accordance with the following procedures:

- **REVIEW SUPPORTING DOCUMENTS:** In order to support a lawful arrest, the commanding officer of the Warrants Unit will ensure that filed affidavits and JCR's contain the following information:
 - Case number
 - Name, telephone extension and organizational unit of approving supervisor.
 - Date and time that the supporting document was filed.
 - Date and time of expiration of the supporting document (72 hours from time of filing).
- **FILE SUPPORTING DOCUMENTS:** The commanding officer of the Warrants Unit will then file the supporting documents in accordance with the following appropriate procedure:
 - Maintain an "active" file which contains the original un-expired supporting documents (affidavit and/or complete copy of the JCR).
 - Maintain an "inactive" file which contains those documents (affidavit, JCR) which have expired and any cancellation notices pertaining to an "APB Want Broadcast."
- **ASSIST ARRESTING OFFICER:** The Warrants Unit Supervisor will, in those cases where an officer makes an arrest, ensure that the original affidavit or JCR is supplied to the arresting officer. However, one additional copy of each document will be made for retention in the Warrants Unit inactive files. When a JCR supports an arrest, the officer will complete the JCR (including time of arrest, parent notification, etc.), and the Warrants Unit members will give the Juvenile Probation copy to the officer and route the remainder of the JCR to the Juvenile Unit.
- **PURGE FILES:** The commanding officer of the Department's Warrants Unit will ensure that, upon cancellation of an "APB Want Broadcast," the following tasks are performed:
 - The affidavit or JCR is removed from the active file.
 - The affidavit or JCR is marked or stamped across its face "CANCELLED," with the authorizing source (name and badge number) and the reason.
 - The date and time of cancellation of the affidavit or JCR is recorded.
 - That the cancelled affidavit or the face copy of the JCR is placed in the inactive records "APB Want" file.

In addition, the commanding officer of the Warrants Unit will ensure that affidavits or JCR's which have reached their 72-hour expiration limit are removed from the active file, marked as cancelled and are placed within the inactive file.

S 3904 RESPONSIBILITY OF DEPARTMENT MEMBERS TAKING ACTION:

Any Department member who makes an arrest of an individual based on information contained in an "APB Want Broadcast" or who takes any enforcement action which modifies or cancels the need for an "APB Want," will be responsible for initiating the following procedures:

- **CONFIRMATION**: Confirm that supporting documentation is on file and valid prior to transporting the arrestee or otherwise taking enforcement action.
- **INITIATE UPDATE**: Contact the Warrants Unit and Communications supervisors on duty and advise them of the facts and circumstances indicating a need to update, modify or cancel the "APB Want." In addition, any Department member who becomes aware of the fact that an active "APB Want" is no longer appropriate, has an obligation to forward such information to the Warrants Unit and Communications supervisors without delay.

S 3905 RESPONSIBILITY OF SUPERVISORS AND INVESTIGATORS RECEIVING COPIES OF AFFIDAVIT OR JCR:

Any supervisor or investigator receiving copies of supporting documents is responsible for performing the following tasks:

- **VERIFY ACCURACY**: Verify the accuracy and form of all supporting documents received.
- **INITIATE CORRECTIONS**: The receiving supervisor and/or investigator is responsible for initiating any corrections or modifications to supporting documents as required or needed.
- **CANCELLATION**: When advised that an "APB Want" is no longer required or when initiating a cancellation of the "APB Want," the concerned Department member and Communications supervisors will ensure that the "APB Want" is properly cancelled as soon as practical.

S 3906 RESPONSIBILITY OF "WATCH BULLETIN" OFFICER:

Upon receipt of the forwarded affidavit or JCR copy, the officer responsible for preparation of the "Watch Bulletin" will adhere to the following procedures:

- **PUBLISH IN "WATCH BULLETIN"**: Include "APB Want" information received in the next issue of the "Watch Bulletin" published. Information required includes, but is not limited to, the following data:
 - Name of originating officer
 - Associated case number
 - Other details as desired or required to amplify the "APB Want" (background
 - Information, record, person or agency to notify, and any other appropriate instructions).
- **CANCEL WHEN APPROPRIATE**: When 72 hours has elapsed from the time "APB Want" information is cancelled, the officer responsible for the preparation of the "Watch Bulletin" will discontinue publication of the information in the "Watch Bulletin."

However, information pertaining to the reason for the cancellation will be published as appropriate and necessary.

S 3907 RESPONSIBILITY OF THE CASE MANAGEMENT SECTION OF CLU:

Upon receiving copies of affidavits or JCRs associated with an APB “want,” the Case Management Section of the Court Liaison Unit is responsible for forwarding such documents to the appropriate investigative unit.

S 3908 CRITERIA FOR CANCELLATION AND ASSOCIATE PROCEDURES:

In addition to the above mentioned responsibilities, Communications supervisors have a responsibility to ensure that all unsupported “APB Wants” are cancelled at the end of the shift during which the request was made.

Justification for an “APB Want” cancellation includes, but is not limited to, the following circumstances:

- Suspect(s) cleared of involvement
- Arrest made
- Warrant issued (will require updated request based on warrant instead of “probable cause”).
- Complaint refused
- At the direction of a Bureau of Investigations command officer.
- At the direction of the issuing officer or such officer’s supervisor who approved the “APB Want.”
- At the direction of the Warrants Unit Commander or designee.

In any event, all “APB Want” broadcasts automatically cancel 72 hours from the date first requested unless extended pursuant to established procedures.



S 4000 – EXTENSION OF “APB WANTS”:

The use of “APB Want Broadcasts” is a valuable process in promoting the apprehension of individuals who commit criminal acts. Officers alerted by a timely broadcast have often located such wanted persons and thereby maintained the public’s safety and well-being. To ensure that “APB Want Broadcasts” are accomplished in an effective manner, the Department will maintain procedures for efficiently initiating such broadcasts.

PROCEDURE

S 4001 EXTENSION OF “APB WANTS”:

Any officer having knowledge that probable cause exists to support an arrest order is authorized to extend an “APB Want” for up to 72 hours. Extensions may be requested more than once and must be supported by an attachment to the original affidavit, JCR or arrest warrant. “APB Want” extensions should only be used on high priority wants and then only when the “Watch Bulletin” is not sufficient or timely.

S 4002 RESPONSIBILITY OF REQUESTER:

The sworn member initiating the request to extend an “APB Want” is responsible for performing the following tasks:

- INITIATE REQUEST: Personally contact the Warrants Unit and complete the extension form provided by Warrants Unit members. The request form must include the following information:
 - Name and signature of requester
 - Sufficient data to support the extension of the “APB Want”
- CONTACT COMMUNICATIONS: Contact the on-duty Communications Supervisor and advise that an extension form has been completed and filed with the Warrants Unit. Advise the Communications Supervisor to extend the “APB Want Broadcast” for 72 hours and supply Communications with any other information requested (name, I.D. number, supervisor, etc.).
- ADVISE “WATCH BULLETIN” MEMBERS: When appropriate and desired, contact the officer processing the “Watch Bulletin” and advise that an extension for 72 hours is in effect. In any event, notify appropriate Department members and units when an “APB Want” has been extended.

S 4003 RESPONSIBILITY OF WARRANTS UNIT MEMBERS:

Warrants Unit members are under no obligation to send out notices of expiration when an “APB Want” is cancelled by virtue of expiration of its 72-hour time limit. To facilitate the extension of “APB Wants,” Warrants Unit members will perform the following tasks:

- OBTAIN REQUESTER IDENTIFICATION: Identify the requester by name, badge number and unit.
- PREPARE APPROPRIATE EXTENSION FORM: Identify the “APB Want” for which the extension is sought and prepare an attachment to those supporting documents previously filed. Use this form to record all data relevant to the extension, such as

dates, times and identities of Department members affecting the status of the “APB Want.”

- OBTAIN REQUESTER’S SIGNATURE: Ensure that the requester signs the extension form.

All data relevant to the extension is recorded on the extension request. Department members will not mark or modify any wording, dates or other data contained in the original supporting documents.

When an extension expires or is otherwise cancelled, the extension request form is stamped “CANCELLED” and the supporting document and extension form filed in the inactive file maintained in the Warrants Unit. Affidavits, JCRs, and all supporting documents are to be kept on file for a minimum of thirty (30) calendar days after transfer to the inactive file.



S 4100 – FELONY VEHICLE WANTS:

To ensure that entries into the “Stolen Vehicle System” (SVS) computer are accomplished in a timely and appropriate manner, the Department maintains procedures which establish responsibility and accountability for such entries. All Department members will adhere to those procedures.

PROCEDURE

S 4101 FELONY VEHICLE WANTS – GENERAL PROVISIONS:

The issuance of felony “APB Want Broadcasts,” felony “I.C.U. Watch Bulletin” wants, or the filing of felony warrants does not automatically ensure entry of “felony vehicle” license numbers into the Stolen Vehicle System (SVS). Entries into SVS are made pursuant to specific requests submitted to the Vehicle Records Unit. This category of SVS entry is retained in the computer for a period of 90 days, unless otherwise canceled by the originating agency. The criteria for entering a felony vehicle into the Stolen Vehicle System are as follows:

- A felony vehicle is a vehicle which is known to have been used in the commission of a felony (e.g., the getaway vehicle in a bank robbery).
- A vehicle cannot be entered as a felony vehicle if the only link between the vehicle and the crime or warrant is the fact that a suspected felon is the registered or legal owner of the vehicle.
- If a vehicle is stolen and subsequently used in the commission of a felony, or is stolen during the commission of a felony, it is to be entered as a stolen vehicle.

S 4102 RESPONSIBILITY FOR MAKING ENTRIES:

The Vehicle Records Unit, Operations Support Division, is responsible for making entries of felony vehicles into the “SVS”.

S 4103 AUTHORITY TO INITIATE ENTRIES:

Department members assigned to investigative or command positions within the Department are authorized to initiate or approve requests for entry of felony vehicles into the “Stolen Vehicle System.”

S 4104 PROCEDURE FOR SUBMITTING REQUESTS TO THE VEHICLE RECORDS UNIT:

Personnel requesting entry of a felony vehicle into the Stolen Vehicle System will submit a copy of the Form CHP 180 to the Vehicle Records Unit describing the event, justifying the request and outlining all relative data pertinent to the vehicle, i.e., “armed/dangerous,” “impound – hold for prints,” “type of crime,” “person(s) wanted in connection” (with detailed descriptor information).

S 4105 PROCEDURE FOR PROCESSING REQUESTS:

Upon receipt of the required reports, the Vehicle Records Unit will check the Form CHP 180 for completeness and evidence of approval and, upon being satisfied that these requirements have been met, will make appropriate entry into the Stolen Vehicle System, if the criteria for

the entry of felony vehicles meet the standards of N.C.I.C. After 90 days, if the vehicle has not been canceled, the Vehicle Records Unit will contact the investigator assigned the case to find out if the vehicle is to be re-entered into the Stolen Vehicle System as a “felony vehicle.”

S 4106

ACCOUNTABILITY FOR MAINTENANCE OF ENTRY INTEGRITY:

Accountability for maintenance of entry integrity is fixed within the investigative unit having case assignment responsibility. The arrest of any subject(s) associated with the entry, or any change in the vehicle’s status, is reported to the Vehicle Records Unit as soon as practical.



S 4200 – MISCELLANEOUS PROCEDURES:

Proper use of Communications equipment is the responsibility of all Department members and will be performed in a manner which is efficient, effective and lawful.

PROCEDURE

S 4201 DISPOSITION CODES - GENERAL PROVISIONS:

All field units coming back in service from either a dispatched call or self-initiated activities are required to provide a proper disposition code in order to close the event. Disposition codes are to be given when an activity is completely finished or terminated.

EXAMPLE: Units leaving the scene of an accident to perform a follow-up investigation at a hospital will advise Communications of the change in location. Upon completing the follow-up investigation, the assigned officer will then indicate the proper disposition code.

The transmission of a disposition code closes an event, indicates that the assigned unit is available for assignment and determines the amount of time spent on the event.

S 4202 AUTHORIZED DISPOSITION CODES:

Field units will use only those "Disposition Codes" authorized by the Chief of Police.

S 4203 DISPOSITION CODES WHEN EVENT INVOLVES MULTIPLE UNITS:

When an incident or event requires a multi-unit response, one unit is required to give a case disposition so that the event can be closed. The other units will give their fill designation symbol along with any disposition code identifier that may be associated with their role as a fill unit. In the event that all the committed units attempt to clear an event using a fill identifier, the last unit to clear is required to give the case disposition code.

S 4204 DISPOSITION CODES WHEN EVENT IS SELF-INITIATED:

The proper disposition code is required in clearing all self-initiated activity including traffic stops. This disposition data allows for the evaluation of the effectiveness of car stops and provides data on how many require fills.

S 4205 CORRECTION OF DISPATCH DATA:

In those cases where it is necessary to correct the original dispatch data, officers will do so by informing Communications of the correct call type and then provide the disposition.

S 4206 WARRANT CHECK REQUESTS:

Warrant checks may be made by radio, telephone or police call box. Officers requesting a warrant check will use the following procedure:

- Identify self (name and/or unit number)

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- Precede the message with the words “Clear a 10-29 A or C.”

It is presumed by OSSD/Records or Communications members that the subject being file checked is in the presence of the officer. It is essential and required that when officers request file checks on individuals not in their presence, that they indicate this fact by preceding their message with “Clear 10-29 (A or C) NOT IN CUSTODY.”

Warrant check requests are completed as follows:

Type of Request	Nature of Search
1029 A	Checks for wants / warrants on a person in the following systems: PIN / AWS – Bay Area Automated Warrant System CLETS - Wanted Persons System NCIC – Wanted Persons System Restraining Order Files (D.V., SRF – Supervised Release Files/includes parole Registrant Information (narcotics, sex, etc.)
CJIC 2	Checks for wants / warrants not yet entered in any system.
1029 C	Checks for criminal history information in seven (7) Bay Area counties. Officers must ask for the type of priors they are looking for at the time of the request.

S 4207 NOTIFYING WARRANT UNIT OF AN ARREST:

When an officer receives a positive response on a file check, and as a result makes an arrest or otherwise takes an individual into custody pursuant to a warrant, the officer will immediately notify the Warrant Unit of the arrest (via Communications or telephone). This procedure is necessary so that the Warrant Unit can properly prepare warrants/abstracts to conform to mandated regulations. This procedure will help prevent officers from having to wait at the Warrants desk while paperwork is prepared.

S 4208 WARRANT CHECKS PRIOR TO BOOKING:

Revised 06-06-14

All Department members will conduct a warrant check prior to booking a suspect. All known warrants will be placed against the arrestee at the time of their arrest. If a warrant check has not been made prior to arrival at the jail, the member shall make the warrant check prior to leaving Booking. If a warrant is located and the member is at the Main Jail or Annex, the member will request the abstract be sent directly to lower booking via Communications or the San Jose Warrants Unit. If the agency cannot send the warrant directly to lower booking, the officer will respond to the San Jose Warrants Unit to pick up the warrant.

S 4209 TELEGRAMS:

Officers sending telegrams will obtain permission from their commanding officer unless such procedure would seriously hamper their work. If permission to send a telegram is not obtained at the time the telegram is sent, the officer sending it will notify the appropriate commanding

officer as soon afterwards as is practical. A copy of the telegram, signed by the officer sending it, is forwarded to the Office of the Chief of Police at the time the telegram is sent.

S 4210 PROCEDURE WHEN ENTERING ALARMED ROOMS (ARMS AND PROPERTY ROOMS):

When Department members enter areas that are protected by alarm systems, such members will contact the Communications supervisor immediately before or after entering such an area and supply their name, identification number, assigned unit and a brief statement pertaining to the purpose of the entry.

S 4211 REQUESTING TOW SERVICES FOR MOTORISTS:

Officers will adhere to the following procedures when requesting tow services for motorists:

- PREFERENCE TOWS: When motorists request the services of a specific tow company, such as AAA, National Auto Club, or any tow company by name, advise Communications of the name of the tow company requested.
- NON-PREFERENCE TOWS: If the motorist cannot name a particular tow company, request a “no preference tow.”

Officers will not advise Communications that a motorist is insured by a particular insurance company since that information is of no value to Communications members.

S 4212 NOTIFICATION OF OFF-DUTY STATUS:

Officers will advise Communications that they are off-duty (10-7 OD) no sooner than 10 minutes prior to the end of the work period. When it is necessary to respond to PAB earlier than a normal “O.D.” time (to write reports, book evidence, etc.), the involved officers will indicate “10-7 at PAB” and contact Communications at a later time to indicate their off-duty status.

S 4213 PROCEDURE FOR FIELD STOPS:

Officers will adhere to the following procedures when making field stops.

- VEHICLE STOPS: Officers will identify themselves with their unit number, give the code “11-95,” and give the location of the stop. Communications will enter the information into CAD and will acknowledge the officer. The officer will then provide Communications with the license number of the vehicle.

If the vehicle has no license plate visible, the officer may include the words “No Plate Visible” in the original call to Communications. If, in the course of the contact, a license plate is located, the officer will call Communications and give the license number.

If the driver of the vehicle is a female, the officer will add the suffix “X” to the code “11-95” on the original call to Communications (e.g., “11-95X”). If the officer determines that the driver is a female only after contacting the driver, the officer will update the status “11-95” to “11-95X” with Communications as soon as possible.

- PEDESTRIAN STOPS: Officer will identify themselves with their unit number, give the code “10-95” and the locations of the stop. If a female or females are stopped, the officer will use the suffix “X” after the code “10-95” on the call to Communications

(e.g., "10-95X," 1st and Santa Clara).

S 4214 LEAVING THE POLICE VEHICLE:

Officers who leave their police vehicle during their shift and rely solely on their handpack will provide Communications with specific information which would allow the officer to be contacted or called back into service should the need arise. The following procedures will be used to notify Communications:

- SELF-INITIATED ACTIVITY, DISPATCHED CALL, FOLLOW-UP, AND FOOT PATROL: Officers will provide their specific location. If assigned to a call, officers will notify Communications of their arrival. If an officer changes location, they will advise Communications of the change. Officers out of their car on foot patrol will give their location and will remain available on their handpack.
- MEALS AND BREAKS: Officers will provide their specific location or the name of the establishment to Communications. If the meal or break is at a residence, the officer will also provide a telephone number. Notification to Communications may be made by telephone. If an officer goes out of service at their own home, they may use the code "10-10" (out of service at home).
- USE OF PHONE NUMBER ALONE: Officers will not use a phone number alone to give their location.

S 4215 PREMISE INFORMATION FILE (PIN):

The CAD system supports a Premise Information File (PIN) that is designed as an aid to police, fire and other service units dispatched to locations throughout the city. This file is a sub-file of the GEO-File and allows for the attachment of special information to an exact address (number and street); it does not support premise information notes for intersections. One of the PIN file's most important features is to serve as a warning device where noted hazards exist. It is also used to serve as a reminder for such things as alarm system locations, means of access, locations of non-ambulatory residents, etc.

Premise information is automatically searched by CAD each time an event is created. Dispatchers are alerted to the existence of information only at dispatch terminals. It is flagged by a reverse video two-letter code:

- PW – Police Warning (used for potential life-threatening situations)
- PH – Police History (used for dangerous situations or circumstances relative to environmental conditions, e.g., officer safety information)
- PE – Police Events (a list of police events over the past 72 hours)
- OC – Occupancy (used for information notes such as access codes, jurisdictional information, alarm system information, emergency notification contacts, etc.)
- EE – EMS Events (used for Service Desk events; also used by Systems Control)

S 4216 AUTHORITY TO ORIGINATE PREMISE INFORMATION:

Any field officer may request an entry through their immediate supervisor, or any Communications Senior/Supervisor, if it relates to their assigned duties. The entry's purpose

must be to caution or inform other field officers dispatched to the geographic location in question.

Police Dispatchers, in addition to Seniors/Supervisors, may make "Police Entries" based on the guidelines established in this section. When these entries are made, the authorizing officer's badge number shall be included with the text of the entry. (These entries self-purge after 72 hours.)

A "Police Entry" is done by entering: "PE EVT#, text of entry" These entries, like all other PIN entries, can only be flagged on actual street addresses, not intersections.

S 4217 ACCESS TO INFORMATION:

Both the Police Department and Fire Department have agreed that each respective department may have access to each other's notes, as required. In addition, any applicable premise information may be made available to any other inquiring law or fire agency.

S 4218 PROCEDURES FOR INITIATING PREMISE INFORMATION ENTRIES:

Field Department members who have validated a circumstance or situation that justifies a Police Warning or Police History PIN entry must complete a PIN request form and route it to Police Communications Support Services Unit. The Support Services staff will verify specific location information and enter the appropriate information.

If an item requires immediate entry as a Police Warning or Police History, the request can be forwarded to a field supervisor who, in turn, will contact a Communications Senior/Supervisor with the information. The entry shall be made by the Senior/Supervisor, who shall also complete a PIN form and forward it to Support Services.

Immediate entries are retained in the PIN file for seven days to allow for the PIN form to be processed. If it is necessary for the information to be retained in the PIN file for longer than seven days, a memorandum must be attached to the completed form. The memorandum should give a brief description of the reason for the entry and indicate the desired length of retention in the system. The Support Services Unit will review the memorandum.

Police Dispatchers may also make Police Entries (which purge after 72 hours) if necessary to flag a specific address for a short period of time. No PIN request form is necessary for this entry.



S 4300 – MAIN LOBBY/INFORMATION CENTER PROCEDURES:

In order to efficiently utilize field units at incidents which require the physical presence of an officer, the Department maintains procedures for reporting prior incidents. Certain prior incidents are processed by Department members assigned to the Main Lobby/ Information Center of the Department.

PROCEDURE

S 4301 INFORMATION CENTER PROCEDURES – RESPONSIBILITIES:

The purpose of the Police Information Center is to provide a unit which can relieve the Bureau of Field Operations of those types of reports which do not require the on-scene presence of a uniformed officer, and to provide citizens ready access to Police Department services through a walk-in facility.

Additionally, the Information Center will provide internal building security and control access and movement of the public to the rest of the building.

S 4302 TYPES OF REPORTS TAKEN:

The following reports are processed by Department members assigned to the Information Center:

S 4303 THEFT:

Incidents involving theft are processed at the Information Center when one of the following elements is present:

- The property taken is valued at less than \$400 and the incident is not in progress and there are no suspects; or
- When the incident is not in progress and/or there are no suspects; and
- When the incident does not involve a felony and there are no suspects or evidence at the scene; and
- When the incident does not involve government or other public buildings or property.

When the incident is in progress or involves a felony or perpetrators have left evidence at the scene or suspects are present at the scene or the incident involves public buildings or property, a field unit is dispatched.

S 4304 OBSCENE OR DISTURBING TELEPHONE CALLS:

Incidents involving telephone calls are processed by Department members in accordance with the following procedures:

- WHEN SUSPECT KNOWN: When a suspect is known, complete a General Offense Report (Form 200-2-AFR) detailing the incident and information which establishes the identity of the perpetrator.

- **WHEN SUSPECT NOT KNOWN:** Complete a General Offense Report (Form 200-2-AFR) detailing the incident. Upon completion of the report, give the reporting party the case report number and refer them to the Telephone Company Business Office which handles the reporting party's billing. (NOTE: The Telephone Company will not deal with the situation unless a report has been filed with the Police Department. No follow-up is conducted by the Police Department until the Telephone Company obtains a successful "trap" on the victim's telephone line.)
- **WHEN THERE IS A POSSIBILITY OF IMMEDIATE DANGER:** After completing a General Offense Report (Form 200-2-AFR) detailing the information which establishes an immediate danger to the reporting party, contact the Telephone Company, Chief Special Agent, San Jose Office. The number may be contacted 24 hours a day. Inform the Chief Special Agent of the situation and they may elect to place a telephone trap on the reporting party's line.

S 4305 DELAYED MOTOR VEHICLE ACCIDENT REPORTS:

Incidents involving motor vehicle accidents are processed at the Information Center when the following elements are present:

- When there is no injury or drunk driver involved and the vehicles have been removed from the scene.
- When the incident involves a hit and run and no suspect or suspect vehicle is known and other vehicles have left the scene. Such hit-and-run incidents are processed in accordance with Duty Manual section L 6915 (Delayed Hit-and-Run Accident Reports).

When a response by a field unit is not appropriate, the reporting party/victim is advised to respond to the Information Center in order to file the report.

S 4306 MISSING PERSONS:

State law mandates that police agencies accept any report of a missing person, regardless of jurisdiction. Missing persons reports are taken immediately. Under no circumstances will the reporting party be advised to wait for a specified period of time before reporting the incident.

Incidents involving missing persons can be processed at the Information Center when the missing person is 12 years old or older and there is no indication that the person is a victim of criminal activity or suspicious circumstances and when the missing person is not a danger to themselves or others.

When the missing person is under 12 years of age or the circumstances indicate that a field unit should be dispatched, the Juvenile Unit / Missing Persons is informed and Communications is notified to assign the incident to a beat unit.

S 4307 SIMPLE ASSAULT AND PRIOR BATTERY:

A simple assault and/or battery report can be processed at the Information Center unless any of the below-listed circumstances are present:

- The suspect is still in the area or is likely to return

- The suspect is a neighbor
- Extenuating circumstances exist that the Information Center Supervisor or area commander feels a police response is warranted

S 4308 FORGERY, GRAND THEFT OR CHECK CASES:

Incidents involving forgeries, grand thefts, or various types of check cases are processed by Information Center members in accordance with the following procedures:

- CHECK CASES: Refer all check cases written for under \$1,500 to the Santa Clara County District Attorney's Office Bad Check Restitution Program. Report checks greater than \$1,500 on a Crime Report and refer to the Financial Crimes Unit for investigation. Ensure that the check was passed in San Jose jurisdiction. Submit the original check with the Crime Report and route to the Financial Crimes Unit. Document forged checks or checks written on a closed account on a Crime Report and send to the Financial Crimes Unit for investigation.
- GRAND THEFTS AND FORGERIES OTHER THAN CHECKS: Report non-check forgery and grand theft cases on a Crime Report. Tell the complainant that the assigned detective will review the details of the case at a later date. Personally consult with a fraud investigator on extremely complex cases or cases with civil overtones, rather than refer the complainant to the Financial Crimes Unit.

S 4309 FOLLOW-UP REPORTS:

Information Center members will complete supplemental reports to existing cases when a victim, reporting party or witness walks into the Information Center. When the information is lengthy, such as the reporting of an extensive list of additional property loss, the reporting party is encouraged to mail the list to the Department. When mailing information, the name of the victim, age, address, phone number, date of occurrence, case number, and investigator's name or unit assigned should be included in the correspondence.

S 4310 WELFARE FRAUD:

The Information Center will no longer take reports on lost or stolen welfare checks. They are to be referred to the Fiscal Division, Santa Clara County Department of Social Services.

EXCEPTION: The exception is when the loss of the check was incurred with other losses such as occurs with burglaries, petty thefts from vehicles, etc.

S 4311 ADDITIONAL DUTIES:

Information Center members will perform the following additional tasks:

- CITATION VERIFICATION: Vehicle defect citations are checked and signed off.
- LOST AND FOUND PROPERTY: Found property delivered by citizens are booked into the Property Room in accordance with Duty Manual section L 5700 (Non-criminal Property).
- COURTESY REPORTS: Take courtesy reports for other jurisdictions at the Information Center if it is felt that it would be in the best interest of the citizen.

S 4312 SEXUAL ASSAULT CASES:*Revised 03-09-21*

Communications should be contacted, and the appropriate patrol unit should be dispatched to handle the investigation if police presence is needed on-scene. In general, a patrol unit should conduct the investigation where the assault took place within the last 72 hours if there is a possibility that evidence exists. Extensive interviews and/or statements are not necessary for survivors under the age of 14. In these cases, a multidisciplinary interview of the survivor will be conducted by SAIU. Detailed statements of witnesses, reporting parties, and adult survivors shall be obtained. Any interview of a survivor shall be conducted in a private setting, outside the presence of other civilians in the Main Lobby. SAIU may need to be consulted for advice depending on the case's complexity. The incident shall be documented and investigated in accordance with Duty Manual section L 6000 – Investigation of Sex Crimes.

S 4313 DOMESTIC VIOLENCE*Revised 03-9-21*

Domestic Violence reports are taken when a survivor comes into the Main Lobby to report a domestic violence incident. Officers will take photos of the survivor's injuries. Detailed statements of witnesses, reporting parties, and adult survivors shall be obtained. Any interview of a survivor shall be conducted in a private setting, outside the presence of other civilians in the Main Lobby. The incident shall be documented and investigated in accordance with Duty Manual section L 7300 – Domestic Violence.

S 4314 FALSE PERSONATION:

False personation reports are taken when a victim comes into the Main Lobby to report that they are the victims of mistaken identity. Officers assigned to the Information Center will ensure that the following steps are taken:

- Take a Crime Report.
- Make copies of any questioned documents, (including citations) and submit along with the Crime Report.
- Make a check for outstanding warrants. If any warrants are found related to this report, the warrant is inactivated by the Warrants Unit pending the outcome of this investigation.
- The reporting party should be fingerprinted and photographed. Include the photo I.D. number on the Crime Report.
- Drop the fingerprint cards off at Central ID.
- Advise the reporting party that they will be contacted by a fraud investigator.
- Tell the reporting party they are responsible for any court appearances despite the alleged false personation.
- If there are any DMV issues, advise the reporting party to contact the Department of Motor Vehicles to schedule a hearing.
- Contact the Fraud Unit if any assistance is needed.

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S 4315 LOST OR STOLEN MEXICAN CONSULAR ID CARD:

Added 09-27-05

Incidents involving lost or stolen Mexican Consular ID cards will only be processed at the Police Department Main Lobby in accordance with the following procedures:

- The Reporting Party must present a 6 ½ x 4 document titled “Consulado General de Mexico, San Jose, California”. The document must contain a purple Mexican Consulate stamp and the Reporting Party’s name and corresponding Consular ID card number.
- Take a Crime Report. The victim is the Mexico Consul General. The Reporting Party is the person to whom the card was issued.
- The Consulate form provided by the Reporting Party is stamped “San Jose Police Report Filed”.
- The stamped Consulate form is returned to the Reporting Party, along with a Report Receipt Card (Form-45).
- Take a report regardless of the jurisdiction in which the loss or theft occurred as long appropriate Mexican Consulate paperwork is provided.



S 4400 – TELEPHONE REPORT AUTOMATION CENTER:

In order to efficiently utilize field units at incidents which require the physical presence of an officer, the Department maintains procedures for reporting prior incidents via telephone, mail, fax or the Internet. Certain prior incidents are processed by Department members assigned to a central information and reporting subdivision of the Department.

PROCEDURE

S 4401 TELEPHONE REPORT AUTOMATION CENTER – RESPONSIBILITIES:

The purpose of the TRAC (Telephone Report Automation Center) is to provide residents with ready access to Police Department services via telephone, mail, fax or the Internet and to efficiently utilize field units at incidents which require the physical presence of a uniformed officer.

Report-takers assigned to the TRAC can take non-emergency reports over the phone, via mail, fax or the Internet reporting option. Most of the reports are misdemeanor type offenses, but they can also include prior non-life threatening felony reports. The Main Lobby has shared responsibility in taking reports from residents who respond in person and may take reports over the phone. The hours of operation for TRAC are 24 hours day, seven days a week.

A report may be taken at TRAC for the following calls as long as the incident being reported is not in progress and there is no physical evidence left at the scene. Certain report types may be taken by telephone, however cannot be taken via mail, fax or the Internet. Before taking any reports, TRAC personnel will verify where the crime occurred. If the crime occurred outside San Jose jurisdiction, the caller is referred to the appropriate agency.

S 4402 TYPE OF REPORTS TAKEN:

A variety of reports can be completed by Department members assigned to TRAC.

S 4403 ANNOYING/HARASSING PHONE CALLS (653M):

Any obscene or disturbing phone call. Ensure that exact wording of the threat, including swear words, are included in the report and that a suspect sheet is filled out for known suspects. Refer also to Duty Manual section L 4405 (THREATS).

If the citizen requests a phone trap, take the report and inform them of the case number. The citizen must then phone Pacific Bell's business line (listed on their bill) or dial 6-1-1.

S 4404 ASSAULT AND BATTERY (240/242):

In simple assault and prior battery over four hours old, except domestic violence cases or 273.5, TRAC dispatchers will take a report under the following circumstances:

- Suspect known but has left the scene and is not likely to return. (Fill out suspect mask.)

- Over four hours old, even with visible injuries. Victim may either send photos by mail or respond in person to PAB. Provide victim with case number and instruct them to write case number on any photos, etc., they send in.
- Victim at hospital and doesn't want report taken. (Report required by state law.) Minimum information shall include name, date of birth and location of occurrence.
- Any physical attacks against school personnel, regardless of injury.

S 4405 THREATS:

Any calls containing threats of violence with no immediate means to carry them out or any threat made to the victim in person. Does not include death threats (PC 422-) or annoying phone calls (PC 653M). These types of calls are flagged by Operations Support members and sent to the Assaults Unit for review.

Advise victim that they may want to look into the possibility of obtaining a restraining order. When writing the text, be sure to obtain the exact wording of the threat. Refer also to PC 653M.

S 4406 AUTO BURGLARY (459 VEHICLE):

Any person who enters a locked vehicle with the intent to commit a felony. The value of the item is irrelevant. Also applies if the car is ransacked and no items are taken.

If the vehicle is unlocked, refer to PC 484/487. (This includes campers.) Motor homes, whether occupied or unoccupied, locked or unlocked, qualify under PC 459.

S 4407 FOUND/ABANDONED BICYCLE REPORT:

A Form 28 is used when a bicycle is found abandoned and the bicycle has not previously been reported stolen.

S 4408 GRAND THEFT (487)

Revised 10-28-13

The unlawful taking of personal property of another when it is taken from the person's immediate presence (without force or fear) or the value is equal to or more than \$950 for grand theft. Pickpockets and the theft of firearms are classified as 487's.

S 4409 MISSING PERSONS (10-65):

Revised 05-10-13

Missing person reports are taken 24 hours a day, seven days a week regardless of jurisdiction, in accordance with state law. There is no time element restriction.

All cancellations, even missing person reports taken the same day, are recorded on the 10-65 cancellation form and submitted. These reports are necessary to document that the person reported missing has been located.

S 4410 PETTY THEFT (PC 484/488):

Revised 10-28-13

The unlawful taking of personal property of another when the value is less than \$950. TRAC dispatchers will take a report when the theft has “just occurred” and there is no suspect information, even if a vehicle license is obtained.

Examples include, but are not limited to, the following:

- Beer runs
- Gas
- Shoplifting
- Stolen license plates (if plate is lost or citizen is unsure if the plate is stolen, fill out CHP form only)
- Cellular phones

S 4411 STALKING:

Any person who willfully, maliciously and repeatedly follows or harasses another person. The report shall be taken even if the suspect is known and only if it is a prior incident.

S 4412 VIOLATION OF RESTRAINING ORDER:

Any violation of a restraining order must have occurred within SJPD’s jurisdiction. If the violation occurred in another jurisdiction (i.e., their workplace), the petitioner must report it to that police agency.

- Need the number of the restraining order (can be obtained from Warrants Unit).
- Call Warrants to check the validity of the restraining order. Warrants will need the name of the petitioner.
- Complete a general offense crime report with crime type as “Violation of Restraining Order.”

S 4413 VANDALISM (NON-GRAFFITI):

Any person who maliciously defaces, damages or destroys any real or personal property of another.

- Under \$5,000 is a misdemeanor
- Over \$5,000 is a felony (type as: Felony Vandalism)
- If vandalism is to a vehicle, do not use “594VEH” as the type code. Instead, use “10852”. Any incident that involves damage to government or other public building or property, an officer should be dispatched.

S 4414 VEHICLE VANDALISM (10852/10853):

When a person willfully tampers with any vehicle, breaks or removes any part of a vehicle, manipulates any mechanisms or sets in motion any vehicle. Examples include:

- Sugar in the gas tank
- Slashes tires
- Egging of a vehicle

- Broken window (nothing taken)
- Keying of vehicle.

If reported damage is over \$5,000, call shall be typed as "Felony Vandalism."

S 4415 SUPPLEMENTS INFORMATION TO EXISTING REPORT:

Any additional information that a citizen wishes to add to an existing report. Must have the prior case number and/or the exact date the report was filed and the victim's name.

S 4416 FORGERY OR CHECK CASES (470 AND 476A):

Incidents involving forgeries and various types of check cases or check forgery will be processed either at the Main Lobby or by referring the call to the Fraud Unit. Personnel should ensure that the check was passed in San Jose jurisdiction. The original check must be submitted with the report either in person or can be mailed with a note indicating the case number, date of occurrence, name, age, address and phone number of victim. Refer to Duty Manual section S 4308 (Forgery, Grand Theft or Check Cases).

The Main Lobby will no longer take reports on lost or stolen welfare checks. They are to be referred to the Fiscal Division, Santa Clara County Department of Social Services.

EXCEPTION: The exception is when the loss of the welfare check was incurred with other losses such as burglaries, petty thefts from vehicles, etc.

S 4417 LOST/STOLEN PLATE REPORT:

Revised 03-23-20

Reports of lost or stolen plates that have no suspect information or an unknown time of occurrence should be taken on a General Offense Report (Form 200-2-AFR) 24 hours a day, seven days a week. If the reporting party doesn't have all the information needed, the license plate can be checked on any CLETS terminal for registration information to complete the report. All license plates shall be checked to confirm information.

S 4418 MAIL, FAX AND INTERNET REPORTING:

Residents who are reporting a crime via the mail, fax or Internet reporting option will be informed that they are limited to certain crime types. All cases must have no suspect information. The specified crime types are as follows:

- Auto Burglary
- Theft (petty or grand)
- Vandalism (Non-graffiti related cases only)
- Vehicle Tampering / Vandalism
- Harassing phone calls
- Lost / Stolen Property (cell phones, wallets, etc.)

S 4419

RESIDENTS WHO ARE NOT IN OR NEAR THE CITY OF SAN JOSE:

Residents who are reporting a crime that fits the criteria for a dispatchable call, but the crime is not in progress and the resident is not in or near the city of San Jose, may request that a courtesy report be taken by the police agency in whose jurisdiction they are or they shall be directed to respond in person to the Main Lobby.

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